

SCAPPOOSE PLANNING COMMISSION MEETING MINUTES

Thursday, October 27th, 2022, at 7:00 p.m.

1.0 CALL TO ORDER

Chair Jensen called the meeting to order at 7pm.

2.0 ROLL CALL

Commissioners;

Scott Jensen	Chair
Bill Blank	Vice Chair
Bruce Shoemaker	Commissioner
Marisa Jacobs	Commissioner - Virtual
Ty Bailey	Commissioner
Harlow Vernwald	Commissioner

Staff;

Laurie Oliver Joseph	City Planner
Chris Negelspach	City Engineer
Elizabeth Happala	Office Administrator

Excused;

Rita Bernhard	Commissioner
Monica Ahlers	Commissioner

Applicants in attendance;

Matthew Sprague, Pioneer Design Group
Erik McCarthy, West Consultants
Jack Dalton, Environmental Science & Assessment LLC
Matt Bell, Kittleson & Associates
Garrett Stephenson, Schwabe Williamson & Wyatt
Max, David Weekly Homes

Audience;

57 concerned residents and neighbors attended in person
Several attended virtually

3.0 APPROVAL OF MINUTES

3.1 September 22nd, 2022, Planning Commission Meeting

Chair Jensen asked the commissioners if they had any comments or corrections to the minutes. As there were none, Commissioner Shoemaker moved to approve minutes as presented and Commission Bailey second.

Motion Passed 6-0. AYES: Chair Jensen, Vice Chair Blank, Commissioners Shoemaker, Commissioner Jacobs, Commissioner Bailey and Commissioner Vernwald.

4.0 CITIZEN INPUT

There were **none**.

5.0 NEW BUSINESS

5.1 Street Name Change - Commerce Drive to NE Commerce Drive, Aviation Court to NE Aviation Court. The City of Scappoose proposes to add a directional indicator (NE) to Commerce Drive and Aviation Court. **Format:** This is not a land use application and is not subject to Title 17 – Land Use and Development Code. All interested persons are invited to attend the hearing and will be given an opportunity to be heard concerning the proposal.

Chair Jensen read the docket number then turned it over to City Planner Oliver Joseph.

City Planner Oliver Joseph welcomed the Planning Commissioners this evening and thanked them for their service to our community. She also thanked the citizens that are attending in person and virtually. She stated

that there is a substantial amount of information to cover tonight and asked for everyone's patience and attention as they consider the presentation tonight and asked the audience to be respectful during the presentation and refrain from side conversations that would be disruptive to the hearing and that everyone on-line needs to mute themselves. She also stated to those on the phone that they can un-mute themselves by pressing *6 on their phone. She also stated that many of the concerns are very similar in nature and asked that if the person who testified before you covered the same issues that you have then we ask that you move to a different issue to allow everyone time to testify. Adding that each testimony would be limited and timed to 5 minutes per person to ensure everyone has time to speak on the matter. Stating that Associate Planner NJ Johnson will give the speakers a 1-minute warning and notify them when their 5-minutes is over.

Associate Planner NJ Johnson asked if there was anyone online or the phone that wanted to comment on Docket 5.1, as there were none he then asked if there was anyone online or the phone that wanted to speak about Docket 5.2. For those that did, he asked for their name, City and if they were a proponent or an opponent.

Lenard Aplet stated he is from Scappoose and is Neutral.

City Planner Oliver Joseph asked everyone else to please fill out the speaker request forms. She then began with the Docket 5.1 Street Name Change and went over the staff report within the packet. She concluded that staff recommends that Planning Commission recommend to City Council approval that Commerce Drive be renamed to NE Commerce Drive and Aviation Court be renamed to NE Aviation Court.

Commissioner Shoemaker asked if there were any buildings addressed off these properties.

City Planner Oliver Joseph replied no

Chair Jensen stated that if the fire department wants it then this should be approved.

Commissioner Shoemaker moved to recommend approval to City Council for the street name changes as presented and Commission Bailey second. **Motion Passed 6-0. AYES: Chair Jensen, Vice Chair Blank, Commissioners Shoemaker, Commissioner Jacobs, Commissioner Bailey and Commissioner Vernwald.**

5.2 Docket # SB1-22, ZC1-22, CU1-22, SLDP (1-22, 2-22, 3-22, 4-22)

David Weekley Homes has requested approval for Tentative Subdivision Plat Approval (SB1-22) to subdivide Columbia County Assessor Map No. 3212-CB-00401 into 48 single family residential lots in the Low Density Residential (R-1) zone. The applicant also requests approval for a Planned Development Overlay Zone Change (ZC1-22), Conditional Use Permit (since Planned Developments are listed as a Conditional Use in the R-1 zone), and Sensitive Lands Development Permits for the sensitive lands on site, including Floodplain (SLDP1-22), Wetlands (SLDP2-22), Slope Hazard (SLDP3-22) and Fish and Riparian Corridor (SLDP4-22). The site is 17.3 acres and is located south of the Captain Roger Kucera Way and SW JP West Road intersection.

***Format:** Subdivisions are processed as a Limited Land Use Decision and do not require a public hearing (there will be no opportunity to provide verbal testimony regarding the subdivision specifically). Sensitive Lands Development Permits, Conditional Use Permits, and the Planned Development Overlay Zone Change are processed as a Quasi-Judicial decision which does require a Public Hearing (both verbal and written testimony may be provided).*

Chair Jensen read the docket item and the order of hearing script then asked for any ex-parte contacts, conflicts or challenges.

Audience member Jennifer Hancock raised her hand, staff gave her a microphone; She stated that she heard

the city already made up their minds about the application and wanted to know if that was true. Commissioner Bailey replied no.

Chair Jensen continued with his question about ex-parte contacts, conflicts or challenges, as there were none he called for the staff presentation.

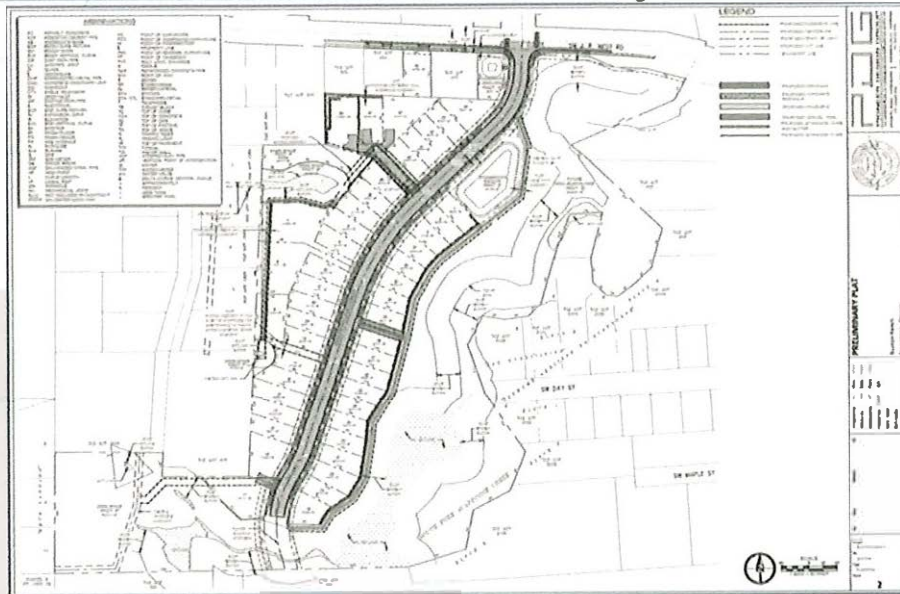
City Planner Oliver Joseph asked staff to check the virtual waiting room for those joining on-line to accept them into the meeting. She then began her presentation of the staff report beginning on page 8 of the packet including the findings then ending with staff recommendation of approval with their conditions of approval. She then asked the commission for any questions.

