



Regular Session

RS

Milwaukie City Council

- | | Page # |
|--|-----------|
| 1. CALL TO ORDER – 6:00 p.m.
Pledge of Allegiance | |
| 2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS | |
| A. Milwaukie High School (MHS) Outstanding Student Achievement Award Presented to Sofia Gallamore
Presenter: Mark Pinder, MHS Principal | |
| B. North Clackamas School District (NCSD) Construction Bond Update
Presenter: Mark Pinder, MHS Principal | |
| 3. CONSENT AGENDA
These items are considered routine, and therefore, will not be allotted discussion time on the agenda; these items may be passed by the Council in one blanket motion; any Councilor may remove an item from the "Consent" agenda for discussion by requesting such action prior to consideration of that part of the agenda. | |
| A. Approval of City Council Meeting Minutes: | 2 |
| 1. August 15, 2017, Work Session; | |
| 2. August 15, 2017, Regular Session; | |
| 3. August 29, 2017, Special Session; and | |
| 4. September 5, 2017, Work Session. | |
| B. Distraction Free Driving Awareness Day – Proclamation | 11 |
| C. Library Board Bylaws Amendments – Resolution | 14 |
| D. Oregon Liquor Control Commission (OLCC) Application – 7-Eleven, 10435 SE 42nd Avenue – Change of Ownership | 22 |
| 4. AUDIENCE PARTICIPATION
The presiding officer will call for citizen statements regarding City business. Pursuant to Milwaukie Municipal Code (MMC) Section 2.04.140, only issues that are "not on the agenda" may be raised. In addition, issues that await a Council decision and for which the record is closed may not be discussed. Persons wishing to address the Council shall first complete a comment card and submit it to the City Recorder. Pursuant to MMC Section 2.04.360, "all remarks shall be directed to the whole Council, and the presiding officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent, or slanderous." The presiding officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak. | |
| 5. PUBLIC HEARING
Public Comment will be allowed on items under this part of the agenda following a brief staff report presenting the item and action requested. The presiding officer may limit testimony. | |
| A. Kellogg Creek (Rusk Road) Planned Development (PD-2017-001) – Ordinance – Continued from September 5, 2017
Staff: Brett Kelter, Associate Planner | 24 |

6. OTHER BUSINESS

These items will be presented individually by staff or other individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.

A. Council Reports

7. INFORMATION

8. ADJOURNMENT

Americans with Disabilities Act (ADA) Notice

The City of Milwaukie is committed to providing equal access to all public meetings and information per the requirements of the ADA and Oregon Revised Statutes (ORS). Milwaukie City Hall is wheelchair accessible and equipped with Assisted Listening Devices; if you require any service that furthers inclusivity please contact the Office of the City Recorder at least 48 hours prior to the meeting by email at ocr@milwaukieoregon.gov or phone at 503-786-7502 or 503-786-7555. Most Council meetings are streamed live on the City's website and cable-cast on Comcast Channel 30 within Milwaukie City Limits.

Executive Sessions

The City Council may meet in Executive Session pursuant to ORS 192.660(2); all discussions are confidential and may not be disclosed; news media representatives may attend but may not disclose any information discussed. Executive Sessions may not be held for the purpose of taking final actions or making final decisions and are closed to the public.

Meeting Information

Times listed for each Agenda Item are approximate; actual times for each item may vary. Council may not take formal action in Study or Work Sessions. Please silence mobile devices during the meeting.

 CITY OF MILWAUKIE
COUNCIL REGULAR SESSION

City Hall Council Chambers
10722 SE Main Street
www.milwaukieoregon.gov

2254th Meeting

MINUTES

SEPTEMBER 19, 2017

Mayor Mark Gamba called the Council meeting to order at 6:08 p.m.

Present: Council President Lisa Batey; Councilors Angel Falconer, Wilda Parks, Shane Abma

Staff: City Manager Ann Ober	Planning Director Denny Egner
City Recorder Scott Stauffer	Senior Planner David Levitan
City Attorney Peter Watts	Associate Planner Brett Kelter
Community Development Director Alma Flores	Assistant Engineering Director Jennifer Garbely

1. CALL TO ORDER

Pledge of Allegiance.

2. PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Milwaukie High School (MHS) Outstanding Student Achievement Award presented to Sofia Gallamore

Mark Pinder, MHS Principal, introduced Ms. Gallamore and Council congratulated her on her academic and extra-curricular achievements.

B. North Clackamas School District (NCSD) Construction Bond Update

Mr. Pinder provided an update on the planning process to rebuild the main MHS building. He reported that temporary classrooms would be in place by the end of the current school year and noted the planned location changes of the MHS athletic fields.

3. CONSENT AGENDA

It was moved by Council President Batey and seconded by Councilor Abma to approve the consent agenda.

A. City Council Meeting Minutes:

1. August 15, 2017, Work Session;
2. August 15, 2017, Regular Session;
3. August 29, 2017, Special Session; and
4. September 5, 2017, Work Session.

B. A Proclamation declaring September 20, 2017, to be Distraction Free Driving Awareness Day in Milwaukie.

C. Resolution 84-2017: A Resolution of the City Council of the City of Milwaukie, Oregon, Accepting the Library Board Bylaws.

D. An Oregon Liquor Control Commission (OLCC) Applications for 7-Eleven, 10435 SE 42nd Avenue – Change of Ownership.

Motion passed with the following vote: Councilors Parks, Abma, Falconer, and Batey, and Mayor Gamba voting “aye.” [5:0]

Mayor Gamba proclaimed September 20, 2017, to be Distracted Driving Awareness Day and commented on the dangers of distracted driving.

4. AUDIENCE PARTICIPATION

Mayor Gamba reviewed the Audience Participation procedures and **Ms. Ober** reported that there was no follow-up report from the September 5, 2017, Audience Participation.

5. PUBLIC HEARING

A. Kellogg Creek (Rusk Road) Planned Development (PD-2017-001) – Ordinance, Continued from the September 5, 2017, Regular Session

Opening: **Mayor Gamba** called the public hearing on the Kellogg Creek Planned Development, Master File Number PD-2017-001, started on September 5, 2017, to order at 6:28 p.m. He reviewed the Planning Commission's recommendation on the Planned Development and noted that Council had started the hearing at the September 5, 2017, Regular Session.

Purpose and Procedure: **Mayor Gamba** reviewed the hearing purpose and procedures.

Conflicts of Interest and Ex-Parte: **Mayor Gamba** asked if any member of Council wished to announce any conflicts of interest. **Councilor Abma** declared that he worked for the Metro regional government, which adopts and administers land use rules. He noted that he did not work for the land use department at Metro.

Mayor Gamba asked if any member of Council wished to announce any ex-parte contacts. **Council President Batey** and **Councilor Falconer** noted that they had announced ex-parte contacts at the September 5, 2017, hearing and that they had no additional contacts to announce.

The group noted that Councilors Abma and Parks, Council President Batey, and Mayor Gamba had visited or driven by the site.

It was noted that no member of the audience wished to challenge a member of Council's ability to participate in the hearing.

Continued Testimony from Applicant: **Serah Breakstone**, Senior Planner with DOWL consulting, introduced Scott Emmens, Senior Engineer at DOWL; John Van Staveren, Senior Scientist at Pacific Habitat Services; Kristine Connolly, Engineering Associate with Kittelson and Associates; Jerry Johnson, Principal at Johnson Economics; and Randy Myers, the developer and applicant with Brownstowne Homes LLC. She discussed the size and energy efficient elements of the proposed townhomes and reported that site had been staked out for Council review.

Mr. Emmens presented graphs that noted the flood plain located on the site and discussed the need to fill and grade the site to mitigate flood risk. **Mayor Gamba** and **Mr. Emmens** remarked on the need to add fill material to mitigate the site's elevations and seasonal flooding, and to satisfy insurance requirements.

Mr. Johnson noted his work on the City's recent Housing Needs Analysis (HNA) and discussed issues raised by Council at the September 5, 2017, hearing, including the definition of workforce housing and the need for middle housing. **Councilor Falconer** and **Mr. Johnson** discussed the difference between county-wide and Milwaukie-only data and the definition of workforce housing. **Mr. Johnson** remarked on market factors that dictate home price ranges and how local governments have addressed the need for low-income and workforce housing.

