



City of McMinnville
Planning Department
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MINUTES – Exhibit 1

May 16, 2019
Planning Commission
Regular Meeting

6:30 pm
McMinnville Civic Hall, 200 NE 2nd Street
McMinnville, Oregon

Members Present: Chair Roger Hall, Commissioners: Erin Butler, Martin Chroust-Masin, Susan Dirks, Christopher Knapp, Gary Langenwalter, Roger Lizut, Amanda Perron, and Lori Schanche

Members Absent: None

Staff Present: Mike Bisset – City Engineer, Chuck Darnell – Senior Planner, Jamie Fleckenstein – Associate Planner, David Koch – City Attorney, and Heather Richards – Planning Director

1. Call to Order

Chair Hall called the meeting to order at 6:30 p.m.

2. Citizen Comments

None

3. Approval of Minutes

6:31 April 18, 2019 Planning Commission Minutes

Commissioner Langenwalter moved to approve the April 18, 2019 meeting minutes. The motion was seconded by Commissioner Schanche and passed unanimously.

4. Public Hearing:

A. Quasi-Judicial Hearing. PDA 3-18/PDA 4-18/S 3-18 (Planned Development Amendments & Subdivision) – *Continued from the April 18, 2019 Hearing*

Request: **PDA 3-18:** Approval to amend Planned Development Ordinance 4722 (Oak Ridge Planned Development) to remove the unplatted fourth phase of the Oak Ridge phased subdivision from the boundary of the Oak Ridge Planned Development Overlay District.

PDA 4-18: Approval to amend Planned Development Ordinance 4822 (Oak Ridge Meadows Planned Development) to add the unplatted fourth phase of the Oak Ridge phased subdivision to the boundary of the Oak Ridge Meadows Planned

Development; allow for lot size averaging; allow for modified setbacks; allow for some lots with side lot lines oriented other than at right angles to the street upon which the lots face; allow for some lots to exceed the recommended lot depth to width ratio; allow some block lengths to exceed the recommended maximum block length standard; allow for the designation of an approximately 0.85-acre active private neighborhood park; and allow for dedication of an approximately 5.6-acre public open-space greenway dedication along Baker Creek.

S 3-18: Approval of a 108 lot tentative two-phased single-family residential subdivision plan on approximately 35.47 acres of land with lots ranging from 4,950 to 14,315 square feet in size and averaging 7,771 square feet in size, referred to as Oak Ridge Meadows. In addition, an approximately 0.85-acre active private neighborhood park and an approximately 5.6-acre public open-space greenway dedication along Baker Creek are proposed.

Location: The subject site located generally north of Baker Creek Road and the multi-phased Oak Ridge residential development and south of Baker Creek. It is more specifically described as Tax Lot 602, Section 07 and Tax Lot 1300, Section 17, T.4 S., R. 4 W., W.M.

Applicant: Premier Development, LLC

- 6:32 **Hearing Introduction:** Chair Hall introduced the application and explained the hearing process and role of the Planning Commission.
- 6:36 **Public Hearing Conduct Reminder:** City Attorney Koch reviewed the hearing procedures.
- 6:38 **Opening Statement:** Chair Hall read the opening statement.
- 6:44 **Disclosures:** Chair Hall opened the public hearing and asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. He asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application. There was none. Chair Hall asked if any Commissioner needed to declare any contact prior to the hearing with the applicant or any party involved in the hearing or any other source of information outside of staff regarding the subject of this hearing. There was none. Chair Hall asked if any Commissioner had visited the site. If so, did they wish to discuss the visit to the site? Several members of the Commission had visited the site, but had no comments to make on the visits.
- 6:45 **Staff Presentation:** Associate Planner Fleckenstein reviewed the three applications, PDA 3-18, PDA 4-18, and S 3-18. The request was to amend existing planned developments by removing 11.47 acres from the Oak Ridge Planned Development and adding it to the Oak Ridge Meadows Planned Development as well as approving the subdivision development. He explained the differences between the existing planned developments and the amended planned developments which were: reducing the originally proposed 129 lots to 108 lots, less impact to the wetlands, creation of a public greenway on Baker Creek, new 6.45 acre park space, and additional protections for environmentally sensitive areas. The subdivision would have an average lot size of 7,770 square feet, amended setbacks, non-standard side lot lines, a maximum block length of 2,300 feet, a maximum 800 feet between pedestrian ways, a maximum lot depth to width ratio of 2.75 to 1, a minimum .85 acre private active neighborhood park, a minimum 5.6 acre public greenway along Baker Creek, wetland preservation, and