As there were no questions, Chair Jensen called the applicant forward for their presentation.

Applicant Matthew Sprague with Pioneer Design Group came forward and presenting the following slides.



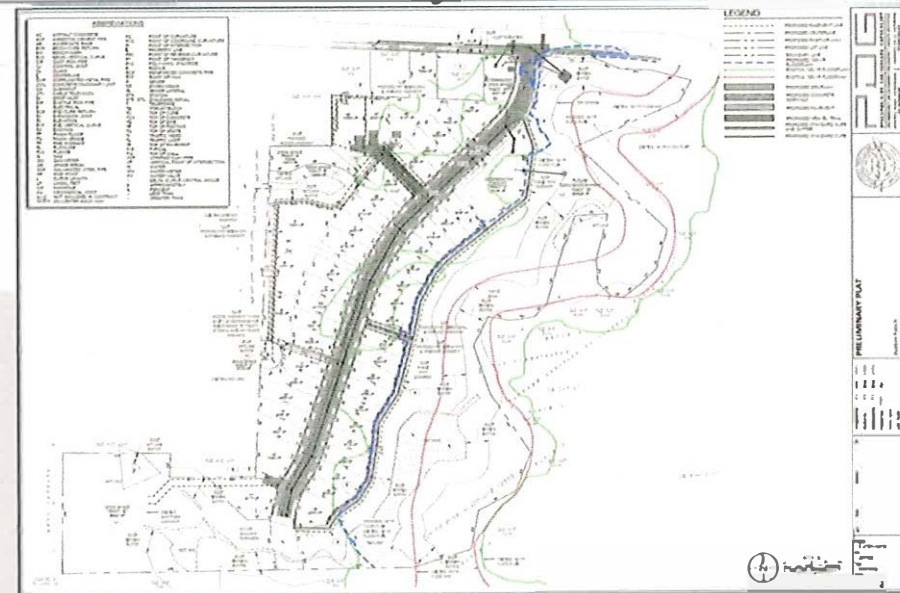
Preliminary Plat



David Weekley
Homes

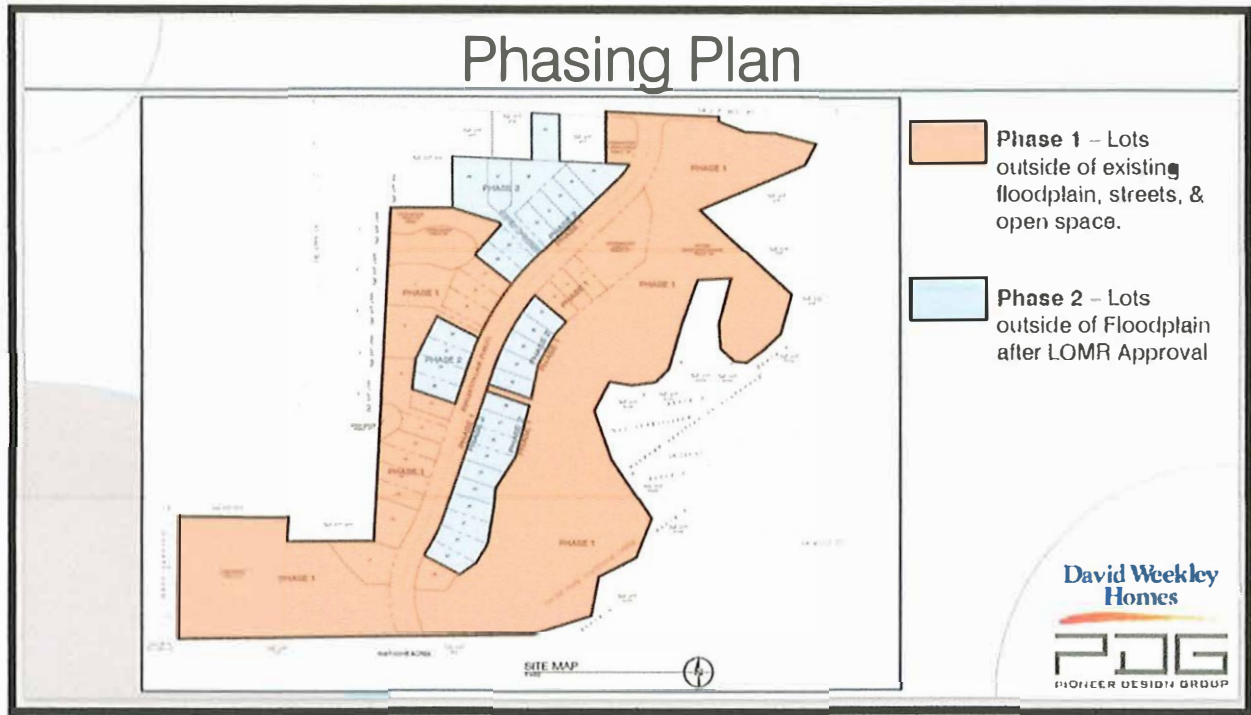
PDG
PIONEER DESIGN GROUP

Preliminary Plat with Flood Plain

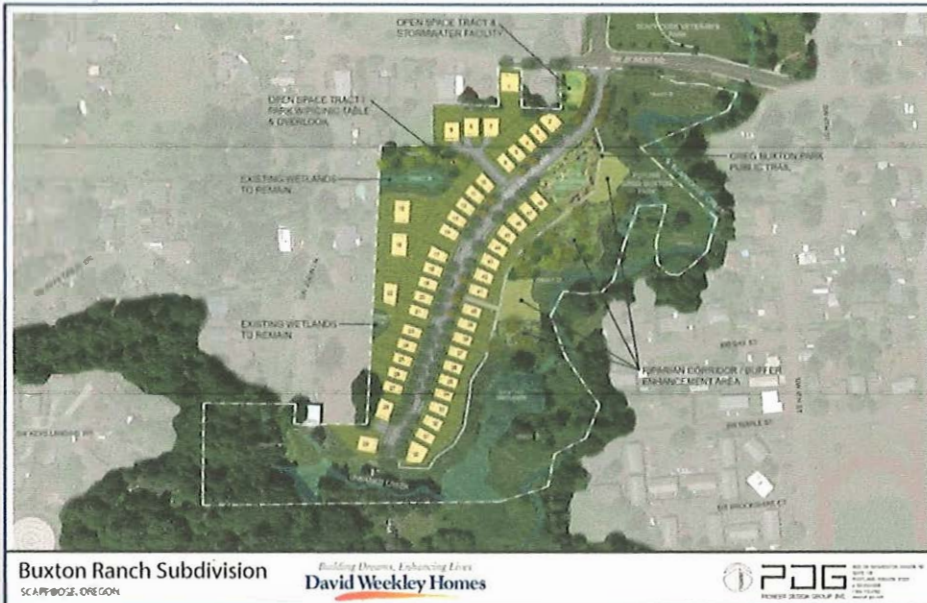


David Weekley
Homes

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PIONEER DESIGN GROUP



Buxton Ranch – Planned Development



Project Goals & Benefits

- 48-Lot Subdivision for single-family detached residential dwellings.
- As part of the development, the following land uses are proposed:

Single Family Residential Lots	236,037 sf.	31.30%
Street Rights-of-Way	71,288 sf.	9.45%
Park Tracts	309,559 sf.	41.09%
Open Space/Resource Tracts	118,910 sf.	15.76%
Storm Water Facility Tract	18,156 sf.	2.40%
Gross Site Area	753,950 sf.	100%
- 57% of the site maintained in open spaces such as natural resource areas & parks.
- Expand the riparian vegetation areas between the creek and new development.
- Take advantage of and protect the sensitive environmental, visual, and recreational values of South Scappoose Creek and wetlands on the property.
- Maintain floodplain storage capacity with balanced cut/fill, clustering the residences away from South Scappoose Creek, and creating several tracts to preserve open space to ensure the home sites are safe from flooding.
- Provide a quality subdivision for single family homes, with recreational amenities for residents and the public to enjoy.
- Create useable recreational open space and enhance the overall visual, environmental and recreational quality of the development with a combination of parks and open spaces with quality landscaping.
- Accommodate a housing type and size that provides options for the local community, is affordable, and provides opportunities for next generations of Scappoose residents.
- Accommodate future development via extension of the public street.

