

SCAPPOOSE PLANNING COMMISSION MEETING MINUTES

Thursday, November 17th, 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
Monica Ahlers Commissioner
Ty Bailey Commissioner
Harlow Vernwald Commissioner

Excused;

Rita Bernhard Commissioner

Marisa Jacobs Commissioner

Staff;

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

Peter Watts, Legal Counsel

Applicants in attendance;

Matthew Sprague, Pioneer Design Group
Brent Fitch, Pioneer Design Group
Erik McCarthy, West Consultants
Jack Dalton, Environmental Science & Assessment LLC
Matt Bell, Kittelson & Associates
Garrett Stephenson, Schwabe Williamson & Wyatt
Max Bonder, David Weekley Homes
Steve Puls, David Weekley Homes

Audience;

15 concerned residents and neighbors attended in person
Several attended virtually

3.0 APPROVAL OF MINUTES

3.1 October 27th, 2022, Planning Commission Meeting

Chair Jensen submitted revisions to the minutes, each commissioner received a copy of the revised minutes. Vice Chair Blank moved to approve the revised minutes presented and Commissioner Shoemaker seconded.

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

4.0 CITIZEN INPUT (items not on the agenda)

Chair Jensen asked if anyone had any citizen input on items that are not on the agenda.

Local resident Peggy Tate came forward to state that she has seen the yard maintenance crews that work around town blowing the leaves and weeds into the streets. And asked if that would clog the storm drains since they pay for storm water fees on their water bills.

Chair Jensen asked City Engineer Negelspach if he could respond.

City Engineer Negelspach asked if she was referring to the catch basins.

Local resident Peggy Tate responded by saying where the storm water drains.

City Engineer Negelspach stated that those are called catch basins, adding that would not be good.

Local resident Peggy Tate stated that they are doing it.

City Engineer Negelspach asked where it was occurring.

Local resident Peggy Tate responded that she has seen the lawn guys doing it around Fred Meyer.

City Engineer Negelspach asked if it was a commercial lawn company, which she agreed. And asked if it was around Havlik Drive.

Local resident Peggy Tate responded that she has seen them doing this in several places around town.

City Engineer Negelspach thanked her for letting us know and he would let the Public Works crew know in order to keep an eye out for it. Adding that it is hard to enforce that kind of thing as they would have to witness it, although our crew can vacuum out those basins.

Chair Jensen asked if anyone else had any public comment for items not on the agenda. As there were none he continued with the hearing.

5.0 NEW BUSINESS - CONTINUATION AFTER RECORD LEFT OPEN FOR 10 DAYS

5.1 Continuation of 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). Interested parties may submit written comments to the City of Scappoose, City Planner, 33568 E. Columbia Avenue, Scappoose, Oregon, 97056 or email comments to loliver@cityofscappoose.org by 5:00 p.m. Monday, November 7, 2022.

Chair Jensen read the new business 5.0 and 5.1 Docket. He then stated that at the last meeting, as many in the audience recall, they got through all the oral testimonies, and they continued the meeting. Now they will go over the rules of the meeting again as they must do this every time to make sure it is clear. He stated that they would open up with the applicant's rebuttal statement which is including all the comments received during the open comment period that was open until November 7th. He then went over the statement of the consolidated quasi-judicial and limited land use hearing statement, the order of the hearing and then asked for any ex-parte contacts or conflict of interest regarding this matter.

Commissioner Ahlers stated that Joel Haugen had contacted her via email in September requesting if she had any land use attorney recommendations. She stated that she told him, she is not able to provide any recommendations as she does not know any land use attorneys. She stated that this contact will not affect her decision-making process.

Chair Jensen asked if any other commissioners had any ex-parte contacts. As there were none, he asked if

anyone wished to challenge any Commissioner's impartiality or legal capacity to participate in the matter. As there were none, he then stated that since this is a continuation of the previous hearing and the Planning Commission voted to stop the hearing after the public testimony concluded and prior to the applicant's rebuttal to all the submitted testimony, the order of the hearing tonight will begin with the rebuttal by the applicant, then staff response, thereafter the hearing will be closed for consideration of the matter by the Commission. Adding that the Planning Commission will be making a recommendation to City Council on this application. He then called up the applicant.

Applicant Matthew Sprague with Pioneer Design Group and their attorney Garrett Stephenson with Schwabe Williamson & Wyatt came forward and greeted the Commissioners.

Chair Jensen reminded them to speak into the microphone.

Garrett Stephenson with Schwabe Williamson & Wyatt stated his name and that he is the land use counsel for David Weekley Homes. Adding that Matt Sprague is with him who is the project manager, adding that they heard from him at the last hearing as he gave them a pretty thorough explanation of how the project worked and what the aspects of the project were. He also stated that they have the same team members sitting behind them that they had here a couple weeks ago in case anyone had any questions. He also stated that they have their traffic consultant, natural resources consultant and anybody else that is a necessary expert in this application as they wanted to make sure that they made those folks available to the Commissioners tonight. Adding that if anyone had any questions and wanted to hear from one of them to just let him know. He then stated that he will give a statement here that attempts to go over everything that they heard in the public testimony, both oral and written. Then after that he'll turn it over to Matt to see if he's got anything he wants to talk about on the engineering and design side. Adding that if the Commissioners have any questions anytime to just stop him and let him know. He began his statement by saying that he firmly believes that David Weekley takes seriously all the comments that they have heard in this process and a lot of folks have argued that David Weekley Homes have rushed into this process and he wanted to make it clear on the record that is not the case, adding that the plan they have in front of them took two-years to develop or more. Stating that it took a lot of time with staff to make sure that they were meeting all the criteria to make sure that they were designing a project that was sensitive to the natural resources on the site, the natural constraints of the site but also fulfilling zoning goals for the project. He also stated that it is important to note that most of the public comments he thinks could be fairly characterized at one point or another, expressed a lot of general hesitation about developing this site at all, which he can understand that but the question about whether this site should be used for residential uses is not a question that is in front of this Planning Commission, nor will it be in front of the City Council, as it was a legislative decision to zone the property for residential uses and include it in the City's residential land inventory and buildable lands inventory. Adding that the property is zoned R1, it is part of the city's inventory for residential uses, and it is intended to be used as it is zoned. Stating that the application is a balance between their goal to develop the property and the city's goal to have it be used for residential uses while also protecting Scappoose Creek to ensure that the resulting homes there can be used safely. To that end, the application preserves 57% of the site, actually 56.8% to be exact, which will be reserved and preserved from development. Adding that inside that area they are going to have land reserved for park land and public pathway along the creek and the homes are going to be constructed substantially above the 100-year floodplain level and he knows there have been concerns about how the project may affect that level but he wanted to point out that the floodplain has already been revised on this site once due to the natural resources work that was done by the Scappoose Bay Watershed Council and also by the construction of the park to the north. He stated that some of the major themes that they heard in terms of the concerns start with flooding concerns and they understand the community concerns about flooding and stated that the city has a very robust floodplain management program because Scappoose has a history of this sort of thing. He stated that they understand that. Adding that the record is uniform and that the homes and related improvements will be located above the floodplain. Stating that they have a complete hydraulic analysis that was provided by West Consultants that carefully mapped the impact of the project on the floodplain and determined what that