public viewing areas. Staff thought the applicable criteria had been met for all three applications. He described the subject site including the floodplain and wetland areas. There were 3.09 acres of wetland on the site and 1.06 acres would be impacted by the development and 2.03 acres would be left untouched. He then reviewed the new documents that had been submitted since the first public hearing. Revised decision documents for each application had been sent to the Planning Commission which were largely editorial and a few conditions had been revised for better clarity. Condition #9 of PDA 4-18 had been revised to better define the intent and limit of the pedestrian access ways to the public greenway park. Condition #10 of PDA 4-18 was revised to allow wetland viewing areas in the rights-of-way and to provide a revocable license agreement for the viewing areas in the rights-of-way and to be maintained by the HOA. Condition #21 of S 3-18 added the requirement for widening a portion of Pinot Noir Drive north of Blake. The wetland delineation report had been provided to the Commission and the Department of State Lands wetland use notification and response. A frequently asked question sheet from Premier Development was also provided in response to issues raised at the first public hearing. One of those was related to Ordinance 4845 and whether Ordinance 4822 could be repealed. Ordinance 4845 amended findings relative to a condition found in Ordinance 4822, and only contained those amended findings not the condition. Staff thought Ordinance 4822 could be repealed and replaced without consequence to Ordinance 4845. A supplemental traffic evaluation memo was also provided which evaluated the intersection of Oak Ridge Drive and Baker Creek Road at the a.m. peak period to address the concerns of public testimony at the last hearing. The report showed the intersection would operate within City standards. A hydrologic analysis of Baker Creek was commissioned by Friends of Baker Creek which evaluated the potential floodplain impact of the proposal. The conclusions were that the floodplains in the lower Baker Creek Watershed could change with new special flood hazard area mapping and impact from potential blockages from the proposed development would not propagate downstream. McMinnville's zoning ordinance specified the March 2010 flood insurance study as the current and applicable floodplain maps for consideration of these applications. A memo was provided by Navigation Land Use Consulting that further reviewed the goal post rule. A memo from Kellington Law Group also discussed the goal post rule. There was some dispute about the methodology for the Baker Creek hydrologic analysis, discussion of traffic, and a further claim that the existing proposed traffic systems functioned with or without Shadden Drive. Ordinance 4845 was also a topic of that memo how it did not prevent the amendment of Ordinance 4822. The memo also pointed out what was possible in the proposed applications versus under the existing Planned Developments. The Kellington Law Group offered an approach to the resolution of the 100 year floodplain issue which would be to remove 5 potentially impacted lots by a potentially updated floodplain to be replaced with 5 smaller lots elsewhere in the subdivision. Ten new public testimonies had been received since the last hearing and were all entered into the record. He reviewed the letters that had been submitted which expressed opposition due to the impact to the wetlands and traffic impacts to the neighborhood. He pointed out that as adopted by the 2010 Transportation System Plan that local roads were designed for an average 1,200 daily trip capacity and the traffic analysis indicated that the proposed and existing street networks would function within City standards with or without Shadden Drive being developed. Staff recommended approval of all three applications with conditions.

7:04 Commission Questions: Commissioner Dirks asked about the Kellington Law Group's recommended change to Condition #3. She thought they were saying that if FEMA's reevaluation of the 100 year floodplain could be completed prior to the final plat of Phase 1, then they would do the trade of the 5 lots. How would those timeframes fit together?

Planning Director Richards clarified the question was if the City moved forward with making the request to FEMA to update the floodplain maps, what would be the timeframe for it to be completed. It was creating a condition that approved a future development that had not been on the table for review by the public for an amendment to the planned development. It was a lengthy process to update the FEMA maps and could impact a lot of property owners. She explained the options for the developer if the maps were updated. The lots along Pinehurst Drive adjacent to the wetlands were a new addition to the proposal and were submitted yesterday. There had not been opportunity for public review and to condition it was a concern. She thought the Commission could make the requested change to the condition, but if this came as an amendment to an existing planned development, they would not make the decision in a 24 hour period as to whether it was a major or minor amendment. She was concerned that the public had not had the chance to review and respond to it.

Commissioner Dirks asked if they were out of time as far as the 120 day rule. Planning Director Richards said yes, but this was based on the assumption of a hydrology report that had not been vetted and a FEMA process that had not been initiated and a discussion that had not taken place in the community. FEMA did not think the maps were outdated and there were other communities in a priority position for that work. Updating the FEMA maps could impact people's home insurance if they were found to be in the floodplain.

Commissioner Butler asked what was meant where it stated lots with less than 40 feet of street frontage shall be alley-loaded. Where would that happen?

Associate Planner Fleckenstein clarified that was a condition that showed the trend towards smaller lots. While there were no lots that were less than 40 feet in this subdivision, this condition was added as a preventative measure should the planned development move forward and the subdivision did not move forward.