**David Weekley
Homes**

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Elevations



David Weekley
Homes

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Elevations



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Elevations



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Matt Bell, Traffic Engineer with Kittelson and Associates came forward to discuss their Traffic Impact Study showing the following slides during his presentation. Their full Traffic Impact Study is within the Planning Commission packet as exhibit 22, pages 349-371.

Traffic Impact Study



David Weekley
Homes

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Traffic Impact Study



Traffic Impact Study

- Study Overview
 - A traffic impact study was prepared in May 2022
 - The study evaluated intersections on JP West Road, Maple Street, and US 30
- Study Methodology and Assumptions
 - The study methodology and assumptions reflect current standards and practices
 - The analysis reflects guidance in the Scappoose Transportation System Plan
- Mobility Standards and Targets
 - City standards allow for relatively high levels of congestion on City streets
 - ODOT targets allow for high levels of congestion on US 30 for long periods of time



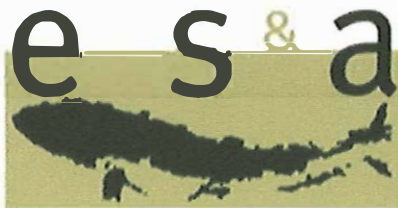
Traffic Impact Study

- Analysis Results
 - All study intersections are expected to meet City/ODOT mobility standards and targets
 - US 30/JP West Road is expected to operate at LOS F, but below capacity
 - There are no trends or patterns in the crash data that require mitigation
 - Prior studies identify safety improvements at US 30/Maple Street
 - Turn lanes on JP west Road are not needed to support the development
- Recommendations
 - Provide improvements along the site frontage consistent with City standards
 - Construct the new local street connection to City standards
 - Maintain adequate sight distance at the new street connection to JP West Road



Jack Dalton, Biologist with Environmental Science & Assessment LLC came forwards to discuss the Resource Map image below, the Site Plan and Riparian Habitat image below. Their full FEMA/ESA Compliance Assessment is within the Planning Commission packet as Exhibit 11, pages 3261-274.

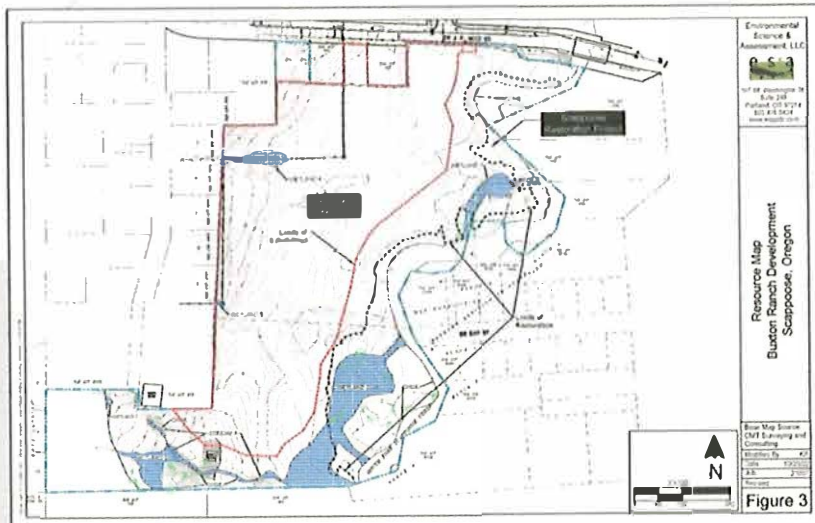
Environmental Assessment



Environmental Science & Assessment, LLC



Resource Map



- 2018-19 Wetland delineation – WD2019-0035 and WD2019-0404
- Two (2) larger wetland areas and S. Fork Scappoose Creek within floodplain – higher habitat quality
- All other wetlands mapped lower quality habitat in and around project
- Scappoose Bay Watershed Council (SBWC) S. Scappoose Restoration management Plan – installed in late 2018
- FEMA ESA Compliance Report – Evaluated site for listed USFWS species and NMFS Anadromous fish species
- Consulted with ODFW in 2019 and conducted a site visit to evaluate potential impacts to floodplain and fish species for the proposed Buxton Ranch CLOMR application

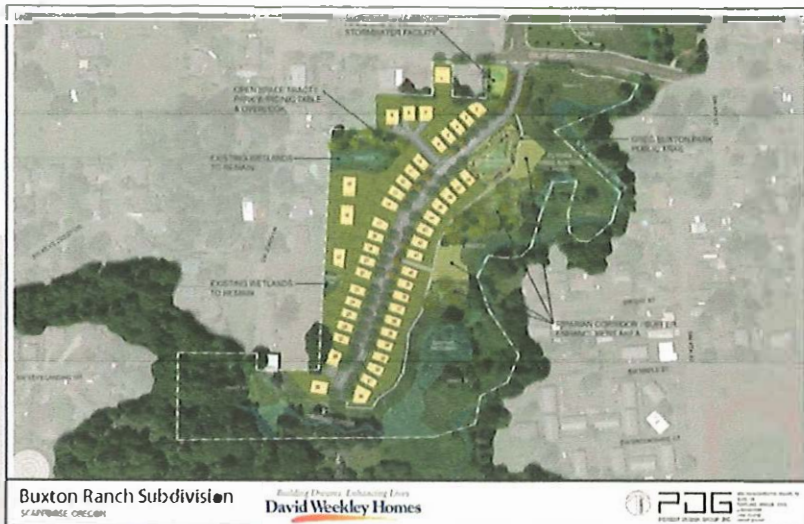
Site Plan and Riparian Habitat



- Established the City of Scappoose Riparian Buffer (50-Ft) along floodplain wetlands and creek
- Two (2) small wetlands on west edge of project area (outside floodplain)
- Existing Riparian Buffer (50-ft) lacks tree/shrub cover in most areas
- Site managed as pasture within the footprint of proposed project
- Project avoids impact to any existing riparian or wetland forest cover along creek



Landscape Plan



- Riparian (50-ft) habitat protected in open space – enhanced per landscape plan
- Additional riparian corridor enhancement between the base Scappoose 50-ft buffer and the eastern edge of project
- Riparian habitat enhancement planting creates grassland, scrub-brush, dense forest with native understory cover
- Riparian enhancement will increase diversity and improve existing sensitive floodplain habitat from existing conditions



Erik McCarthy, PE hydrologist with West Consultants came forward to discuss the following slides related to floodplain. The Preliminary Storm Drainage Report can be found in the Planning Commission packet as Exhibit 20, pages 322-347. The LOMR and CLOMR can be found as Exhibits 8, 9 & 10, pages 247-260