is going to look like after it's done, which was submitted to FEMA and they were issued a Conditional Letter of Map Revision (CLOMR) which said that the revision of the final flood map would be warranted if the project is constructed as proposed. Adding that even the hydrologist that the projects opponents enlisted, Mr. John Archibald, testified to you saying that developments in and around floodplains can be done safely and he stated that the project was not irresponsible, and said that it meets all local, state and federal regulations. Garrett stated that he was paraphrasing what he heard Mr. John Archibald testify at the last meeting. He also stated that the record on the floodplain is clear as they have a tremendous amount of data that looks at what this is going to ultimately be and had city staff review it and had FEMA review it. And what FEMA said was, if they build this, this is what the floodplain is going to look like and your homes will be out of the floodplain, but ultimately FEMA's decision is not what is before the Planning Commission tonight. Stating that the question is if their application meets the approval criteria that the city sets out. Adding that the staff report does an excellent job of explaining why they do. Adding that as far as the flood hazard codes go, he knows that there were some arguments about whether they could do certain improvements before they got that final letter of map revision. He thinks the staff report does a very good job of explaining that and why the project is allowed in the flood hazard zone and stated that the staff report also explains how the grading activities for the road and the other utilities which have to happen before they can build any homes at all, are allowed in the current floodplain as noted in section 17.84.040, sub three which allows utilities and roadway improvements. And in sub-six, allows community recreation such as bicycle and pedestrian paths. Sub-seven allows public and private conservation areas and sub-eight allows public works projects. Adding that all of these public projects, utilities, streets and all of that stuff goes in before the homes are built and the code is very amendable to that as they talked to staff a number of times in development of this project to make sure they could do it. Adding that the code is very clear that they can. He stated that he did submit a letter earlier this week that covers this in some detail you may hear from staff on this, as the code certainly allows them to go in and build these public improvements that will not have the effect of raising the floodplain but raising land out of the floodplain that they ultimately intend to buy. He added that the other issues that kind of came up were block length standards and particularly about Eggleston Lane. He stated that the plan you have in front of you dedicates Eggleston Lane to the south end of the property, but what it doesn't do is it doesn't build it all the way to the end of the property for a really good reason; there are wetlands there. Adding that the code does not require them to build all the way to that south end of the property because it's not necessary to serve to the project. Adding that as a practical matter, it would be impacting those wetlands when they don't have a need from a traffic management standpoint which could then be a problem. He added that the code also doesn't require a cul-de-sac at the end of Eggleston Lane for the simple reason that it would prevent a future connection if the property to the south were ever to develop. Adding that as he explained in his letter, they would have a problem with consistency with the City's Transportation System Plan if they permanently capped that off with a cul-de-sac. And finally, he stated that there is no evidence in the record that additional pedestrian pathways are needed here as that would require development through wetlands and the City Engineer and the School District have both looked at this and have not asked for that type of additional connectivity that some of the opponents were asking for. He stated that the next thing he wanted to talk briefly about is the storm water, and that this is where Brent Fitch might want to jump in or correct him as he paraphrased what they explained in their letter that there was some general assertion that their stormwater plan doesn't meet the standards. He stated that the stormwater plan was reviewed and approved by the City Engineer and that the City's Standards require them to detain and treat for a 25-year storm event, which their plan is designed to detain and treat up to a 100-year storm event. Adding that there were some concerns about controlled release in a storm event bigger than that and that it could overtop some of the detention pods. He wanted to be clear that would only occur in an event that is far beyond the design requirements of the city's code, therefore it is not that they are just meeting the city code, but they are going far beyond it to make sure that they were capturing all the way up to that 100-year event. Adding that he thinks that might be where some of the confusion was. On traffic, they have a complete traffic analysis in the record prepared by Kittelson and Associates that concluded that all the study intersections meet their respective mobility standards today and after the development year, which is 2023. The City Engineer has reviewed this and concurs with Kittelson's findings. Adding that whenever there is project like this that is new in the neighborhood, you get concerns about traffic, and he

fully understands those concerns. Adding that typically the trigger for a traffic impact study is roughly 40 homes or 400 trips and they are at 48 homes which is barely over the threshold of what would require a traffic impact study in the first place. And the last technical item he wanted to address which he apologizes was not in his letter but there was an argument about a section of the City's Comprehensive Plan calling for policies for hazard areas that states all development within the 100-year floodplain must meet Federal HUD standards. Adding that he took a look at those HUD standards in 24 CFR 58.6 and what they say essentially is that you can't develop, you can't put homes in a 100-year floodplain under the HUD standards unless they have the opportunity to get flood insurance. Adding that there is a bunch of stuff in there about insurance, but he wanted to be clear that they are not proposing to construct any homes in the 100-year floodplain and even if they were they would not be prohibited as a matter of law, as they would just have to go through the HUD standards to make sure people had flood insurance available to them. He stated that he appreciates whoever raised that concern, but it isn't pertinent here. So with that, he wanted to conclude before passing it over to Matt Sprague of Pioneer Design Group, as he wanted to conclude with a personal note. His entire family on his mom's side lives in Scappoose, his grandmother lives on Bella Vista and his uncle owns J & J Auto on Santosh. He's mowed half the yards in Scappoose and has lived here two different times in his life. To the extent that it matters and it shouldn't matter all that much, but he does take this very seriously because Scappoose has been his home periodically over the years and he still comes out here at least once or twice a month to see family, and he's driven by this site over the years and can understand why people want to see it remain the way it is now as it's very pretty and it's a nice field. Adding that people have enjoyed walking their dogs on it and doing other things and he could say that about a lot of places in Scappoose that used to be fields, like those that he recalls in his childhood, but the reason why they do this type of development here is because under the Oregon land use system, the goal is to develop land within the city limits before they push out, and that is why this still has a residential zoning on it and that is why they are not coming to them with a request to annex property or bring more land into the urban growth boundary, because they are supposed to develop within the city first. He stated that he understands that what they do is a hard thing as a lot of people live in homes or in places where there were people before them with concerns about the development of the homes that they live in as its natural and understandable, and he doesn't fault people for their concerns at all, which he wants to be clear on that. He stated that it is a case where they have to apply the applicable criteria, use the property as it is zoned, and as you've heard from staff and from us all, you now have a very good record, a very well thought out application which demonstrates how all those criteria were met. He then thanked them for their time.

Matt Sprague with Pioneer Design Group began by clarifying that they have actually been working on this project since 2019 for design. And he wanted to be very frank that city staff has put him through the ringer to ensure that they comply with all the city standards as well as meeting all other jurisdictional requirements such as federal and state. He commented that there are three primary concerns that he's seen most often from the neighbors which is flooding, traffic and the riparian area. And he wanted to touch a little more on what Garrett has shared which is that there is not going to be an increase to the base flood elevation. And what that means is that it is a no-rise design so the level of the 100-year floodplain today is going to be the same as the level of the 100-year floodplain tomorrow and after the project is constructed, so a property across the stream for example will see no difference to the elevation of the water in a 100-year flood event. Adding that all the homes that are proposed within this subdivision, the ones nearest to the floodplain, will have a finished floor 2.5-feet above the floodplain elevation and that most of the homes will be substantially higher than that especially as you move south and the grades get higher but that is also more than 1-foot above the 500-year floodplain elevation so they are very very confident that the homes that are proposed within this project are not going to be in a flooding situation during the 100-year storm event and it would take something much greater than a 500-year storm event to put these homes in any kind of a danger. Adding that traffic has been a concern as mentioned and the project has complied with all the requirements for the city. He also mentions there is going to be more than \$100,000 in traffic impact fees that is generated by this project that the city can utilize in areas of concern. Adding that there will be 600 lineal feet of improvements that will occur to JP West Road so that will increase the capacity of JP West Road and its safety as well. To give them an idea of trips, he stated that when they talk about morning peak hour trips and