7:14

Applicant's Testimony: Wendie Kellington, attorney representing the applicant, stated the reason they added the condition about the lots by the floodplain was because of the report from the opponents and they were trying to alleviate the opponents' concerns. The opponents' consultant flood report confirmed that there were no downstream impacts from the proposal. There would be a downstream decrease in flood impacts. However in another part of the report the opponents misread their data and they concluded that there was a slight increase. These methodological errors were pervasive in the report, and it showed that the concerns expressed in the report were not supported by best engineering practices, FEMA handbooks, proper math, or proper data. She gave another example of the elevation data that was taken at a time when the stream channel was high and how that made the channel depth number off and they were missing the carrying capacity of the channel. There was also a math error on how the model was calibrated. They had also used the wrong rainfall data.

Josh Wells, WesTech Engineering, showed the 100 and 500 year floodplains in relation to the proposed development site. He had surveyed the creek and compared it to the opponents' report. The survey data was 2 to 8.5 feet lower than the opponents' data which underestimated flow capacity of the channel and overestimated water service elevation by quite a bit. The report was based on incorrect data for elevation. The opponents also used the wrong time of concentration equation to calculate peak flow. They underestimated it by an hour which further increased the estimated peak flow which overestimated the water service elevation in the model. The opponents used the Lake Oswego rainfall data instead of the local McMinnville data. The report showed that there was no impact from this development.

Lacy Brown, DKS Associates, said in response to the comments at the last public hearing, she did a field visit to observe vehicle operations, delays, and queues during the morning peak hour on Baker Creek Road. She found that delays were lower than what had been reported in the traffic study. The longest delay she observed was 37 seconds when a bus stopped and traffic was blocked. She thought the traffic operated very well currently.

Commissioner Schanche said there had been a lot of comments about construction traffic in the neighborhoods. Did she know of any conditions that restricted construction traffic? Ms. Brown did not know as that usually came from the City’s Public Works department.

Commissioner Schanche asked if this was a sedimentary basin by the 5 lots. Mr. Wells said yes, it was a water quality treatment and detention facility that was required to meet the standards. It would discharge into the creek.

Commissioner Dirks asked about the applicant having a hydrologic analysis being done. When was that due and what would they do with the results? Ms. Kellington said it should be completed in three weeks as the property owner was interested in finding out if there was a different flood profile for Baker Creek than what FEMA reported. She was not sure what would be done with the results.

Commissioner Dirks asked about the detention pond and who paid for the treatment of the water. Mr. Wells said it would be the HOA who would pay for the maintenance of the facility.

Commissioner Dirks asked about extending Shadden Drive north. It was not property that belonged to Premier, but she wondered if they were aware that there was a City ordinance that would allow them to voluntarily develop that road through a reimbursement district. Ms. Kellington was not aware of this. The property owner’s application for that land was still under staff review. She did not think it was a possibility as she had talked with the property owner about Shadden Drive. Mr. Wells said it was also a logistics problem for building the road and putting in the utilities on an application that was not approved yet.

Public Testimony:

7:32 Proponents: None

7:33 Opponents: Kathryn Jernstedt, Friends of Yamhill County, said the Friends worked to protect natural resources through the implementation of land use planning goals, policies, and laws that would maintain and improve present and future quality of life in Yamhill County. There were elements to this project that could be improved, specifically related to the issue of protecting the wetlands and issues around density. The project documents talk about the fill in order to site homes in an area where there had been regular flooding. It was not designated as floodplain on the FEMA maps. The federal evaluation process was slow, but there had been increased instances of visible, standing, and flowing water in these areas. When there was heavy rainfall, the water was migrating. As the rain patterns continued to change and existing and proposed developments were creating more impervious surfaces, this situation would be aggravated. It was significantly more cost effective to preserve existing wetlands than recreating them or building flood mitigation facilities. Wetlands had value beyond the flood control and did a great deal for water quality. She thought they should not add the extra 5 lots because it would overload the roads.

Jim Tycer, McMinnville resident, disagreed with the traffic analysis about the morning peak hour. He thought there was already too much traffic and it was affecting the quality of life in the neighborhood. He was also concerned about construction traffic and heavy equipment damaging the road. He thought there needed to be another ingress and egress so everyone would not use Oak Ridge. He discussed the traffic flow issues on Baker Creek Road.

Commissioner Butler asked what hour in the morning had the most traffic. Mr. Tycer said 7:30 to 8:30 a.m.

Mark Davis, McMinnville resident, supported the original planned development, not the changes proposed. The City did not have enough buildable land, and he thought the number of lots should not be reduced. He studied meteorology in college and knew some about hydrology. There were dramatically different amounts of rainfall in one area versus another. He did not think either side made a strong case for what the hydrology was in this area.

Melba Smith, McMinnville resident, shared pictures of flooding in this area after heavy rainfall. There was a lot of flooding where Pinehurst Drive was supposed to go. She was concerned about how they planned to stop the flooding and how the water would go into neighboring homes. She was also concerned about the wildlife and waterfowl in the area.

Commissioner Butler said it had been planned for a long time for houses to go in that area.

Ms. Smith said it never crossed her mind that someone would build there because of the flooding.