Hydraulic Analysis



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WATER | ENVIRONMENTAL | SEDIMENTATION | TECHNOLOGY

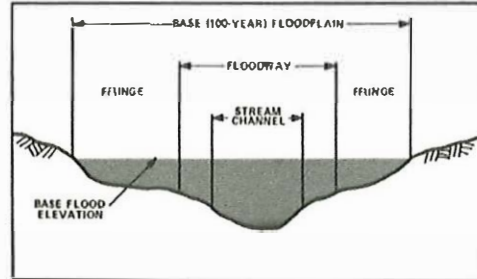
**David Weekley
Homes**



Floodplain Terminology

Special Flood Hazard Area (SFHA)

- FEMA identifies areas that will be flooded by the 1-percent annual chance flood
- Typically referred to as the 100-year floodplain
- Development within the SFHA is regulated FEMA and the City



Flood Insurance Requirements

Homes and businesses in the 100-year floodplain with mortgages from government-backed lenders are required to have flood insurance



Letter of Map Revision

Letter of Map Revision (LOMR)

- A letter from FEMA officially revising the current SFHA mapping
- Revised floodplain mapping based on updated hydraulic analysis by licensed engineer
- **Before reviewing plans for the proposed development, the City required that a LOMR be completed in the vicinity of the proposed project**



Letter of Map Revision

Why did the City require a LOMR?



- The old floodplain mapping was outdated and inaccurate
 - Relied on obsolete topographic data
 - Relied on less advanced hydraulic modeling
 - Did not account for recent projects along South Scappoose Creek:
 - JP West Road Bridge replacement
 - Construction of Veterans Park
 - Scappoose Bay Watershed Council stream restoration project



LOMR Mapping Changes

- Became effective mapping on April 19, 2021
- Reduced the number of homes required to have flood insurance

Legend

-  Current 100-Year Floodplain
-  Previous 100-Year Floodplain



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February 2019 Flood vs Current 100-Year Floodplain



Legend

-  Current 100-Year Floodplain

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Proposed Floodplain

- The proposed development will not increase the 100-year water surface elevation by more than 0.00 ft (no-rise)
- No additional fill will be placed in the 100-year floodplain unless the volume is offset with removal
- The proposed units will be at least 2.5 feet above the 100-year water surface elevation



Floodplain Cut/Fill Balance

- Mapping became effective on April 19, 2021

Legend

- Effective 100-Year Floodplain
- Proposed 100-Year Floodplain
- Material Removed from Floodplain (Cut)
- Material Placed in Floodplain (Fill)



Conditional Letter of Map Revision

Conditional Letter of Map Revision (CLOMR)

- A letter from FEMA showing the proposed revisions to the SFHA for a proposed project
- Proposed floodplain mapping based on hydraulic analysis by licensed engineer
- An additional LOMR will be required after construction to demonstrate that what was built still satisfies both the City's and FEMA's floodplain requirements



Proposed Mapping Changes

Legend

-  Proposed 100-Year Floodplain
-  Current Effective 100-year Floodplain



Summary of Hydraulic Analysis

- The proposed development causes no rise in the 100-year flood water surface elevations
- Fill will be placed in the floodplain to remove the proposed development from the 100-year floodplain.
- The proposed units will be at least 2.5-ft above the 100-year flood



Concluding Findings

- No development is proposed within the floodplain. All homes are proposed with a finished floor elevation greater than 2 feet above the 100-yr floodplain;
- There will be no net rise in the flood surface elevation as a result of the development. In actuality, the proposal includes a net increase in floodplain storage of 9 CY over existing conditions. Cut and fill areas will be certified following construction to ensure floodplain storage is maintained.
- The applicant has demonstrated with substantial evidence in the record that the development complies with the applicable approval criteria, including:
 - City of Scappoose
 - Comprehensive Plan
 - Transportation System Plan
 - Land Use and Development Code
 - Public Works Design Standards
 - Oregon's Statewide Land Use Planning Goals & DLCD Review
 - FEMA Requirements (including LOMR, CLOMR, and ESA)
 - Army Corps of Engineers and DSL joint permitting requirements (JPA)
 - Oregon Department of Fish and Wildlife



Buxton Ranch

A 48-Lot Subdivision with Planned Development Review,
Conditional Use Permit, Sensitive Lands Permits
and Phased Platting

City of Scappoose Docket # SB1-22, ZC1-22, CU1-22,
SLDP (1-22, 2-22, 3-22, 4-22)

October 27, 2022

David Weekley
Homes

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(this concluded the slide presentation)

Applicant Matthew Sprague with Pioneer Design Group also wanted to clarify some of his earlier responses to public comments, that homes would be at least 2 feet above the 100 year flood elevations according to the specific Conditions of Approval that requires it to be 2 feet. Adding that they went back and looked at the actuals which showed that the minimum will be 2.5 feet from finish floor, while all others will be higher. And that there will be no development within the floodplain and all homes will be proposed with finish floor elevations greater than 2 feet above the 100-year floodplain. He also stated that there will be no net rise in the flood surface elevation as a result of the development and that the development includes a net increase of floodplain storage of 9 cubic yards. He stated that cut and fill will be certified to ensure floodplain storage is maintained and that the applicant has demonstrated with substantial evidence in the record that the development complies with the applicable approval criteria including those from the City of Scappoose Comprehensive Plan, Traffic System Plan, Land Use Development Plan and the Public Works Design Standards. Adding that it also complies with the Oregon Statewide Land Use Planning Goals, DLCD review, FEMA requirements, Army Corps of Engineers, DSL Joint Permitting and the Oregon Department of Fish and Wildlife. He added that they have reviewed the Conditions of Approval and they accept them as written. And concluded by stating that the entire team is here to answer any questions.

Chair Jensen reiterated the order of the hearing then stated that he would call 2 names at a time, the first name will be the name of the person called up to speak and the 2nd name will be the next person on deck to speak. Adding that the person on deck should start shuffling their way out of the audience to make it easier and quicker to get to the mic to speak. He also requested that speakers address which criteria they will be commenting on as the approval criteria is the only thing the commissioners have to work with. He began by calling up the 'neutral' speakers first, beginning with Jon Archibald then calling out Lenard Aplet next on deck, reminding them that they will have 5-minutes.

Jon Archibald, Professional Engineer with SCS Engineers, Tigard, came forward first and stated that he was asked to come here to testify by Joel Haugen on behalf of the neighbors. He stated that he is also a hydraulic

engineer and has worked on floodplain mapping analysis, permitting, design projects similar to Erik McCarthy PE hydrologist with WEST Consultants adding that he has much respect for WEST Hydraulic Engineering firm and has a lot of confidence in their work. He stated that he is not here to oppose the project as he enjoys offering his thought on floodplain impacts and projects, adding that he has been involved as a consultant to the proponent engineers and does believe that developments in and around floodplains can be done responsibly. He stated that he is not being compensated to be here tonight and is here to be a part of the conversation, adding that he has only taken a cursory look at the plans and reviewed the current FEMA mapping as well as the CLOMR on file and a surface look at the project which he wanted to add some thoughts on. He stated as Erik McCarthy alluded to that floodplain storage is important as it helps attenuate the flows to back them up a bit so they can be released at a slower rate and the local cut and fill requirements are well intentioned as proper ways of preserving that storage and the hydrologic function. He added that he does not feel that this project has been approached in an irresponsible way or an improper way hydraulically as it does appear to be conforming to Federal, State and local regulations. He would like to add some thoughts on hydraulic analysis for floodplain impacts of this project;