evening peak hour trips, adding that those are the busiest hours of the day which the project would generate 28 peak hour morning trips east bound on JP West Road which is an average of 1-car every 2 plus minutes. And then in the evening peak hour, that same eastbound direction is only 19-cars which is a car every 3-minutes. And then to discuss the riparian areas, all the storm water from the project site is going to be directed into a stormwater quality facility which also serves as a detention facility. Adding that the detention facility they are proposing will accommodate the 100-year storm event which is not a requirement of the City of Scappoose, as they are going above and beyond what is required to ensure that they are accommodating additional detention for the project. Adding that the planting and replanting of the substantial areas between Scappoose Creek and the development area itself includes everything you see in the landscape plan and in addition, all of the riparian area buffers from lot 18 all the way up to lot 25, as those are areas that they are not proposing to disturb as part of their floodplain modification but they are going to be replanted in accordance with plant material specified by West Consultants, as they must maintain the same level of roughness essentially to ensure that there are no alterations to the floodplain elevation as those planting are going to result in a substantially improved riparian area than what exists on that site today as it will be a benefit to the city and the community as they move forward and those plants are established without any wetlands being removed. He added that there is a tiny little impact that is actually on one of the slopes of the site that is a temporary impact to connect a sanitary sewer to an existing sanitary sewer manhole that is for replacement of an existing city line that is at the end of its life and needs to be replaced at some point soon, which they will be able to work with the city to replace it so they don't have a sewer failure. He stated that there is a proposed public pathway that will be available for all city residents as it is a public easement. It provides an extension of the trail system within the park across the street to provide an opportunity for a little bit longer walk and more circulations with a connection path between so they kind of created a block style of pathway throughout the site. Finally, he stated that all the resource tracts and development rights will be given to the City of Scappoose, so that the city will have control over the development rights to all those natural resource tracts, even though they are owned by the Homeowner's Association. Adding that it is a benefit to the city in that they don't have to own and maintain those specific tracts but will have public use of those tracts and will have the potential to improve those tracts in the future for any type of project that the city may feel is a benefit to the public. He then stated that he has been doing this work for 30 years and he's worked with a lot of national builders and also small builders and medium sized builders, although for almost the past 5 years he's worked for David Weekley Homes and he's done multiple projects with them which he can honestly say they do care about the homes that they build, and the people that buy those homes as well as the communities that they do work in. Adding that they are not going to find that from all builders, but it can be found with David Weekley Homes. He said he would buy one of their homes as he grew up with a dad who was a custom home builder and knows the fact that if you didn't do it right you were going to redo it, so he knows what makes a quality home and he really appreciates being able to work with David Weekley Homes.

Garrett Stephenson with Schwabe Williamson & Wyatt stated that he wanted to open it up to the Commissioners to see if they had any questions for any of their consultants they have with them tonight, in case they have any questions that they feel were not answered adequately tonight or additional questions they thought of during their presentation to let them know as they would be happy to answer.

Chair Jensen stated that they would request the staff response first and might come back to them.

City Planner Oliver Joseph thanked the Commissioners for being here tonight and stated that in your packets tonight the city did receive 17 comments during the 10-day open period, and they have been entered into the record. She stated that the Planning Commission was forwarded these earlier this week and there is a stack of them on the table back there and they have also been placed on the city's website. She stated that the 18th comment that was sent out was the applicants final written argument and the Planning Commission is aware of this, but just for the benefit of the audience, she wanted to take a brief moment first to say the Planning Commission's role tonight is to consider the facts before them to determine if the applicant has demonstrated that they have met the relevant approval criteria from the development code related comprehensive plan

policies and implementing ordinances, such as the public works design standards. Reiterating that the Planning Commission's recommendation to Council must be based on the approval criteria as many of the issues raised both orally and in written testimony, didn't particularly focus on the approval criteria. Some did, but still, she wanted to say that the city greatly appreciates that the citizens of the Community have come to share their concerns and were a part of this process. Additionally, many of the comments covered similar issues, so she stated that she won't go over those twice and will be focusing her responses on issues that relate to the approval criteria, since again, that's the basis for the recommendation to Council. And for the record, when she talks about the Scappoose Development Code, she will just shorten that up to SDC as she speaks tonight. To start off, a lot of the comments touched on the capacity of schools, city infrastructure, police and others and whether or not this proposal would burden any of these agencies or groups. She stated that the city is required to notice affected agencies of proposals to get their input prior to finalizing the staff report, and she began by just reading through the agencies that were noticed; the City of Scappoose departments, Engineering, Public Works, Police Department, Building Department and City Manager and then agency partners Scappoose Rural Fire District, the Scappoose School District, Columbia County Public Works, Oregon Department of State Lands, Columbia River Peoples Utility District, Scappoose Bay Watershed Council, Columbia County Soil and Water Conservation District, Oregon Department of Fish and Wildlife, Oregon Department of Land Conservation and Development and then FEMA by way of the CLOMR review. She stated that none of the city departments or agency partners commented in opposition to the development or recommended denial. Stating that this is their opportunity to raise issues with the proposal so that staff is aware of any concerns by these agencies. Adding that in response to some of the testimony they heard, one of the neutral testimonies came from Leonard Applet who lives south of the project site and was not opposed to the development but did mention that he requested improvements be made to Eggleston Lane all the way to the southern property line so that future cost to extend that road on the Buxton property are not born by future developments to the south. She stated that the applicant is proposing to improve additional frontage along JP West Road for intervening properties that are not on the Buxton frontage, this is in consideration of not providing improvements to the southern property at this time which would give an immediate benefit of improved safety by way of additional sidewalks on the south side of JP West for a distance of approx. 260 feet, that is not on their frontage. And then additionally, the conditions of approval include the requirement to record a non-remonstrance agreement so that in the future if the southern property owner wants to develop and complete the remaining portion of the road, they could petition council to form a local improvement district (LID) and what that does in that case, the cost for that section of road would be assessed proportionally to the properties benefitting from the improvement, including the 48-lots in the subdivision. In other words, they could not say no that they don't want to participate in the cost because they would be using that road and reiterating that it is already in the conditions of approval. She then touched on some of the floodplain comments that they heard related to the approval criteria beginning with Mr. Koback's letter that stated that city could not have storm water facilities in the floodplain. She stated that was incorrect, as the City's Land Use Development Code 17.84.040 B3 allows for installation, reconstruction or improvements of underground utilities or roadway improvements in the existing floodplain. Adding that the grading plan is necessary to construct the proposed extension of Eggleston Lane and the two stormwater detentions ponds are necessary to treat stormwater runoff from the roads as they are interrelated to the proposed roads that are permitted in the existing floodplain. Adding that the applicant's preliminary stormwater report clearly explains why the proposed catch basins are necessary to treat runoff from roadways and that is regardless of whether they also treat some stormwater from homes. Additionally, she stated that 17.84.040 B8 allows public works projects to be constructed in the floodplain adding that it is defined in the code as projects that are necessary to enhance or maintain the general public welfare, such projects may include, but are not limited to, flood control structures, public buildings, city infrastructure, utilities, parks, and projects associated with resource protection. Adding that this definition does not state that the public works projects must be completed by a public agency as the work associated with the stormwater ponds requires plans meeting their requirements of the public works design standards and require a public works permit. She stated that to demonstrate compliance with the public works design standards and the municipal code. Furthermore, these facilities are considered public since they will maintain the public welfare by protecting the public from flooding conditions, by capturing, detaining and treating runoff from