Amie Loop-Frison, Yamhill Soil and Water Conservation District, was there on behalf of her Board of Directors. She was disappointed about how their concerns were portrayed in the staff report. She explained their concerns regarding the potential impacts to wetland habitat and floodplain function along Baker Creek. This parcel had flooded on numerous occasions and further restrictions in the available floodplain had the potential to cause downstream damage due to larger and faster flows. The wetlands were a rare habitat type in the City and should be preserved. The District was also concerned about removing native trees and shrubs along Baker Creek.

Daniel Jackson, McMinnville resident, agreed with what was said by Friends of Yamhill County and Yamhill Soil and Water Conservation District. His main concern was the fact that they were allowing more development along Baker Creek and putting more flood waters downstream. He asked how they planned to reduce the impacts downstream and the potential flooding of Westside Road. He did not want the burden to be put on the tax payers to solve a for-profit development issue.

Sarah Hadfield, McMinnville resident, was concerned about traffic and the wetland. She was surprised that development had been planned here after watching the area flood numerous times.

Mark Bierly, McMinnville resident, addressed the wetlands issue and access issue. Right now there would only be one access in and out of the new subdivision on Pinot Noir Drive. He recommended requiring as a condition a second access be put in immediately. He thought a second access would take care of the concern about the construction vehicles. He did not think it was an unreasonable burden to require Shadden Drive to be put in right away for use for construction vehicles and for the new subdivision.

Sarah Fox, McMinnville resident, invited the Commission to come to this area from 7:30 to 8 a.m. to see the traffic. It was dangerous for pedestrians and children in the neighborhood.

Steve Fox, McMinnville resident, discussed how in 2017 when he moved in, he saw dump trucks going through the neighborhood with fill to this site. The current plan said there was no fill activity, but it had happened earlier with at least three fill areas, one that was permitted. They were filling in the slope along the creek and he questioned if that was permitted and if any environmental studies were done. He also questioned why the alternative design of opening Shadden Road before construction was not considered. Widening the road would impact property owners who didn't know it would be widened in the future. He thought this plan would unnecessarily impact the community when there was another option. He thought Shadden should be built first since it was going to be an emergency access anyway.

City Attorney Koch asked if Mr. Fox contacted the Oregon Department of State Lands or the Army Corps of Engineers that had jurisdiction over wetland fill permits to see if there were permits. Mr. Fox had not.

Commissioner Schanche asked what City department people should call if they notice fill activity.

Community Development Director Bisset said there were no grading or fill permits required by the City. Property owners needed to make sure the work they were doing was in compliance with any environmental regulations, which were regulated and enforced through State agencies.

8:12-8:17 The Commission took a short break.

Sandi Colvin submitted testimony for a neighbor, Ray Clevidence.

Catherine Olsen, Friends of Baker Creek, read a letter from Justin Maynard who did the hydrology research on May 8, 2019 and summarized the analysis that was done. The analysis indicated that FEMA maps were in need of revision as the flood frequency of a two year return period was not documented. The development currently planned in the vicinity of the floodplain could potentially place residential lots in an area of flood risk without a FEMA map designation. Further development and agricultural activity would increase run off volume and peak intensity could have a much greater impact on the floodplain.

Bill Kabeiseman, Attorney for Friends of Baker Creek, agreed that there were goal post rules and they had to judge the application by the criteria in the code. The attorney for the applicant was not a hydrologist or engineer. They had a certified, stamped document from an engineer who explained his rationale and showed his work. There might be disputes about professional judgment, but there was an engineer stating there was a flooding problem here. There had been comments about updating the flood maps having implications for property owners and flood insurance. If the maps were not updated, there were significant impacts for people who lived in those areas who were subject to inundation and they did not know it. He pointed out that it was required that this application be consistent with the Comprehensive Plan policies and he thought it fit the policy that stated the construction of transportation facilities needed to be timed to coincide with community needs and to minimize impacts on existing development. He thought the Commission should add a condition that this subdivision not be built until Shadden Road was developed. The policies also stated that they could put controls

on lands with natural hazards. He thought the Commission should put in controls to protect future residents, existing neighbors, and the City from future liability. The Comprehensive Plan had policies that addressed natural areas including wetlands and stated that distinctive natural topographic and aesthetic features within planned developments shall be retained in all development designs. Roads shall have minimal adverse effects on an advantageous utilization of natural features of land and destroying a third of the wetlands was not a minimal adverse effect. He thought the project needed to be redesigned without the lower road. In the Comprehensive Plan it stated neighborhoods shall be designed to preserve significant natural features and this application was not designed to preserve the wetland. He did not think this application complied with the Comprehensive Plan and recommended approving PDA 3-18 and denying PDA 4-18 and S 3-18.