He stated that the cut fill balance does help preserve with flood storage, flow and intensity control however the place for that additional cut or flood plain storage is not exactly where it's being eliminated and generally speaking, adding volume to the bathtub and taking out volume within the same side of the channel is generally meeting the concern although in this particular project, the change in floodplain storage is along a very sharp bend in the creek and upstream from a bridge. Adding that if he was approaching this project from a oponent perspective, he would recommend checking the following things on a basis of liability;

- How the flow velocities that continue down stream of the channel through the bridge might be affected by the particular geometry change of the flood storage and the shape of the channel right there.
- He would also be interested in seeing if the scouring potential on the supports which may or may not be affected by any kind of change in velocity, intensity or hydrograph timing. Adding that he is not a geomorphologist, who is person who studies the river health and river movement, although he would be interested in having a geomorphologist look at the tractive forces which HEC RAZ calculates in the FEMA model to see if there is any potential for aggravated stream movement which might not be the case as most of the impact seems high on the bank of the floodplain and the creek. Adding that the great news is that taking a look at the velocity, scour potential and storage impact can be accomplished by using hydraulic models that already exist, which he said WEST produced an updated effective model which was discussed and demonstrates what is here now. Adding that the exact same newer version could be used to generate answers to his questions.

The next Neutral comment was from Leonard Aplet who was online, he states that he owns property just south of the Buxton project site. He stated that as it was discussed earlier, the new portion of Eggleston Lane in the project will only be improved to end of lots 17 & 18 and not improved to the project boundary for a future extension. Adding that as we all know from past subdivisions, that if the improvements aren't made at the time of development, then those improvements are never done, or they are paid for by future landowners. He stated that this property development should pay for improvements all the way to the property boundary for future connections to this development so that it is not unduly born by the current property owners of Eggleston Lane.

Chair Jensen called for any support/proponent speakers;

Max from David Weekley Homes came forward and said he might be biased although wanted to acknowledge that they look forward to being a part of this community. He stated that they are a home builder with 45 years of experience and try to hire the best consultants for their communities and that they take the time to review the project and they love what they do. Adding that they hope this project will be a great addition to our city. He realized it was a large packet and hopes that it shows the amount of effort that they've put into it and thanked the Commissioners for their time. He also stated that they are a private

homebuilder that puts a lot of heart and soul into their product and that they work on a personal level with their clients. He welcomes them to visit other model homes they have around Beaverton and Hillsboro. And he hopes that all their consultants here tonight shows that they care about this community. He then thanked everyone for their time tonight.

Chair Jensen then called for the opponent speakers and reminded everyone to speak about the specific approval criteria and that we would take a break around 9pm. The first one he called forward was William Etter with Peggy Tate to follow.

William Etter stated that he has been a resident of Scappoose for about 20 years and lives on JP West Rd. He stated that his sentiments were already reflected in the letters/comments from Shannon Hubler, Roy Jobin & the Hancock comments that are in the handouts provided tonight. He stated that he cannot go any further in describing what he feels or what he's observed about this development and has feelings of lack of credibility for all those that have spoken tonight. He stated that he has doubts about what is going on and he stated that there are several problems that have yet to be addressed or will ever be solved that are laid out in the letters contained in tonight's packets. He then thanked the Commissioners for the opportunity to address them.

Peggy Tate came forward, she stated she has lived in her house on JP West Rd. for 32 years, it is located directly across from the Buxton Property. She understands that the people that spoke tonight have done all their tests for the development, although stated that until you have lived there you don't see that it floods there every year. She also stated the bathrooms at the park also flood. She stated that the traffic would be an issue if each of the 48 houses have 2 cars each that would be 96 cars going onto JP West Rd., adding that the park also brings in a lot of traffic. She stated that there is already an issue with traffic and feels this development would be a big mistake as she does not trust what they have said about the flooding. She stated in the 32 years she has lived there; her yard has flooded, and it is a constant issue.

Chair Jensen reminded everyone to speak about the specific approval criteria that is not being met.

Pat Anderson came forward, she has lived in Scappoose for 32 years and has seen the area flood. She stated that she has already submitted comments last week and received a confirmation that they were received although did not see them in tonight's packet.

City Planner Oliver Joseph replied that her letter is Exhibit 43, page 518-521 of the packet.

Pat Anderson continued by saying that she would not reiterate her submitted comments as those same concerns might be voiced tonight. Adding that the things she is most concerned about is the innocent people that will be buying these homes and what they will be subjected to. Adding that they are marketing these homes as affordable housing. She stated that when they built their house, they had to have all the geotechnical engineering reports done and dirt compacted as their home was being built in the winter which was a costly expense for their one house that almost put them over their budget as the cost was not anticipated. She would like to understand what the project development cost will be as all the modifications that have to be made to that land will then be passed on to those home builders and the homeowner, in addition to having flood insurance. She stated that the applicant did show a map where the flood insurance would not be needed, although she is very concerned if those houses will still be affordable housing. And asked what affordable housing is anymore. She added that she did google David Weekley Homes, looking for reviews and feedback which she found that they had a 1.5 star out of 5-star rating and quite a few reports that were closed or considered resolved. Adding that an average homeowner does not have the resources to fight these big developers, and they just end up taking their losses. She added that the common theme in those complaints were poor craftsmanship and leaking roofs. She stated that if they do not pay attention to their own level of quality for a basic building of a house then how do we entrust them to build here that would impact the new homeowners and our infrastructure as well as our ecosystem. She stated that she does

not have any confidence in them as well. She also stated that their traffic presentation did not have any numbers in their analysis as she is a numbers & facts-person, adding that one thing that was really missing from their analysis was the safety of pedestrians as there are no sidewalks here in Scappoose. She also stated that the thoroughfares they mentioned are around the high school. She also stated that we have a problem now with people speeding in the 25 mph zones where people are going 35 or 45 mph which is also a problem in this community. Adding that kids trying to walk to the middle school without any sidewalks also impact the traffic with the safety of the pedestrians which was nowhere in their presentation. She concluded that she would really like to see their budget on how they are going to market these houses as affordable based upon their cost to modify the land to prevent it from flooding.

Chair Jensen thanked the speakers for making sure their comments are not repetitive.

Judy & Joel Haugen came up and wanted clarification as he and Judy both live in Scappoose and have comments to make together and would like to know if they could go over their allotted 5 minutes.

City Attorney Peter Watts replied that they could, as long as they do it back to back, they could have 5 minutes each, otherwise they would have issues with 6 people signing up for comments with only one speaker.

Chair Jensen asked for a separate speaker request form in order for each speaker to have their own request form.

Judy Haugen began by reading their testimony, scanned below, while Joel held up several posters and photos.

October 27, 2022 Scappoose Planning Commission Testimony

By: Joel & Judy Haugen, Scappoose residents since 1978

Good Evening Commissioners,

As I/we have limited time to testify, I trust you all have read your packets. I would like to reinforce the thinking behind the original intent of the 1973 Oregon Land Use Planning law [p.526](#) , noting the concern for loss of open space and natural beauty around urban centers.

Community green space [p.527](#) , exhibit 38, is of great consequence to community health and wellbeing. One consistent feedback from Scappoose citizens at the annual town meetings is that they value green space and want more of it. As in all communities, floodplains are best used for parks and open space. The 17-acre Buxton floodplain property also serves as a percolator for South Scappoose Creek's several listed species and habitat for all kinds of associated critters. Paving and placing housing on 7 acres of it will have negative consequences to both water quality and the ambient temperature in the Creek, regardless of the specified mitigations proposed. If this development is approved, it will stimulate the development suggested in the Circulation Plan [p.538](#) further degrading community green space and adding more consequences to the creek that makes Scappoose special. Neighbors have photos of large salmon swimming up South Scappoose Creek and to spawn, before local development reduced the natural habitat, which leads me to Goal 5 [p.532](#). Goal 5 cites "Local governments SHALL adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations;" not MAY, CAN, or TRY to preserve open space, it says SHALL.