public streets. She gave examples of other projects developed under these conditions can be found in Veterans Park, Chief Concomly Park, Millersburg Planned Development, Johanna Subdivision and the Creekside Apartments. Additionally, the city has a condition of approval, #35 that tracts C and G, the stormwater tracts, shall be subject to a public storm drainage easement, and this is required by the public works design standards. Adding that the city does not have a public storm system in this region of the city and these facilities act as public infrastructure. She continued by stating that Mr. Koback's letter also asserts that, with respect to any condition requiring the applicant to obtain a LOMR, and that's the Letter of Map Revision, the applicant must show that compliance with that condition of approval is reasonably certain to succeed. She reiterated that this is precisely why the applicant was required to obtain the CLOMR, that is the conditional letter of map revision approval of their project, prior to submitting for land use approval, which is essentially FEMA's approval of the subsequent LOMR which gives assurance to the city that they will approve the post construction Letter of Map Revision once construction of the site is complete as shown on their plans. There is no provision in the development code for the city to second guess FEMA's determination. She also stated that Mr. Koback argues that there is no city process to review the already approved, tentative plan for compliance with FEMA's decision on the Letter of Map Revision, which is incorrect since the city also requires final plat approval. Adding that is exactly what allows the city to check the tentative subdivision plan for compliance with FEMA's approval, as well as all the conditions of approval for the project. She also stated that if you see condition of approval #39, it states the applicant shall not submit the phase two final plat application until FEMA has issued a Letter of Map Revision based on the approved CLOMR and no building permits for phase two lots will be issued until FEMA has issued the Letter of Map Revision, which indicates that all phase two lots are no longer within the mapped 100 year floodplain. Adding that this provides the city absolute assurance that no lots will be platted in phase two until the lots are no longer in the floodplain and if for any reason the Letter of Map Revision were not approved, the applicant would have a few options. They could either make a revision to their grading plan that would still comply with the city floodplain standards so that they could still seek a Letter of Map Revision, which is likely what they would do, or they could also apply for individual Letter of Map Revisions for the phase two areas that have not yet been platted, based on the current elevation of the lots being above the base flood elevation. Or, they could plat the remaining phase two areas with 20,000 square foot minimum lot sizes and for any contiguous lots that don't add up to the 20,000 square feet, the applicant could keep those as additional open spaces or park spaces. She stated that there are options, which is the point she is trying to make. Then she discussed the letter from Jennifer Hancock that there appears to be a conflict with the city's community rating system that the city participates in, which helps Scappoose residents with discounted flood insurance, and because when you're part of that system, it means you have higher NFIP minimum standards. And the letter stated that encroaching on designated floodways is a violation of SDC 17.84.180. City Planner Oliver Joseph stated that the higher floodplain development standards are already incorporated into chapter 17.84, so there is no conflict there.

She stated for instance, if the city did not have these higher standards, the applicant would not have had a requirement to provide a cut fill balance, in other words, they would have been able to place fill in the floodplain fringe, not the floodway but the fringe, which is the 100 year floodplain outside of the floodway; so they would have been able to place fill in the floodway fringe without taking out an equal amount of material, so long as they could show that they don't increase the base flood elevation by more than a foot. However, she stated that the city does have a cut-fill balance requirement in the city codes which implements a no-rise policy, meaning they cannot have any rise to the base flood elevation. Adding that the city also required that the applicant apply for a letter of map revision to reflect the current conditions on the site prior to submitting their land use application and also had them apply for their Conditional Letter of Map Revision prior to submitting as well, which surpasses FEMA standards, so typically the process for something like this in another city where they didn't have the higher standards is that a city would require the Conditional Letter of Map Revision prior to construction and then a Letter of Map Revision after. Reiterating that the City of Scappoose required the Letter of Map Revision first, then the Conditional Letter of Map Revision, plus we're requiring a Letter of Map Revision after as well, stating that they are asking for above the NFIP minimum standards. And as proposed by the plans before you, the project would increase flood storage capacity by 9 cubic yards compared to what is there today. And stated in relation to the code section that Jennifer Hancock

felt was in violation, 17.84.180, the applicant proposes minor grading in the floodway, resulting in a cut but no fill. Stating that the applicant does not propose any fill or encroachments, new construction, parking, or substantial improvements in the floodway, and this is in conformance with 17.84.180. She stated that the applicant has submitted the required detailed hydrologic and hydraulic analysis to ensure that the minor grading proposed would not result in an increase to the base flood elevations. She stated that they heard from several neighbors that the city should utilize something other than the FEMA floodplain maps when reviewing this application, however, that would be a violation of SDC 17.84.030 B, which requires that the City base our decisions on the adopted floodplain maps for the city issued by FEMA. Adding that it does not say that they can evaluate the floodplain under any other criteria or mapping, including a future unknown condition, to do so would be a clear violation of our development code. She then stated that they also heard testimony requesting that the applicant study the entire South Scappoose Creek watershed as part of their project, similar to a study undertaken by the Scappoose Drainage Improvement District on the east side of town, which they are in the process of updating floodplain maps as part of their effort to recertify the dike. This was done on the east side of town because it's evaluating the flood risk associated with the levy, which affects a large portion of the east side of the city and many, many of the county lands. She added that this project seeks to revise a small portion of the floodplain boundary on one distinct parcel, in which the applicant completed an in-depth analysis of this revision, which extended 1500 feet downstream of JP West Road and 22 feet upstream of EM Watts Rd. Adding that this analysis is to ensure that the base flood elevation on not just the project site, but also upstream and downstream of the project site will not increase the base flood elevation. Reiterating that the project results in no rise and this is required by city code. She continued on with the items related to the circulation plan, that they received several comments about the circulation plan that was submitted by the applicant, which is included on page 238 of your packets. She stated that there were comments about this as something that's already in the works and they need to be talking about this now, which she stated is not the case. She stated that the city code SDC 17.150.020 H requires that all subdivision proposals include neighborhood circulation plans to show how properties within 500 feet could be developed with streets and lots in the future, it does not guarantee that that is the exact alignment, but they have to demonstrate that they are essentially not holding up any other lots from developing. Adding that it also shows how lots could be platted in the future that would meet our requirements, so the applicant was complying with the provision that is required by our code and any future subdivision of those lands would have to apply for land use approval prior to development with proper noticing that would be provided prior to a decision being made by the Planning Commission. Again, that's not part of this proposal as it was a requirement in our land use code. She continued with items related to traffic as they did hear some traffic concerns which she stated Garrett had touched on this also, but she wanted to state that the applicants are required to complete the traffic study according to our traffic study impact guidelines, and that is what they did. She said, as they had heard previously, the study was completed, and it was determined that all study intersections are meeting their respective performance measures and mobility targets today and after the site build out conditions. The city cannot then ask for offsite improvements related to this project as some comments have suggested, since there would be no data to support the request and it would be considered a taking from the applicant, which would be a basis for appeal by the applicant. She then discussed items related to block length standards, beginning with the Koback letter claiming that the city failed to meet its block length standards by not exploring a connection to Day Street, however, the development code allows for an exception to the block length standard when natural conditions such as wetlands or stream corridors preclude a local street connection, which is indeed the situation on this parcel to the east as the code then goes on to say that when such conditions exist, a pedestrian access way, shall be required in lieu of a public street connection IF the access way is necessary to provide safe, direct and convenient circulation and access to nearby destinations such as schools, parks, stores, etcetera. She added that staff does not find that an access way to Day Street is necessary to provide safe, direct and convenient circulation and access to nearby destinations such as schools, parks, stores etcetera. Adding that since there is park directly north of the site, if they were to connect to Day Street, it would take a person out of the direction of that amenity. Adding that there is a middle school east of Day Street which they know, however, staff does not find that is a necessary connection to the school since there are bus routes that pick-up students along JP West Rd. which provide a safe and direct route to all schools