Sandi Colvin, Friends of Baker Creek, said the road would not connect through the private land owned by Les Toth if he was not in favor of it. Giving weight to something that was not part of this proposal and would probably never happen should not dismiss their qualifying objections to the road through the wetlands and lower 11 acres. There were currently three acres of wetlands, however the delineation studied only a portion of the area proposed for development and that number might change. There was a trend of flooding in this area and the 2010 FEMA map used the data from a 1983 FEMA map, satellite topography, and rainfall averages. She thought 2010 was a misleading date as it was really a 36 year old map. Their hydrology report showed that parts of the basin were now in the floodplain which was a potential risk to life and property. Currently the lots where the houses were going to be built were not flooding, but who would be responsible when the flooding came. The report should be taken in its entirety, not a small piece that supported the desired outcome. The Friends asked that the lower plat not be joined with the upper proposed development. The 11 acres should be left to stand on their own and an environmental impact study should be done on the property. She thought there were agencies who would want to purchase this land to help minimize the loss of not building on the property.

Mike Roberts, McMinnville resident, was concerned about the construction traffic. These were narrow residential streets that often had cars parking on both sides and two cars could not pass each other on the road. The additional new residents from this development would only have one access and those vehicles plus construction and emergency vehicles would make it very difficult. There was a secondary access that was planned for the future and he thought it should be built first before the subdivision. He asked the City to move up the timeline for the Baker Creek Road upgrade with a center turn lane which would help with the traffic issues.

Commissioner Langenwalter asked if the center turn lane was going to be put in this summer. Community Development Director Bisset said they planned to restripe Baker Creek Road to add a center turn lane and bike lanes from Elm Street to Hill Road and to have the work done by this September.

Mike Colvin, McMinnville resident, said these two planned developments were totally different, both physically and environmentally, and should not be combined. He gave a few examples of how the lower property would accomplish the opposite of what each policy intended. It would not encourage the development of roads that had minimal adverse effects on natural features as the lower road that was being proposed would tear up the most critical habitat in the whole basin. The road proposed was a quarter mile, dead end road that served only 7 houses. The application proposed to destroy a very scenic open space instead of retaining it. The proposal to fill and block part of the basin would increase flooding risk. The applicant's attempt to join these planned developments was a technical gimmick to claim the

lower property qualified for approval. He suggested approval of PDA 4-18 without the property from PDA 3-18 connected to it.

Catherine Olsen, McMinnville resident, asked the Commission to preserve the 11.47 wetlands and drainage basin acreage as a nature preserve. These acres were a unique feature in the urban ecosystem and would anchor a piece of nature in the City's proposed nature trail. She listed the policies in the Comprehensive Plan that supported the request. This area would be difficult and costly to maintain by the HOA as a playground and nature trails. While the City's Parks Department hoped to have funding by 2032 to take over the maintenance, there were no guarantees that it would become part of the parks system. She did not think the park and trails would preserve the wildlife habitat, and there would be no point for the benches because there would be nothing to see. There was an Oak tree over 80 years old that it and surrounding trees provided a valuable habitat and should be preserved. The development of a few homes on these wetlands and drainage basins would have an impact on property's stormwater drainage. She suggested denying this application as the natural area should be preserved for future generations.

Scott Wellman, McMinnville resident, discussed the three W's, wetland, wildlife, and well-being. It had been said that there was only 3 acres of wetlands, and only 1 acre would be developed, however he thought it was a trivializing tactic for promoting development at any cost. Wetlands were very rarely equally wet and he thought the whole area could be considered wetlands. He thought they needed to consider the entire 11 acres as part of a larger ecosystem which consisted of Baker Creek, riparian forest, wetland basin, slopes, and Oak Ridge. All of these components contributed in making a functioning ecosystem that benefitted wildlife and human beings. This biodiversity would be fatally compromised by developing homes on the slopes of the basin and near the creek.

Cathy Goekler, McMinnville resident, said there were problems with this proposal, some having to do with unfulfilled promises made with the original development 19 years ago. What they did tonight could leave the City and neighborhood with a mess if the economy tanked again. They had to go with the outdated FEMA maps, ignore real time flooding and change from wetlands to floodplain, acres of fill had been dumped on Baker Creek, mitigation had failed, and the DSL permitting had expired. The only testimony in favor of the application was from the applicant's consultants and the opposition had a broad base and the majority of the testimony had not been paid for. They were asking the Commission to approve the development of the 24 acres of the Oak Ridge Meadows Planned Development with Shadden being the primary access for all construction. They were also asking the Commission to deny the request for moving the 11.47 acres from the Oak Ridge Planned Development to the Oak Ridge Meadows Planned Development. They would like that property to be left under the HOA and a complete update of the FEMA maps be ordered and to save the Oak tree.

9:01 Rebuttal: Ron Pomeroy, consultant, said without approval of this proposal there were two active Planned Developments for the property. These plans included more houses, no parks, and would have the same extension of Pinehurst but further to the east which would impact more trees, and homes would be in the same location. Regarding Mr. Kabeiseman's testimony, there was flexibility in the transportation policies that were referenced. They were relative to building, not wildland preservation. These were putting things in place that the Urban Growth Boundary was designed to allow to occur within it.