Mayor Gamba and **Mr. Emmens** discussed why traffic control enhancements to the Kellogg Creek Drive and Rusk Road intersection had not been considered. They commented on the feasibility of building a roundabout at the intersection and the group noted the need to acquire right-of-way (ROW) property. **Mr. Emmens** confirmed that a second entrance at the intersection had not been considered due to ROW issues.

Mayor Gamba and **Ms. Connolly** discussed how traffic studies are conducted and **Council President Batey** remarked on the reliability of the national trip count data.

Council President Batey and **Mr. Emmens** noted that the development would include alleys and a green street for fire access, per Fire Marshal requirements.

Councilor Abma and **Ms. Connolly** noted that the Kellogg Creek Drive and Rusk Road intersection had performed well according to a traffic analysis that considered the additional traffic from the proposed housing units.

Mayor Gamba and **Mr. Emmens** discussed the amount of fill the developer would be adding to the site and commented on Milwaukie Municipal Code (MMC) requirements related to building in a flood plain. The group asked Ms. Garbely to address the MMC flood plain requirements. **Ms. Garbely** reported that the MMC required fill and cut in the flood plain only.

Mayor Gamba, **Mr. Emmons**, and **Ms. Breakstone** discussed the elevation changes of the site and the amount of fill that the developer was proposing to add to meet Federal Emergency Management Agency (FEMA) flood insurance requirements. **Mr. Watts**, **Mayor Gamba**, and **Council President Batey** commented on FEMA and MMC Chapter 18.04.150(F) regarding flood management area cut and fill requirements.

Mayor Gamba and **Mr. Emmens** discussed the storm event data used to calculate the development's stormwater management system. It was noted that the proposed system was based on 2-year flood event data and was not meant to detain stormwater. They referenced test pit "TP05" identified in a soil analysis on the site and discussed the potential impacts of cutting and filling in terms of reducing the amount of soil that can absorb groundwater. **Mr. Emmens** noted that the developer was required to mitigate for impacts to surface water but not groundwater. **Mayor Gamba**, **Mr. Emmens**, and **Ms. Breakstone** commented on which parts of the site would require flood plain mitigation.

Conduct of Hearing: **Mayor Gamba** reviewed the hearing conduct procedures.

Testimony in Support of the Project: **Joel Gunderson**, Associate Pastor at Turning Point Church, noted his familiarity with the development and suggested that the site's flood patterns had been altered when the Oregon Department of Transportation (ODOT) had built Hwy 224. He noted that the Church had used the site as an exit until the exit had been closed due to improvements made by the County at the Kellogg Creek Drive and Rusk Road intersection. He commented that the fill on the site had been left with the original Church construction and from illegal dumping over the years.

Neutral Testimony: It was noted that no one wished to offer neutral testimony.

Testimony in Opposition of the Project: **Gloria Koch**, unincorporated Clackamas County resident, expressed concern about flooding on the site and what an increase in population would do to the livability of the neighborhood. She noted a lack of sidewalks in the area and urged Council to make sure the developer addressed flooding issues.

Dick Shook, unincorporated Clackamas County resident, yielded his time to Chris Runyard, Portland resident. **Mr. Runyard** reviewed his involvement with the site and expressed concern about flooding issues, the number of units proposed, and the need to protect the wetlands and old growth white oak trees. He suggested the site was an opportunity to help restore native salmon runs by repairing the creek.

Steve Tandy, unincorporated Clackamas County resident, expressed concern about increased traffic from the development causing problems on Rusk Road. He noted that

the number of units proposed by the developer had changed and that flooding issues in the area had been getting worse in recent years.

Erica Toussaint, unincorporated Clackamas County resident, noted that she lived on Kellogg Creek downstream from the site. She expressed concerns about the development causing flooding issues downstream and about increasing density in a neighborhood that lacks sidewalks and a grocery store. She urged Council to not approve the development application.

Wallace Brown, unincorporated Clackamas County resident, noted that he lived on the southwest corner of Kellogg Creek Drive and Rusk Road. He reported that there had been an increase in flooding in the neighborhood in recent years and expressed concern about the walkability of the area and increasing the population density. **Mayor Gamba** asked for Mr. Brown's input on how to improve the Kellogg Creek Drive and Rusk Road intersection. **Mr. Brown** remarked on the need to make it a controlled 4-way intersection to mitigate the population growth.