from that location. Furthermore, the City's Transportation System Plan does not show a future local street connection or a shared use path or a sidewalk connection from Day Street to the project site. She also stated that the Koback letter claims that the applicant is trying to avoid city requirements and limitations on cul-de-sacs. Her response was that SDC 17.15.4040 C3 states that a cul-de-sac shall only be used where the city engineer and planner have determined that environmental or topographical constraints, existing development patterns, or compliance with other applicable city requirements preclude a street extension. And stated that the applicant is dedicating right of way to the southern property boundary, which is in conformance with the transportation system plan which shows the future extension of Eggleston Lane to the south, therefore, the applicant did not provide a cul-de-sac in this subdivision, nor would the city have requested or allowed it at this time, since it is anticipated that the road can extend to the south in the future. Adding that Mr. Koback suggests that the applicant must show that Eggleston Lane is reasonably likely to extend to the south, however, the city code clearly states that the city engineer and planner are the ones to make the call on cul-de-sac construction. She then continued with comments related to compatibility with surrounding neighborhoods, as they did hear testimony that the Buxton Ranch planned development is not compatible with surrounding neighborhoods. Her response was that the SDC states in relation to compatibility, that the planned development shall present an organized arrangement of buildings, facilities, open spaces and improvements such as recreation facilities, landscaping and fencing to ensure compatibility with the comprehensive plan in the area in which it is to be located, adding that this application proposes all of the amenities mentioned, and this site is adjacent to three different zoning districts as it is adjacent to the R1, which is low density R4, which is moderate density, and A1 which is high density along its SE border. She continued by stating that the R1 zoning district then, is not the sole zoning district to use as the basis for compatibility, as several comments have suggested. She further explained that the city has previously approved planned developments with lot sizes ranging from 2,660 square feet to 10,210 square feet in the South Fork Planned Unit Development as recently as 2015, and in that development there were side setbacks approved by the City Council of 3-feet, whereas this proposal involves lot sizes from 3,410 square feet to 13,083 square feet and the side setbacks are proposed at 5-feet for internal lots and 8-feet for street side setbacks. She stated that the development is utilizing the planned development overlay because there are natural resources to protect on the site, which is the main purpose of the overlay. Additionally, she stated that the applicant is proposing single family detached homes which are compatible with the majority of surrounding developments, with the exception of the apartment development in the southeast corner of the site, in the A1 zoning. And in relation to the statewide planning goals, she saw several people comment on how the city is not meeting those goals with this plan. She stated that the city is not amending the comprehensive plan, therefore there was not a need to reply to the statewide planning goals in the staff report, however they did provide this anyways, adding that the Oregon Department of Land Conservation and Development, who is tasked with governing the statewide planning goals, did review the application, and they did not find any conflicts with the application in relation to the goals. In summary, she stated that staff finds that the application does meet the applicable approval criteria, comprehensive plan policies and implementing ordinance, and still recommends that the Planning Commission make a recommendation of approval to City Council on this application, including the 52 conditions of approval. And stated that concludes her initial response.

Chair Jensen asked if anybody had any questions of staff.

Commissioner Bailey asked about the HOA maintenance of a flood material and what is the actual cure for ensuring that they do so, as the HOA structurally has the ability to change what their policies are, or even what their costs are on a per annum and what insurance does the city have that they will actually maintain those flood deterrents.

City Engineer Negelspach replied that the applicant will be required to record against the property, a maintenance and access covenant for the storm facility that will have requirements that the developers engineer and myself will work out so that they're applicable to the facility, because each facility is a little bit different and that he provides most of the boilerplate language for that. And they look at the HOA agreement

and the costs that have been allocated for maintenance to make sure that they're reasonable and they work with all of the previous subdivisions on exactly that same thing, to make sure that there's adequate funding for that and there's mechanisms in place for funding for maintaining those facilities. Adding that in terms of compliance, they ask within that maintenance agreement that the HOA provide deficiency reports twice a year, as there's a specific maintenance routine that's called out and they should identify deficiencies at that time and then notify him of those deficiencies and their plan to remediate them. He also worked with the Dutch Canyon HOA on such a thing a few years back and met with their HOA and their board to meet on site several times to discuss it. Adding that those things do happen if he doesn't get notified or when he sees issues, he'll take it upon myself to issue a deficiency notice directly to the HOA and require them to take action under the maintenance requirements that are recorded against the project, and then he follows up to make sure that they happen. And then lastly, if he doesn't see action on those maintenance items, then they have it within their code, the ability to go in and perform the maintenance because they have access rights and then they can obviously notify the HOA of what they are going to do and bill those costs back to the HOA.

Commissioner Bailey thanked City Engineer Negelspach.

Commissioner Ahlers stated that she has two questions. Regarding SDC chapter 17.86 Sensitive Lands Slope Hazard, 17.86.070 A 1-8; the recommended conditions of approval require the applicant to follow the recommendations of the Geotechnical Report. Asking if city staff can confirm that groundwater sources in slope hazard areas, potential flooding risks to lots adjacent to wetland areas located in tracts B & F, due to groundwater sources and weather events, and water seepage at the base of the proposed retaining wall on the western edge of the site has been addressed in the submitted Geotechnical Report and will be mitigated based on the recommendations of the Geotechnical Report.

City Planner Oliver Joseph asked what the question was, as she thought it was a statement.

Commissioner Ahlers apologized and asked if they could confirm firstly that the groundwater sources in the slope hazard areas will be mitigated and then also about the potential flooding risks into houses for lots adjacent to tracts B&F.

City Planner Oliver Joseph stated to City Engineer Negelspach that this is the discussion about the back lot drainage.

City Engineer Negelspach replied that at this level of design, as part of the land use application, they typically don't ask the developers in what particular manner they're going to protect the homes from groundwater sources like that, as its old seepage which the State Building Code addresses that. Adding that in this case, once they get into design, since it is well known that there is drainage coming from the upper slope and particularly off of the two wetland areas which they know are just groundwater that's following those pipe trenches, they have asked the design team's engineer to look at that and make sure that it's mitigated in the installed catch basins to pick up that drainage specifically. He then addressed the question in regard to the homes by stating that each builder typically would have their own kind of a scheme for how they want to handle that, which they might propose to do a 5-foot easement across the back of the lots and have a French-drain system installed with catch basins on the surface to pick up drainage or they may decide to do a swale along the entire length of the back of the lots, which is what DR Horton home builder does in their subdivisions and then pick it up at the end of that. Adding that there is a number of ways to do that adding that some builders want each lot to have an independent surface drainage system to pick that up so that system doesn't rely on the neighbor's system in case there is damage to it. Adding that there is just a number of ways to address that which he didn't get into the nuance of it as it's typically more of a building code type thing as it falls under the plumbing code, so the building official will review and approve that, which he does not have that purview, adding that they do ask that their engineer think ahead to allow for picking up that drainage in the public system somewhere that there would be a connection point and to look

at locations to do that.

Commissioner Ahlers stated that she had one other question regarding SDC Chapter 17.84 Sensitive Lands Flooding, section 17.84.140 D, regarding potential flooding of Eggleston Lane near the intersection with JP West Road and if there could become a safety concern for the residents along the new road. And if city staff can confirm, based on the preliminary grading plan, which is exhibit 4F and the preliminary street and storm plan and profile of Eggleston Lane, just exhibit 4I, that the roadway will experience 2-inches of water depth near the center line which increases to approximately 7-inches at the eastern curb.

City Engineer Negelspach replied that they were concerned as well about that, as they would be on any project where they don't like to see roads that might be inundated in the 100-year, but in this case the elevation of J P West Road is in the 100-year. Adding that in order to tie into it, they have to get to that elevation. Stating that they did provide some leeway for the intersection grades so that the half street cross slope will be minimized to minimize that impact to raise the elevation as much as possible which they could do that under AASHTO (American Association of State Highway and Transportation Officials) Geometric Design for roadways. Adding that they can't violate some of those design standards that are embedded in the City's Public Works Design Standards as ancillary documents they have to follow. He then stated that in the plans he had PDG identify the maximum elevation of floodwaters during the 100-year at that low point where the intersection occurs and it's .13-feet which is just over an inch. Adding that based on the shed section at that location, one of the curbs will be a few inches underwater and the other will be exposed which shows up on one of the exhibit sheets on the grading plan, it's the blue one. He then spoke about the duration, stating that the Creek is fairly flashy, whereas it will rise up pretty quickly, but it also falls very quickly once the rain event is over. Adding that what he has witnessed during 100-year events on JP West Road where he's seen those flood waters recede within 15 to 30 minutes of the event peak, so not after 24 hours, but rather very soon after the peak of the event of the maximum density rainfall you can see it drop, so he wouldn't anticipate that that would be an impact for more than 15 minutes to 30 minutes and it is what he has witnessed, recorded, and he has photographic evidence of that occurring.