Ms. Kellington said there was no basis for denial of the applications. This was residentially zoned land with an approved residential plan attending it. It met every Comprehensive Plan

policy and City Code standard. The opponents were residents of a residential subdivision for which 11.47 acres was a developable part of the approved subdivision to be developed at the time they made the decision to invest in their properties. Their homes were constructed on these very streets and they did not fall apart. Their homes had been remodeled and the streets had not fallen apart and no children or animals had been hurt. She did not think the City could be compelled to set aside one-third of the residentially zoned land to hold it as a nature preserve as it would violate one of the City's most sacred obligations, the obligation to provide housing at all levels that all people could afford on land that was designated for housing. She thought it would be unconstitutional to require the land to be preserved and she referenced the Nolan and Dolan cases. Taxpayers had made large investments in public infrastructure for residential development in this area. The project would not fill 11.47 acres of wetlands and they were not removing any trees in riparian areas. The property did not flood and fully complied with all City transportation standards. Development of this property would not result in an increase of downstream flooding and the hydrology report was fatally flawed and not based on best practices. This was a residential subdivision on residentially zoned land that met all of the transportation, planning, and zoning standards and was recommended by staff for approval.

Commissioner Chroust-Masin asked if the land proposed for Shadden Drive was in their control. Ms. Kellington said no, it was not.

Commissioner Chroust-Masin asked if she could address the fill question. Ms. Kellington had asked the property owner and was told that the land was leased to someone who farmed it and from time to time brought in dirt to level it for that purpose. That would stop when it was developed residentially.

Commissioner Perron asked why they were proposing fewer residential units than the current planned development. Ms. Kellington said ten years had passed and a lot of trees had grown up in areas that were going to be developed. It would be expensive to remove them and in today's market people liked walking and jogging paths and parks. It was a more economical way to develop the site and be more appealing in the marketplace.

Commissioner Butler asked what would happen if they removed the 11.47 acres from the Oak Ridge Planned Development, but did not add them to the Oak Ridge Meadows Planned Development. Could they still develop the upper part of Oak Ridge Meadows? Mr. Pomeroy answered no, because the connecting street that was needed was part of that 11.47 acres. If they did not approve the applications, the land would return to its base R-2 zoning in the original Planned Developments with cookie cutter sized lots with no parks.

Planning Director Richards clarified the three applications and how if one was denied, all three would be denied.

Commissioner Langenwalter asked about the CC&Rs from 2001 that stated homes could not be built so as to impede another owner's view. Ms. Kellington said those CC&Rs did not cover the 11.47 acres because that area had never been platted.

Commissioner Dirks said the Department of State Lands stated their study only covered a portion of the land and there would need to be a predevelopment meeting between the applicant and Department of State Lands about the wetland delineation.

Caroline Rim, Pacific Habitat Services, did the wetland delineation. She had looked at all of the land in the study area boundary which was the project boundary and all the wetlands were delineated in that boundary. There was a misunderstanding about what a portion meant. They did not look at the wetlands in the whole drainage basin, but those within the study area. That was what the Department of State Lands would review and concur with. She thought the meeting had to do with the permit application to discuss alternative designs and to choose the best design for the site.

Commissioner Chroust-Masin asked when the 120 day deadline ended. Planning Director Richards said it ended on July 23, however because they had to allow the opportunity for an appeal of the Planning Commission's decision within the 120 day period, City Council would need to make a decision by July 8. If the Commission wanted to continue the hearing, an interim meeting would need to be scheduled in the next two weeks.

9:28 Chair Hall closed the public hearing.

The applicant waived the 7 day period for submitting final written arguments in support of the application.

9:30 Commission Deliberation: Commissioner Schanche discussed Condition #9 for PDA 4-18. She did not think the easement for the public greenway would work as it was written. She suggested the language read, "A public open space greenway along the length of Baker Creek, a minimum of 5.6 acres in area, be dedicated to the City. The public greenway shall generally follow Baker Creek and its drainages along the perimeter of the site from Lot 56 to Lot 41 then along the northern side of Lots 40, 39, and 38." This way the greenway could connect to any future public open space along Baker Creek to the east and west from the site.

Planning Director Richards clarified the desire was not to dead end the nature trail on the property so it could be extended further in the future. The City would be in ownership of the greenway.

Commissioner Langenwaller suggested an alternative route for the construction traffic and proposed a condition to require construction traffic use the Shadden Drive emergency access road which would be a gravel road. This would keep the construction traffic off of Pinot Noir Drive.

Planning Director Richards asked if Commissioner Langenwaller had data to support that condition. This would set a precedent, and would have to be defensible. Since the applicant did not own that land, the applicant would need to enter into an agreement with the property owner for use of the road for construction equipment.