RE Goal 7 [p.535](#) , I would like to draw your attention to Guideline A [p.536](#) Item 1. "In adopting plan policies and implementing measures to protect people and property from natural hazards, local governments should consider: [p.536](#) a. the benefits of maintaining natural hazard areas as open space, recreation and other low density uses; b. the beneficial effects that natural hazards can have on natural resources and the environment; and c. the effects of development and mitigation measures in identified hazard areas on the management of natural resources.

I also submit that FEMA did not do the necessary diligence on their granting of a conditional letter of map revision. The entire 17,352 acre [p.530](#) watershed should have been considered in the flooding calculations. We know for certain that gravity works, so all of the precipitation that does not evaporate, percolate or is absorbed will end up as surface flow down to the Buxton floodplain. Since

this is a phased development, what happens if FEMA errored, or starts factoring in future flooding projections such as Flood Factor <p.531> or KatRisk, and a LOMR is never issued? The Buxton Farms development WILL flood due to increasing storm intensities and the 7 acres of streets, driveways, sidewalks, and homes will exacerbate flooding upstream, downstream, and across stream. Ninety percent of these 48 new homes are unlikely to have flood insurance. Who pays for the recurring damages? How will the Covenants and Restrictions, realistically be enforced <p374>? Prudent communities are buying up floodplain homes, not building new ones.

In order for you to approve this conditional application, the developer(s) must show compensating benefits to the <> environmental harm, increasing flood hazards, additional traffic, and various other degrading elements to our community. They have most certainly failed to do so!

The bottom line with this application is that Scappoose is a home rule community and Buxton Farms, as proposed, would do grave harm to OUR city! Scappoose is not the developers' city, nor their engineers' or lawyers' city, pushing this development. YOU alone have the authority to deny this application and YOU have sufficient cause to do so. The City Council may well over-rule you and then again, the Land Use Board of Appeals may over-rule the city, but at least you can go to your Scappoose home tonight knowing that you did everything you could do to protect our cherished community.

In closing, please consider a few of the extreme flood events <> that have occurred all around us in 2022. How long before one of these atmospheric rivers comes our way. If NASA's projections are accurate, the 1996 flood will be tame in comparison to future flooding.

We submit these comments for the record and ask that the Buxton Farms hearing record remain open for 14 days for additional written testimony.

Thank you!

Joel & Judy Haugen
52363 SW Jobin LN
Scappoose, OR 97056

Joel Haugen began reading the document from the 3 stars in the middle of the above page, while Judy held up the same posters and photos.

Steve Collard came forward, from Scappoose. He stated that first he wanted to thank the Commission for the forum to accept these comments. His main concern as well as others is the periodic flooding, notable in 1996, 2015 and most recent 2019 flooding. He stated he recently received the over 500-page packet detailing the development plan that is very complex and recently retained a respected land use attorney in Portland named Hathaway Larson LLP, to help them better understand this proposal. He stated that their review is ongoing but already there are discrepancies related to compliance with the various city design and construction standards particularly the developer's ability to meet the criteria to address the health, safety and welfare of the community. He stated a few of their observations include alteration of the floodway which could have serious health and safety ramifications for not only the residents of the proposed development but also to the residents upstream from the development. Adding that even if water is somehow mitigated at the development site, the flow is still connected upstream and will impact land and residents there. He stated that #2, the city design standards require compatibility with adjacent neighborhoods which currently have a more rural feel whereas the new development is defined as being more dense with an urban feeling which also begs the question; were the larger lots with low density design not profitable enough? He continued with #3 sensitive lands which includes both plant and animal species which are currently present and the only way for the developer to claim that they are not developing in sensitive lands is by changing the floodway. For example, it was noted that 2 of the proposed storm water detention ponds are in the current floodway necessitating the need for construction in the floodway which is also true of road construction. He added that the floodway needed to be altered by creating and moving fill. He stated that it was noted that our city design standard states that there can be no fill activity in a floodway. He stated that the other concerns were maximum block lengths being exceeded and the fact that there is currently only one way in and out of the development. Adding the question of how emergency services will be able to get in and out effectively. He added that the firm is still looking at the details although their summary is pretty clear about how their proposal is dependent upon altering the current and natural floodway with cut and fill to achieve their development goals. He stated that these are goals that require work that appear to be contradictory to the city's design standards. On a personal level he said that he sees the development in this area of Scappoose as extremely risky from an environmental standpoint and for the potential residents in proximity of the development and for the City of Scappoose from a legal standpoint. He added that the evidence is abundant that our climate is changing. Adding that the data and the decisions based on that data is changing rapidly. He stated that we are expected to receive more rainfall here, not less and once the damage is done there is no going back and if he were a homeowner with a flood at home, the first and second party he would look to is the builder and then the city that approved the development. He stated that given the risks and complexity of this 500-page proposal and in the interest of being a detailed and balanced understanding for this nonpartisan Commission, he asks the Commission to keep the record open for 14-days in order to support their existing request to access the earlier 2003 development application and for more detailed insight from Hathaway Larson.

City Attorney Peter Watts asked Steve Collard if Greg Hathaway was representing him.

Steve Collard replied no, stating his name is Chris.

City Attorney Peter Watts asked if it was Chris Kodack, which Steve Collard agreed.

The audience applauded.

City Planner Oliver Joseph asked the Chair to speak to the audience and asked that their clapping not occur.

Chair Jensen asked the audience to refrain from applauding as it is a demonstration which he mentioned earlier in the prepared statement. He then called up Jennifer Hancock and Deb Miller on deck.

Jennifer Hancock, Scappoose resident came forward and thanked the commission for their service to the community. She began by stating that the FEMA criteria or the proposal regarding the floodplain map that

FEMA changed, that uses the criteria of the watershed work that they did on the creek, which she has a photo of showing that it has been completely eroded and how it is now actually a danger to the kids who might fall in. She added that those kinds of things don't work on a "S" creek, and she mentioned the bridge which is higher now. She stated that those 2 things did not mitigate any floodwater and the 3rd item she mentions is the park, which she says does not mitigate any flooding either as they installed some waffle plastic layer that holds the soil and the grass in place. She added that a "S" creek by its very nature is always changing, stating that a tree could fall in on one side and the water moves and the current changes. Reiterating that you can't control a "S" creek as trees will always fall in it all up and down the creek from now until forever. She stated that she thinks the criteria that they used to change their map was wrong. Adding that they think that they have mitigated problems by putting in a higher bridge and building retaining walls within the creek which only causes houses to have terrible silt problems for the next flood event which she stated that everyone saw the brown water in the photos. The other question she has for the developer or their engineer, is how much green space and riparian area will be left when they put in phase 2 and how many houses would that be.

Chair Jensen stated that this is not a question-and-answer period.