Chair Jensen asked if there were any other for questions for staff at this time.

Commissioner Blank stated that he has one question for City Engineer Negelspach, as he thinks he has an understanding of his reasoning for the Eggleston Lane length exceeding 2000 feet, but the question he has is what other developments have they had around here that have exceeded that 2000 feet?

City Engineer Negelspach replied that South Fork Subdivision was another planned development that exceeded block length standards by quite a bit and Kale Street violates it. Adding that he could give a more complete answer but would have to do a little research on GIS to find other examples. Stating that typically anywhere along the Creek, you would see those lengths exceeded as it is hard to make those connections and it's just economically challenging and you have to look at the benefit as well. Adding that for the route to school, if the kids were to get on the bus at Day St at about 7:15am, they'd be on the bus for 45 minutes before they got back to the middle school, versus if they got on the bus at JP West Road, they'd be there in like 5 minutes. Stating that he is not sure why they would think that it would be more convenient at Day St.

Chair Jensen asked if there was anything else for staff.

Commissioner Bailey asked about the traffic analysis that stated the actual assessment took place in 2021, which would be during time periods of heavy work from home cycle and depending on the timeline, school from home cycles as well. He asked if the COVID situation is something that they need to take into account structurally because the numbers being presented seem just low given the density being proposed and he's assuming it's because the assessment took place during a time when average traffic was different.

City Engineer Negelsbach stated that was a great question, as traffic engineers think a lot about things like that and for the background traffic, they have a factor that they use and he would like to have their traffic engineer speak more specifically about that math, as he's not that familiar with it but knows that they compensate for the background when they're doing traffic counts perhaps in the summer when school is not in and things like that, as they have ways to account for those differences. And stated that if he wanted their traffic engineer to speak more on that, then he welcomes you to ask them.

Chair Jensen asked if their traffic engineer would speak on that.

Commissioner Bailey stated that if they could do that it would be lovely as he would love the assessment on how that took place.

Matt Bell with Kittelson and Associates came forward and stated that it took place carefully, but also this is something that they became pretty well accustomed to over the last couple of years of doing traffic studies during Covid. Adding that what they did is part of this study is not unlike what they have done as part of a number of other studies over the last couple years which is that for this particular study they applied both a seasonal adjustment factor which takes into consideration fluctuations in traffic along US 30 throughout the year, and then they also take into consideration what they have started calling the COVID factor, which is this reduction in traffic primarily on the minor streets related to some of the local circulation, as opposed to the through traffic and that way what they have found throughout the state is that at the different times of the day, the different days of the week, that there are differences in what those adjustment factors are. Also stating that what they typically do is they look at historical counts, they look at the types of volumes that they are seeing during those time periods and they make adjustments to those counts then compare them to their counts and it is a little bit more of an art than a science, but at the end of the day what they are aiming to do is to ramp up those 2021 traffic counts to reflect the condition that is more like a 2022 or during a typical peak time period. Stating that to answer directly, it's a combination of adjustment factors that they apply as well as just raw volume counts that they apply based on historical data.

Commissioner Bailey said from a layman's standpoint, he knows that there is historic information on highway 30 and they looked at that and looked at the delta Δ then kind of created a grading factor associated to the delta Δ there.

Matt Bell, Kittelson & Associates replied that his assessment is absolutely correct. Adding that beyond Hwy 30, they have counts all along Hwy 30 that show what those minors like Maple St. and JP West Streets look like, adding that they can also make adjustments to those streets to account for those changes.

Commissioner Bailey thanked Matt Bell.

Chair Jensen asked for clarification as he talked about those factors he asked where does the data for that factor come from?

Matt Bell, Kittelson & Associates, replied that the Oregon Department of Transportation collects data along all of their facilities 24 hours a day, 365 days a year, and they have been doing it for a long long time. Adding that with that data they we're able to see what those seasonal fluctuations look like and then they can go back several years and make comparisons between 2017, 2018, 2019, 2020, 2021, and 2022 and see how things have changed historically.

Chair Jensen thanked Matt Bell.

Chair Jensen asked if any other commissioners have questions on traffic while he's sitting here. As someone in the audience raised their hand, he stated that there's no public comment now.

Commissioner Bailey stated that there were several comments that came in that talked about green space constantly, and after reading the application and so on he questions if currently the land is not green space correct, as it is farm fields and private land, correct.

City Planner Oliver Joseph agreed, stating that it has been farmed for years and is pastureland. Stating that she should say it has been pastureland and then it has resources and riparian buffer zone adjacent to the Creek and there are wetlands on the site, which would be maintained.

Commissioner Bailey stated that he just wanted to make that crystal clear.

City Planner Oliver Joseph replied, absolutely.

Chair Jensen asked if City Planner Oliver Joseph could ballpark how long that property has been zoned R-1?

City Planner Oliver Joseph stated that she has not done that research, however, would assume it's been for quite some time.

Chair Jensen stated that possibly as long as she has been here with the City.

City Planner Oliver Joseph replied that it was residential back in 2006 when this first came before the Commissioners, so at least since then.

Chair Jensen stated that it has been nearly 20 years that we're 100% sure on.

City Planner Oliver Joseph agreed.

Chair Jensen stated that if there is nothing else, then he is going to close the hearing and move on to deliberations.

Hearing closed 8:13pm.

Chair Jensen stated that now they get to discuss if anybody wanted to start.

Commissioner Ahlers stated that she had some comments for clarification, for the record; regarding ordinance 862 which is the 2017 Scappoose Parks, Trails and Open Space plan. Adding that this ordinance, which includes the site identified as a potential park site for a park, however, Ordinance 862 is not an implementing ordinance and did not enact development regulations. Stating that the site is zoned R1 by the city's Comprehensive Plan and not zoned for park use. Additionally, the owner of the property is able to determine use of the site consistent with the Comprehensive Plan zoning and none of the owners of the property in map 4 of the Scappoose Parks, Trails and Open Space Plan are obligated to develop their site as a park nor does it obligate the city to purchase those properties. Adding that because of these reasons, the applicant is not required to respond to Ordinance 862. She continued with her second item regarding Chapter 17.89 Sensitive Lands, Fish and Riparian Corridor overlay, section 17.089.090 A through C, that city staff has confirmed that the recommendations from ODFW have been addressed by the applicant, including expansion of water quality facilities to reduce runoff impacts on the stream, as well as to slow water entering the Creek during high water events. Adding that the recommended conditions of approval require the applicant to implement stormwater management in conformance with the Public Works Design Standards, which shall include clarification that the stormwater facilities are, in fact retention facilities, rather than detention facilities as described in the stormwater report, and this distinction is important due to the actual function of these types of facilities and their corresponding Public Works Design Standard criteria. She stated that this is more of a matter of discussion, and in regards to Chapter 17.81 Planned Unit Development Overlay section 17.81.050 A through C; the residential area and density calculation is as shown in the table on page 51 of the staff report which subtracts out street rights of way, streams and

wetland buffers outside of the floodplain and floodplain areas based on the current LOMR to determine the net area. Stating that the net area is then divided by the required 6,000 square feet to determine the allowed base density of 46 units which the staff report confirms that the base density calculation of 46 units is in compliance with the city standards. She continued by stating further, up to 25% more dwelling units may be permitted, up to an additional 11.5 units, whereas the applicant is requesting a 4% increase of 2 additional units, which the code states that this increase may be granted upon a finding by the Planning Commission that such increased density will contribute to;

- A. a satisfaction of the need for additional urban area housing of the type proposed,
- B. the provision of housing which is convenient to commercial, employment and community services and opportunities,
- C. the creation of a land use pattern that is complementary to the community and its identity, and to the community design process,
- D. the conservation of energy,
- E. the efficient use of transportation facilities,
- F. the effective use of land and available utilities and facilities.