There was discussion regarding what standard could be tied to the proposed condition and how to mitigate the construction traffic impacts on the neighborhood.

Commissioner Perron was fine with the plan except for the Shadden Drive and street to the Toth property, which were problematic.

Planning Director Richards said regarding the dead end street to the Toth property, the City had to preplan how everything would connect to serve the residents to be ready when that property developed sometime in the future.

Commissioner Lizut was not pleased with the conflicting data sources, some of the cherry picking that had been done, and lack of further rigorous analysis in terms of possibilities. They had all these models, but there were still unknowns. He thought it was too convoluted with conflicting information and they needed to decide what made sense.

Commissioner Schanche agreed there was confusion with the data. This would have to go through the permitting process with the Corps of Engineers and Department of State Lands and they would not approve a development that had flooding issues. She was in support of the applications. They were not in the floodplain, had minimal wetland involvement, and there would need to be mitigation. They would be getting parkland out of the project and the trail by Baker Creek.

Commissioner Langenwalter asked if they did not approve these applications, the applicant was allowed to execute the original planned developments. City Attorney Koch said the original planned developments were still on the books and had not expired. Right now they were what governed the development of this property. Those plans would not come before the Commission again. The subdivision would come back to the Commission under the original plans.

Commissioner Chroust-Masin thought the applications met the criteria.

Commissioner Dirks was sympathetic to the concerns about building on the wetlands. There were many advantages to the new proposal, but she still had concerns about the wetlands. If the City did not have regulations regarding wetlands, but used the guidelines in the Comprehensive Plan that could be interpreted as ways to protect the wetlands, would that be defensible?

City Attorney Koch said whatever decision the Commission made needed to be tied to criteria that existed today in the Comprehensive Plan and City ordinances.

Commissioner Chroust-Masin suggested a condition on the properties that had partial wetlands that the property owners would protect the wetlands.

Commissioner Schanche clarified there would not be any wetlands on the properties once they were developed. They would be losing some wetlands, but she thought the benefits of the proposal outweighed that fact.

There was discussion regarding wetland mitigation.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Schanche MOVED to RECOMMEND the City Council APPROVE PDA 3-18 subject to the conditions of approval provided in the decision document. SECONDED by Commissioner Langenwalter. The motion PASSED 9-0.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Langenwalter MOVED to RECOMMEND the City Council APPROVE PDA 4-18 subject to the conditions of approval provided in Section 2 of the decision document. SECONDED by Commissioner Chroust-Masin. The motion PASSED 8-1 with Commissioner Dirks opposed.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Langenwalter MOVED to APPROVE S 3-18 subject to the conditions of approval provided in Section 2 of the decision document. SECONDED by Commissioner Schanche. The motion PASSED 7-2 with Commissioners Dirks and Butler opposed.

B. Quasi-Judicial Hearing. PDA 6-18 (Planned Development Amendment)

Request: Approval to amend Planned Development Overlay Ordinances 4863 and 4709 by amending a condition of approval that currently limits use of the site to professional office, medical office, senior condominiums, senior apartments, assisted living facilities, and other compatible, small-scale commercial uses such as a delicatessen, florist, or day care facility. The requested amendment is to add multiple-family residential apartments to that list of allowable uses in the existing Planned Development Overlay condition of approval. The base C-3 zone allows multiple-family residential as a permitted use.

Location: The subject site located generally west of SE Norton Lane, near the termination of SE Norton Lane at the existing city limits. It is more specifically described as Tax Lot 701, Section 27, T.4 S., R. 4 W., W.M.

Applicant: Kim McAvoy on behalf of KWDS, LLS

- 10:18 Opening Statement: Chair Hall introduced the agenda item.
- 10:19 Disclosures: Chair Hall opened the public hearing and asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. He asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application. There was none. Chair Hall asked if any Commissioner needed to declare any contact prior to the hearing with the applicant or any party involved in the hearing or any other source of information outside of staff regarding the subject of this hearing. There was none. Chair Hall asked if any Commissioner had visited the site. If so, did they wish to discuss the visit to the site? Several members of the Commission had visited the site, but had no comments to make on the visits.
- 10:20 Staff Presentation: Senior Planner Darnell discussed the request for a Planned Development Amendment for property on SE Norton Lane. The current site was zoned C-3 PD, General Commercial Planned Development. The Planned Development was first adopted in 1999. There were a number of conditions and development restrictions on the site. The Planned Development was amended in 2006 to add some uses to the already allowed office uses, including senior condominiums, apartments, and assisted living facilities. The request tonight was to amend the Planned Development to allow an additional use, multiple family residential. All other provisions of the Planned Development would be retained. He then summarized the review criteria. The application included the need for residential in the City, specifically higher density residential use, as a reason for approval. The current C-3 zone did allow multi-family residential, and this change would be adding a permitted use. It would increase the ability of the City to provide additional housing in this area. There were a number of policies in the Comprehensive Plan that addressed housing and residential development. It was within one half mile of public transit and one quarter mile of neighborhood and general commercial shopping centers, however it was not adjacent to open space. Staff recommended a condition of approval that would require 10% usable open space on the site. There were also conditions