Jennifer Hancock apologized and continued by stating that there seems to be a conflict with the City's community rating system for discounted flood insurance rates which the city has to regulate activities in floodplain above and beyond the minimum national flood insurance program standards. She added that they need to have a bigger traffic analysis since this was just for 48 houses, but she knows Scappoose has plans for more developments up JP West Road. She stated that the traffic from those additional houses would add traffic to JP West and some traffic would go over to Keys Rd., adding that the traffic analysis needs to include all those developments that the city is planning. She added that the other conflict is the violation of encroaching on designated floodways and diminishing the carrying and storage capacity of existing floodplain which would be diminished by the proposed development and the city would be in violation of the city's development code 17.84.180. She believes that more review needs to happen for this proposal including the additional traffic analysis and she suggested that you give them more time to review all the documents.

Deb Miller, Scappoose resident came forward and thanked the commission for allowing her to submit her testimony tonight. She stated that her property is on Jobin Lane which overlooks the Buxton development site. She added that she has lived there since 1981 and over the years they have watched the creek flood every year. Adding that they used to take videos and photos but not so many lately which she now regrets as it would have come in handy to her now. She said they stopped taking the videos and photos as it became so commonplace and unremarkable that it didn't seem abnormal when the field flooded. She stated that she can't image what the future will hold when the weather changes in the next 15-20 years. Adding that if she were a potential home buyer in Scappoose and she knew the home was built in a floodplain that was just rezoned, she would not buy it. She believes the only buyers that would invest in it would be unsuspecting ones who don't know about the history of the property and that their home is on land that is prone to repeat flood risks. She added that they will find out, but it will be too late while the rest of us knew that disaster there was imminent. These new buyers will be taken advantage of as they trust the developer's careful plan and purchase from a builder who will be long gone but will enjoy profiting from them without providing their buyers a long-term investment. She envisions in a decade or two, if the homes are still habitable, that they will become rentals as it is natural after repeat flood events that an owner will wish to sell although no one will purchase a flood risk home after the area has made the news once or twice. She added that insurance companies will not offer affordable insurance on property that has experienced flood damage, adding that if a house cannot be insured it cannot be sold, therefore becoming a rental. She knows how poorly rental homes are cared for and how common it is in rental communities to become blue-light tenants, which means the cops are there a lot. She stated that in review of this subdivision submittal, to best of her layman's ability, the development appears to have been carefully planned and everything appears to be in order and that they clearly put together a convincing pitch and have thrown a lot of money at it although

those of us who love living here in Scappoose have one thing in common which is to preserve our small town livability which we all enjoy with the green spaces, the quiet and almost crime free environment that is so rare to find now days. She urges the Planning Commission to recommend not approving this development and strike the delicate balance between vibrant growth of our community and the short-sided development that will not be conducive to making Scappoose as better place to live. She stated that she appreciates the attention and thanked them for the opportunity to speak on this matter. She added that she does realize that she did not specifically speak to the criteria of the application however there was no criteria including on the application that talked about future potential and adverse effects than what was presented by the applicant. She stated that she also submitted a video that she took on her back deck during the February 2019 flood along with her written comments although she was informed that there was no way to show it at tonight's meeting and is in favor of having an extension of this hearing to give her an opportunity to show the video footage which clearly shows a lot more water than the photo that was presented by WEST Consultants.

City Planner Oliver Joseph stated that there could be time to show it.

Chair Jensen stated that he had one more comment he wanted to get to.

Commissioner Jacobs asked Chair Jensen to state who spoke prior to Deb Miller, as she is taking notes.

Chair Jensen stated it was Jennifer Hancock. He then called Jim Lykins.

Jim Lykins (virtually), stated that he would like to address the aerial photo on page 12 in the circulation plan submitted by the developer, as he finds it disingenuous that the developers presentation overlooked an additional 47 lots that are on that image which he assumes is a part of their own intended projects. He stated it's a total of 94 lots not just 48 lots.

Chair Jensen asked if there were any more opponents who wish to speak.

Darril Clark, Scappoose resident came forward. He stated that he has watched that property flood time after time. And notice that he's one of the older people here tonight and that one thing that he has not heard addressed tonight was the houses behind Fred Meyer that drain into the same creek. He also asked where the storm water will go for the houses being proposed on Keys Rd. as he stated these developments will impact the people that live up Raymond Creek which is a bad idea that does not make any sense.

Casey Neilson came forward, he stated he lives in Scappoose and coaches youth football and little league baseball and does foster care in the community and works for a non-profit in Portland with social services for the homeless and drug addiction. He said he moved to Scappoose a few years ago for quality of life and he thinks what we're talking about tonight is financial gain and quality of life. He stated that his daughter was on a field trip today with her school and was brought to City Hall to show them what justice looks like and he believes Councilors, Planning Commissions and Court Houses are about quality of life for their community. He added that he is involved with this community because he believes in quality of life and when he hears things like buffers, or 2.5 feet and just-in-cases put in place over quality of life for financial gains sparks confusion when looking at a committee with that same daughter that was here earlier is sitting with him here tonight. He knows buffers are put in place because we don't know when we talk about what is happening with natural disasters and global warming. He stated that we had multiple days over 100 degrees this summer as the weather is changing rapidly. Adding that it sounds like FEMA is decreasing floodplains, while NASA is increasing them, giving us conflicting information about what is happening. Adding its stakeholders and profit with a committee that is here to place judgment on quality of life. He concluded by thanking the Planning Commission for being here in the community for us.

Rita Beaston came forward, she stated that she has lived on 3 different properties along Scappoose Creek for the past 40 years. She stated that she worked 10 years with the Scappoose Watershed Council, she has

watched the creek flood as well as her own property. She now lives up Dutch Canyon and has noticed that anytime something happens downstream where there are buildings being constructed closer to the creeks or more wetlands filled in, then the more they flood upstream. She stated that in 2019 she had more water on her property than they did in the 1996 floods, which is really amazing to watch how fast it comes up and how fast it goes down. She stated that their biggest reprieve in the 1996 floods was the dike breaking at Scappoose Sand & Gravel, which is now filled in and cannot give that same relief upstream. She added that if they had another 1996 flood, the whole system will be flooded worse with more devastation since we have not created more water retention areas to mitigate that. She stated that after the 1996 floods, the City of Eugene put hundreds and hundreds of acres into wetlands, to mitigate for higher water. Adding that she has not seen any of that done here in Scappoose. She stated that they have tried over the years, when she worked with the watershed council, as they identified several pieces of property along the creek that were not developed, although the city still has not acquired those identified lands that could help mitigate future flooding. And now this project proposes to build more in a floodplain is ludicrous as it will put everyone at risk.

Darla Knytyck came forward, she stated they moved to Scappoose in 1976, she stated they lived on the other side of the highway for many years then in 1989 they moved to Jobin Lane. She stated that her property overlooks the Buxton property where the development plans show there will be some picnic tables. She is concerned about some things that were not mentioned like the impact on air quality for the density of this housing since the airflow on this property seems to just lay there along the creek and when there is smoke from the wildfires it also just lays there without movement, which causes issues for people like her that have difficulty breathing. She is also concerned about the Homeowners Association and how they can be forced to actually comply with maintaining these things that are in the plan to help mitigate the flood. She is also concerned about the quality of the water that will be flowing into Scappoose Creek as it will be polluted with herbicides and pesticides that people use on their homes, yard and moss control on their roofs. She is also concerned about the carbon pollution from all the cars or oil leaks. Adding that when she asked about these, she was told that it was all going to be contained and filtered. Although she stated that the filters would be run electronically which would be up to the Homeowners Association to maintain those filters. She stated that she has had poor experiences with Homeowners Associations as oftentimes there are legal loopholes where they don't comply with maintenance issues. Her other concern is the impact of the infrastructure of Scappoose as no one has talked about the number of children that would be attending our schools or if our schools have the space to take in all these new students which will impact the quality of our education. She is also concerned about our sewer and water infrastructure as she is aware that we have a strain on our current infrastructure right now. She wanted to know if the taxes that comes in for these new homes actually will cover the cost of maintaining and improving our infrastructure in Scappoose to keep the quality up to the standards we have now in our community. She asked if the city gets enough taxes to really cover these impacts. Adding that we will never be able to reclaim that precious land since they are not making any more green space. She stated that the land is beyond value for our environment, our community, our livability, and our future. She stated we are not going to get it back once you sign on the dotted line and that us voters will remember who signed.