She then continued by stating that the staff report found that each of these factors had been satisfied and it sounds like it is and asked for any Planning Commission discussion.

Chair Jensen stated that he wanted to remind the Commissioners that they need to speak to the criteria, because that's all they get to look at and need to be fair to everybody that wants to develop and that's why they have to stick to the criteria. Then asked if anyone else wanted to run with that, then continued by stating that it looks like they are not trying to just maximize value but pictured a number that worked for them. Stating that they asked for a 4% increase when I think he said he could go to 25% increase. Adding that their request speaks to something that they are wanting to respect our city and the intentions of our code and are not just trying to maximize every little ounce they can get.

Commissioner Bailey stated that he does worry about the smallest of the lots, that the 35-foot minimum is a concern although he does understand where they are at code wise, but the minimum versus the mean is something that gives him pause.

Chair Jensen stated that may be something that comes up in the next code revision, that the city could look at or that they could ask the city to look at.

Commissioner Bailey stated that he agrees.

Commissioner Blank stated that he should make some comments here now as he has been around a long time and can tell everyone right now it's probably the most difficult one he's had to deal with in many, many years. Stating that it's because of the fact that they are trying to do something that is right for developers, but also right for the community and do something that they know that they will not regret later down the road. Adding that they have basically two sides with lawyers on each side that builds a case for each one and the commissioners have to decide whether or not they met the criteria. Adding that because of that and because of their requirements as Commissioners, they have to fit that in as the ultimate reason as they make a commission decision, which also keeps LUBA off of them, so they have to be careful. Adding that it's not because they just want to do everything that they can and would love to do. He stated that he can say, when they ran this by the city previously, that it was definitely turned down for good reasons and it didn't meet the criteria, as far as the city was concerned, so it didn't go forward. He added that now they have spent a lot more time trying to make sure that they can put together a proposal of a development that can now pass that criteria, and that is their argument. He added that on the other side, he can understand where the public's concern is coming from, he really can. Adding that there is not many of us that haven't been by there when it was flooding, and he has seen the water and they do get concerned what's going to happen there and to people downstream and people who are in the low land. Adding that when development happens, they want

to make sure it fits. He stated that the commission will be making a recommendation to City Council who will have the ultimate decision on this, but from their perspective, they have to follow the criteria that has been given to them. Adding that another thing that was always a little concerning to him was that all this information was given out to all those organizations and they received no negative feedback to doing this development and he thought that they might hear something from someone that said that they didn't want this or the city or the city engineers or somebody that says no, they can't do this, but they didn't see that. Adding that he was also concerned about livability, low cost, low income, and affordable housing which can be done one of many ways. Adding that one way is buying those kinds of properties because they're less expensive than doing it up on the hill with a view, so one is able to play a little bit more with that profit margin. Finally, he stated that he looked over his notes, they reach a point where they have to go back to FEMA too to say that they've changed these things and must ask if they can move forward, and there's a possibility they could say no, you can't, and that this is the end of your development phase one or whatever is another thing to consider.

Chair Jensen added that it's not on us figure out if the money works out, that's why the applicant does this kind of work ahead of time, and then gets the land use approval so they know that if they meet these criteria if they do these things these ways, then they can do the thing they want to do.

Commissioner Blank agreed and knows that they have heard nothing but positive things on the side of the proponents. Adding that they have had some negative feedback like the comment on the Better Business Bureau, and he just hopes that what he's reading is not correct, because they do want a good development there and something that will be there that they can say, look they made this decision that they can live with it, and they hope that it's right.

Chair Jensen added that there is a lot of process after us to make sure that they're towing the line.

Commissioner Shoemaker just reiterated that they don't approve or disapprove, it's just a recommendation to City Council for them to decide, correct.

City Planner Oliver Joseph agreed.

Commissioner Shoemaker stated that what it really comes down to is if all those criteria have been met and not to feel as if there is a question. Adding that this has been very difficult, he admits it right up front that there's no way that they could have gone through all of this material in the time that was given and honestly doesn't know if everything was met because there was just insufficient time to review all of it. And doesn't know about the rest of the commission if they read every page.

Commissioner Blank stated that he tried to, but it was a lot of pages, like 538 pages.

Commissioner Shoemaker said to Commissioner Blank that he's practically retired.

Commissioner Bailey stated that he tried to, but was on a plane, and it was a lot of pages there.

Commissioner Vernwald stated that she pretty much says the same thing.

Associate Planner, N.J. Johnson (on the Teams meeting), stated, point of order, they can't hear online.

Chair Jensen said thank you and reminded everybody to speak into the MIC.

City Planner Oliver Joseph added to also speak very closely to the MIC.

Commissioner Ahlers stated that she had a lot of questions that she provided to city staff and their answers were satisfactory to her questions, so it appears to her that the conditions/criteria have been met, and she does not have any outstanding questions or concerns.

Commissioner Blank also stated to keep in mind that no matter what they decide and what the city says, there is still an opportunity to go ahead and appeal it to LUBA or somebody like that, correct.

Chair Jensen agreed.

Commissioner Blank added that there are lawyers so they can work to navigate that.

Chair Jensen stated that he will just add a last comment that he heard that staff has been working with them for a long time and staff has said that it's not been an adversarial experience, but he thinks staff said it's been a pretty reasonable working experience, right?

City Planner Oliver Joseph agreed, adding that they did what we asked, repeatedly.

City Attorney Peter Watts added that it was three years on the design side, and it was more than that before that because he was dealing with Mike Robinson on issues about the CLOMR or LOMR, well prior to 2019. Adding that it feels like it's been a lot longer as he had a lot more hair when this first hit his desk.

Chair Jensen asked if there was anything else the commissioners wanted to add, otherwise, they are getting to where they need to start making a motion. Adding that everyone has a cheat-sheet to make sure they get the motion right. Adding that unfortunately, they don't have a better way to do that.

Commissioner Blank moved that the Planning Commission recommend approval of the application to City Council and accept the findings and conditions of approval in SBI-22, ZCI-22, CUI-22, and SLDPI-22, 2-22, 3-22 and 4-22 staff report dated October the 20th, 2022. Seconded by Commissioner Bailey.

Chair Jensen stated that it's been moved and seconded to recommend approval to the City Council, is there any further discussion, seeing no further discussion he called for the vote.

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

Chair Jensen stated that they are now going to take a break for five minutes if they want to stay for the exciting calendar discussion, otherwise if anyone is not staying, they can move out of the room now so they can finish up the meeting. He then thanked everybody for being here and they appreciate your participation.

5-minute break to allow people to exit before continuation of the meeting

6.0 COMMUNICATIONS

6.1 Calendar Check

Chair Jensen resumed the meeting by stating that they are picking back up on item 6, the calendar check. He then read over the November and December calendar in the back of the packet. He then called for any Commissioner comments.

6.2 Commissioner Comments

Commissioner Bailey stated that for the record, he thinks everyone did a good job on balancing out the challenges here as this was a huge packet, very huge with a lot of things to think about, and he appreciates everyone's focus on that as he knows he got lost several times and had to go back.

Chair Jensen stated that it can get to be dense material.

Commissioner Shoemaker stated the didn't like having to read their lawyer's response since he had to read it three times.