of approval for right-of-way improvements at the time of development. The applicant included a traffic study that analyzed a trip generation based on the most intense use for the site, medical office, and compared it to the multi-family use. There was a substantial difference in the number of trips as multi-family would be a lot lower. Once there was a development plan, it would be subject to ODOT's review because it fronted Norton Lane which was an ODOT facility. There would be utility and drainage facilities to serve the site. No public testimony had been received before the meeting packet went out. He did receive one testimony on May 14 from the Housing Land Advocates and Fair Housing Council of Oregon. They referenced there was no finding for Statewide Goal 10 in the staff report. He noted that findings were provided that called out the Buildable Lands Inventory and Housing Needs Analysis in the decision document and thought that issue was addressed. Staff recommended approval of the application.

- 10:31 Commission Questions: Commissioner Lizut did not understand the Fair Housing Council's issue. Senior Planner Darnell said the City had received a similar letter on other projects. It appeared the Council wanted to make sure they were addressing Goal 10. He thought the City was addressing it. Planning Director Richards said the City had received this on every housing development that was noticed to DLCD.

Commissioner Knapp asked how hard it was to cross the highway to get to the commercial shops. Senior Planner Darnell said there was a pedestrian crossing light.

Commissioner Chroust-Masin asked if there would be a problem with the future residential use and the nearby hospital since there was only one access. Senior Planner Darnell said the TSP had plans for a more robust street network south of the highway and they were currently looking at the Three Mile Lane traffic. Right now it would access onto Norton Lane, but it would likely be part of the review process for the development to look at how the accesses aligned with the surrounding network.

Commissioner Perron disclosed a potential conflict of interest as her husband owned a diner.

- 10:36 Applicant's Testimony: Ben Altman, Pioneer Design Group, was representing the applicant. He thought this was a logical amendment to add into the right to use the residential portion of the C-3 zone. He agreed with the staff report, recommendation for approval, and condition for the open space.

Commissioner Butler asked how many units were they thinking of putting in. Mr. Altman thought it would be about 120. He had held a neighborhood meeting and the CEO of the hospital was there and he was supportive of the project, especially for hospital staff housing. He thought it was compatible with the area.

Commissioner Langenwaller asked if there was affordable housing planned in the development. Mr. Altman answered no.

Commissioner Chroust-Masin asked about the timing of the project. Mr. Altman said they had to get approval of this application, then do a land development and design review. He thought it would be developed sometime next year.

Public Testimony:

- 10:39 Proponents: Mark Davis, McMinnville resident, was in favor of this project as the City needed more apartments built. However, this was a poor location for an apartment complex as crossing

the highway was dangerous. It was no place for children. He was frustrated that some R-4 land was not being developed as residential, but as offices, and now they were taking C-3 land for offices and building apartments. He thought Norton Lane was supposed to be closed and the access would be on the overpass and Evergreen entrances.

Community Development Director Bisset said the Three Mile Lane corridor did anticipate interchanges at both ends of the corridor and serving both sides of the highway. That area was currently being planned and it might be revised.

10:43 Opponents: None

10:44 Chair Hall closed the public hearing.

The applicant waived the 7 day period for submitting final written arguments in support of the application.

Commissioner Dirks also questioned this location for an apartment complex. She cautioned the Commission about sticking apartments out in the middle of nowhere. As the Three Mile Lane area developed, they needed to work towards making this an area that was livable.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Chroust Masin MOVED to RECOMMEND the City Council APPROVE PDA 6-18 subject to the conditions of approval provided in the decision document. SECONDED by Commissioner Lizut. The motion PASSED 9-0.

5. Commissioner/Committee Member Comments

None

6. Staff Comments

10:48 Planning Director Richards announced on May 21 there would be a Project Advisory Committee meeting for the Buildable Lands Inventory/Housing Needs Analysis project. On May 22 there would be a Project Advisory Committee meeting for the City Center Housing Strategy project. On June 12 there would be a Project Advisory Committee meeting for the Three Mile Lane project and on June 26 there would be a meeting for everyone to review the Three Mile Lane plan.

Chair Hall requested that staff research what it would take to create a process to compel a developer to work with other developers such as what the Commission wanted to do for the first hearing that night.

Planning Director Richards said she could look into it, but they had to have a nexus for the requirement. She suggested having a work session on the Dolan case.

Commissioner Butler suggested reviewing past Commission decisions to see how they were developed.

Commissioner Langenwaller thought they should get the word out to other communities about the Great Neighborhood Principles.

There was discussion regarding the procedures for site visits.

7. Adjournment

Chair Hall adjourned the meeting at 10:57 p.m.

Heather Richards
Secretary