Chair Jensen called for a 7-minute break to reconvene at 9:30pm then begin with the applicants' rebuttals. He also requested that no one speak to the commissioners.

(break)

Chair Jensen called the meeting to order to hear the applicants' rebuttals.

The applicant's legal counsel Garrett Stevenson came forward. He began by stating that he wanted to take care of procedural items before jumping into a rebuttal that could change how they end things tonight. He stated that he understands that there is a request for a 14-day open record period, which he would like to request that it be 10 days for anyone to submit any additional evidence and testimony. Then after that 10-

day period, to then allow them 7-days to respond which would mean that this Planning Commission would meet one more time to deliberate on the new items received during the 10-day open record period. Adding that given the late hour and the volume of testimony tonight, he asked if it's okay with the Planning Commission that he would like to request that they reserve their time for their rebuttal for the beginning of the next hearing when they meet again to consider the additional evidence. He stated that there are a number of reasons for this request, first that it is very late, there are a lot of people who said a lot of stuff and they want to make sure that they have a chance to think about how to address it all which they think makes sense based on this open record period. He added that it is certainly up to their discretion.

City Legal Counsel Peter Watts replied that under the city's code, normally the folks asking for the open record would get 7-days and they have mentioned that they are hiring an attorney, Chris Kobac. He said that it sounds like he's already had a little time to review this and because of next hearing would not be until Nov. 17th, he asks the applicant if they would be willing to give them 10-days. Stating that the applicant would then get 7-days to introduce a written rebuttal or additional evidence to rebut the points that Chris Kobac or anyone else submitted, which would then be the date certain of Nov. 17th.

Chair Jensen addressed the commissioners, stating that they would not be getting through the hearing tonight, and this would be a great spot to wrap up the meeting which would continue on November 17th.

Commissioner Jacobs asked for clarification that we would be pausing the hearing to leave the record open for 10-days or 14-days then the developer would have 7-days to rebut, and we could come back on Nov. 17th to finish the hearing.

Chair Jensen replied basically.

Commissioner Jacobs then asked how that benefits them and why can't they continue now while leaving the record open for 10 or 14-days, that would still allow the attorney 7-days to rebut.

Chair Jensen replied that if they leave the record open, they will have to come back to meet after the written record is closed one way or another. Adding that they will be continuing the hearing one way or another and it is getting late.

Commissioner Jacobs agreed to continue the hearing.

Commissioner Shoemaker asked if they were on their own now and not to talk to anyone about this for that entire period of time and how to handle it if people are approaching them.

City Legal Counsel Peter Watts responded that if someone approaches you at Fred Meyer with strong feelings about the project, then as soon as you can write it down what they said and explain to them that you cannot discuss the application with them. Adding that as long as they disclose those ex-parte contacts and to the best of your ability describe what they said to you with their name, if you know who they are, then you should be fine. He then explained to the Commission about the open record, stating that under the city's code if they requested 7-days then they are entitled to the 7-day open record and then we give the applicant 7-days to rebut, to be very fair. Adding that due to how the dates lined up that giving them 10-days worked better and would give their attorney Chris Kobac time to get up to speed. Then the applicant will be given the 7-days, which their attorney Garrett Stevenson has generously agreed to that.

Commissioner Bailey asked if we needed a motion.

Chair Jensen replied that he would state the meeting will be continued to November 17th at 7pm for the continuation of this Planning Commission hearing in this room. And then he would need a motion to keep the record open for 10-days followed by 7-days for the applicant's rebuttal.

Commissioner Bailey made the motion and Commissioner Shoemaker seconded the motion to keep the hearing open for 10-days followed by a 7-day rebuttal period for the applicant. **Motion Passed 6-0. A YES: Chair Jensen, Vice Chair Blank, Commissioners Shoemaker, Commissioner Jacobs, Commissioner Bailey and Commissioner Vernwald.**

Chair Jensen reiterated that this hearing would continue on November 17th at 7pm and stated that this meeting is still ongoing if anyone in audience wanted to stay.

(video/sound paused while many from the audience left)

6.0 COMMUNICATIONS

6.1 Calendar Check

Chair Jensen went over the city calendar dates, he noticed that Parks & Rec would be meeting Nov. 17th and asked City Planner Oliver Joseph to sort that out as that will be the date of the hearing continuance.

City Planner Oliver Joseph agreed.

Commissioner Shoemaker asked what was on the Planning Commission agenda on Nov. 10th.

City Planner Oliver Joseph replied that it would be the OXBO headquarters.

6.2 Commissioner Comments

Commissioner Jacobs said that she does not have any comments although does have a question for staff, she would like to know if they would receive a transcript of everyone that did public testimony tonight in advance of the continuation hearing to be held on November 17th.

City Planner Oliver Joseph replied that they should be able to have the meeting minutes prepared before the continuation hearing.

Commissioner Jacobs stated that she was taking notes although it would be great to have it transcribed.

Chair Jensen added that the minutes would be within the packet of the next Planning Commission meeting on November 10th for OXBO, as they are normally done.

Staff Elizabeth Happala agreed.

Commissioner Jacobs thanked staff for the confirmation.

Commissioner Bailey said he had no comments to add.

Commissioner Vernwald asked about community outreach about how they as Planning Commissioners can better inform the public about what it is that they are doing to help them understand what their roles are which would be a good idea to maybe bring to light a plan of action for Planning Commissioners.

Commissioner Bailey agreed, stating that it might be worthwhile to have a preamble on Nov. 17th that they don't get to decide to vote on the validity of quality of buildings.

Chair Jensen replied that there will not be a public comment period as they already covered that section tonight.

City Planner Oliver replied to Commissioner Vernwald that she agreed to having some blurbs here or there and in the newsletter on helping people understand how to provide public testimony and relating to criteria as well as what the Planning Commissioners roles are. Adding that those are things that they can start getting the message out to the public on social media and newsletters, although she has been quite busy with this application and with the OXBO headquarters application. Adding that it is on her radar, stated that they as Planning Commissioners can always explain their roles as well when you talk to people in the community, stating that they are tasked with being impartial and that they must consider the approval criteria that is in the city's development code at the time the application is submitted. Adding that is what their decision is based on and if it falls outside of that criteria then it is not something that you as Planning Commissioners can base your decision on. Stating that if they did, then the city would potentially be subject to a future appeal of that decision. She also stated that they do yearly Planning Commissioner trainings that help you as Commissioners to reinforce what your role is and she will look for additional training this upcoming year.

Chair Jensen thanked everyone for coming out and that it was exciting to see a packed room tonight and thanked everyone for keeping it an orderly meeting which allowed them to move through a lot of information quickly tonight and looks forward to seeing everyone again on November 17th.

City Planner Oliver Joseph agreed.

6.3 Staff Comments

City Planner Oliver Joseph stated that she had none and would do that on a different night.


City Engineer Negelspach also passed and would give an update at a later meeting.

7 ADJOURNMENT

Chair Jensen adjourned the meeting 9:50 pm

Attest:


Elizabeth Hoppala, Office Administrator


Chair Scott Jensen