Commissioner Bailey asked if he had to look up specific ordinances.

Chair Jensen stated that the city has given them all Surface tablets, if they wanted it digitally. And before that they would bring binders slightly larger than this with all the city ordinances. Adding that it is a lot of stuff, and they have to lean on staff a lot.

Commissioner Shoemaker asked City Planner Oliver Joseph if there was anything they could do when things get this big where they could change those timelines, asking if she was saying that they got it a year or two ago and give it to them sooner.

City Planner Oliver Joseph replied that they tried to get the staff report out early for this one. Adding that the staff reports are always due 7-days before the hearing as it is in the city's code.

Commissioner Shoemaker asked if the answer is a code change.

City Planner Oliver Joseph stated that the thing is, in order to provide some context, is that when the application is deemed complete, then that starts the ball rolling, and they are noticing agency partners, other city departments, in order to give them time to respond back and also to incorporate comments that may come back or issues that must be worked out.

Commissioner Shoemaker asked if other agencies feel that they don't have enough time.

City Planner Oliver Joseph replied that she doesn't know because hasn't had an opportunity to ask, although they could ask, they could ask around and see.

Commissioner Shoemaker stated that he would like to talk to the fire department, as his first conversation would be about the fire trucks.

City Planner Oliver Joseph stated that Fire Chief Pricher said to her that he loves the fact that the houses have sprinklers because it's like having your own fire department in the house. Adding that he did not have any issues.

Commissioner Shoemaker stated that he just wanted to know how to change the timeline.

City Planner Oliver Joseph replied that she would think about that and appreciates the feedback.

Commissioner Shoemaker stated that is request is just based on the size of this packet. City Planner Oliver Joseph stated that it is literally just the amount of work that had to go into it, and they wanted to get it to you 2-weeks earlier. And that they worked extremely hard to do that, although it just didn't happen.

Commissioner Shoemaker stated he understands based on the number of staff they have and how many people are working on it, it just seems like, if a code change was necessary to give staff the amount of time they need on this.

City Planner Oliver Joseph added that the 2nd they deem the application complete, they have 120 days to render a decision including the resolution of all appeals at the city level. Adding that our clock starts ticking immediately. And she doesn't anticipate that they would have an application like this again until perhaps

we're finishing up the 50-year plan and we're looking at a potential UGB expansion or something like that, that would be the next time that something of this magnitude would likely come up. Adding that it's not to say that it should happen all that often, as it's not that often they have a consolidated application where they get 7 applications consolidated into one decision. That's why this was so large. Stating that she would think about your question and will see if there is any potential way to give more time with the material.

Commissioner Blank stated that the answer might be with the State regulations.

City Planner Oliver Joseph reminded everyone that they are still in the meeting.

City Engineer Negelspace stated that he just wanted to comment, that because he used to be in your role for many years and also understands that because he also felt like it was challenging to get the packets one week prior and not have a short kind of a week to review and be prepared to have something intelligent to say, and to get things on the record. Adding that he would recommend that the commissioners, as he knows not everyone is familiar with looking at engineering plans and reading through all the land use stuff, but what he would recommend doing is looking at things where I knew there might be points where there might be issues. For example, you might not focus on the landscape plan, right, because it's not a critical issue, but you might focus on the flooding or those sensitive land types, portions of it and then and then kind of go from there and see how much time you have to look at the more common elements. Adding that he would always focus on the most critical pieces to him that would cause the plan to have to change. Adding that flooding would be one which everybody was focused on.

Commissioner Shoemaker agreed as this is exactly what he meant as he is not an expert on flooding, but I've seen it flood there.

City Planner Oliver Joseph reiterated that we should probably not keep our comments focused on that.

Commissioner Shoemaker added that he would just like more time.

City Engineer Negelspace added that they are there to help and they have staff to help them to better understand it more in layman's terms and they can just schedule a time to meet with them and that they are available to do that. Adding that this week was really tough just because of this project being so time consuming. Adding that in future applications feel free to call Laurie to schedule time to sit with us and talk through stuff. Stating that they could not do four of them at the same time but could certainly do one of you at a time to talk through the technical items.

Chair Jensen stated that they could do up to 3 at time as long as it's not a quorum.

Commissioner Shoemaker asked a question that was hard to hear.

Associate Planner, N.J. Johnson (on the Teams meeting) also stated to the Commissioners that they can't hear you.

Commissioner Shoemaker asked if this goes forward if they were going to extend it to the next meeting.

City Planner Oliver Joseph stated that Chair Jensen can address that.

Chair Jensen stated that there are a couple of points on the timeline thing with residential as it is hard because of that 120-day deadline, which is from when the application is deemed complete to the time that all of the appeals through the city process have been completed and that all has to occur in 120 days.

Commissioner Shoemaker asked if their Planning Commission meetings fit into that.

Chair Jensen agreed. And stated that nonresidential have, a longer timeline.

City Planner Oliver Joseph said, no. Adding that the 120 days applies to all land use applications in the City.

City Engineer Negelspace added that rule is for every type of land use.

City Planner Oliver Joseph stated that she believes the county has additional time although the city does not. She believes the county has 150 days.

Chair Jensen stated that it's tough to meet the timeline, but they are trying to be fair for everybody.

Commissioner Shoemaker added that it's to make sure that we can definitely do our due diligence.

Commissioner Blank stated that for his situation, he felt that it was a really tough decision to make but kept thinking and putting myself in their shoes and thinks that everybody here did the same thing with myself in their shoes. Adding that if he had land and saw water all the time and I was going to have more cars going up and down the road, then he would have looked for all the things that would save him some time because he started looking for things that were going to help them. Adding that if he couldn't find that, then his decision was such and he had to go with what he had to go with.

City Planner Oliver Joseph agreed.

Chair Jensen responded to Commissioner Shoemaker's question that they can continue any hearing, but he will say that it is really bad form, at least if they continue a meeting when there's not a reason to do that.

Commissioner Shoemaker stated that is why he was saying it was based on the clock.

Chair Jensen reiterated that everyone did do their due diligence.

Commissioner Blank thanked the staff for all their hard work.

Chair Jensen also thanked the staff, the public and the applicant as they did a lot of work on this, they were asking reasonable questions. And the applicant worked with then and the Commissioners all did a good job.

6.3 Staff Comments


City Planner Oliver Joseph stated that she wanted to say very briefly because you have been here late, that you did an excellent job tonight. Adding that it was perfect and so they kept a clean record and Commissioner Ahlers was able to put some very clear points in the record as well, where she agreed, as did several others of you and she really appreciates it because this is a tough application. And for a lot of you, it's maybe the first contentious application, but I would say that you did exceptionally well tonight and thanked them all.

City Engineer Negelspace reiterated what City Planner Oliver Joseph said, as they all did a great job procedurally and asked some very good questions. He also thanked Commissioner Ahlers and the others for getting some things on the record. Adding that it's always good to just acknowledge some common points of discussion, and to provide a summary of those for the record and they appreciate all your effort, and they understand how difficult it is. Adding that they try to anticipate our process in preparing these packets, that City Planner Oliver Joseph does all the heavy lifting, but they both try to anticipate those points and try to think the same way that you would and try to get ahead of that in the findings and in the recommendations and in pushing back on the developers because they we've been doing it long enough that they think they know where everyone's concerns are.

City Planner Oliver Joseph added that this is going to give Council a better ability to come to a decision because your vote was unanimous. Adding that when they see the meeting minutes, they'll be able to follow your train of thought and how you perceived the application to meet all the criteria. So again, great job.

7 ADJOURNMENT

Chair Jensen stated that with that, it's 8:53pm and adjourned the meeting.


Chair Scott Jensen

Attest: 
Elizabeth Happala, Office Administrator