Mark Fitzsimmons, unincorporated Clackamas County resident, asked if the proposed development was the best the community could do. He expressed concern about flooding issues, density increases in the neighborhood, adding to the existing fill on the site, allowing a dead-end street, and building rowhouses.

Judy Sherley, unincorporated Clackamas County resident, expressed concern about increased traffic in the area and developing on a natural wetland area. She reported that she had submitted photos of typical Sunday morning traffic on Kellogg Creek Drive.

Rosemary Crites, unincorporated Clackamas County resident, noted she lived downstream from the site. She reported increased flooding on her property in recent years and expressed concern about increased flooding due to the proposed development.

Laura Hickman, unincorporated Clackamas County resident, noted her agreement with those who have spoken in opposition to the development. She expressed concern about flooding issues, increased traffic, and increased density in a residential area.

Greg Baartz-Bowman, Milwaukie resident, was glad that the white oak trees would be preserved and suggested that filling wetlands was reckless. He commented that the development process was a good way for the public to express their points of view and remarked on the effectiveness of development mitigation efforts.

Gwenn Alvarez, Lake Road Neighborhood District Association (NDA) Secretary, urged Council to consider the principles included in the recently adopted Milwaukie community vision and to reduce the number of units on the site to 80.

Vincent Alvarez, Lake Road NDA Chair/Treasurer, suggested that the proposed development wasn't extraordinary and not a good fit for the area.

Ms. Ober noted that staff had just received Ms. Sherley's photos to share with Council.

Kirby Broderick, unincorporated Clackamas County resident, presented a photo he had taken showing the width of the existing street on the site. He commented on the illicit fill left on the site over the years and expressed concern about the variances the developer was requesting. He suggested the project was a bad fit for the community.

Mr. Broderick asked if his wife, who was absent, could yield her time to him. **Councilor Abma** expressed concern about giving Mr. Broderick extra time for someone who was not present and **Councilor Falconer** asked if Mr. Broderick's wife would offer

different testimony. **Mr. Broderick** suggested that the “TP05” pit testing had been done during the summer when the groundwater was at its lowest point and that the traffic study had been conducted on a non-school day.

Mayor Gamba recessed the Regular Session at 8:41 p.m. and reconvened the Regular Session at 8:54 p.m.

Ms. Ober presented photos submitted by Mr. Broderick and Ms. Sherley and noted that assisted listening devices were available for audience members.

Correspondence Received: **Mr. Kelter** noted the correspondence received since the September 5, 2017, hearing and Council read the letters that had been received since the Council Packet had been published.

Staff Response: **Mr. Kelter** reviewed the approval criteria for a planned development, an allowance for increased density, and for variances. **Council President Batey, Mr. Kelter, and Mayor Gamba** noted which criteria the developer had cited in requesting a variance for a closed street system that would have more than 20 units.

Mayor Gamba, Mr. Kelter, and Mr. Egner discussed the Habitat Conservation Area (HCA) to be designated around the white oak trees on the site and the regional Metro-led process to amend HCA maps.

Mayor Gamba, Mr. Kelter, and Ms. Garbely discussed what the development's stormwater facilities would be built to handle in terms of retaining, mitigating, and controlling stormwater runoff. Staff noted that the proposed facilities had not gone through a technical design review yet and that the existing wetlands would play a role in handling stormwater runoff.

Mr. Kelter and Mayor Gamba remarked on the impacts of increasing the HCA on the placement of roads in the development.

Councilor Abma and Mr. Kelter discussed the developer's options in terms of building on or over natural resource areas and requesting that the site be rezoned to meet MMC requirements if Council did not grant a density variance. The group commented on how zoning density was calculated and accounted for natural resource areas.

Ms. Garbely reported that the City's Engineering Director had sent a message clarifying that the site's stormwater facilities would need to be able to handle water runoff as it had in “Lewis and Clark era” conditions – as if the site were in an unaltered natural state. The group remarked on the impacts of building systems to handle “Lewis and Clark era” conditions. **Mr. Kelter** suggested that the stormwater facilities would need to be built to ensure that downstream flooding does not increase due to the new development. **Mr. Watts** expressed concern that staff was being asked to comment on what the development's facilities would do. **Ms. Garbely and Mr. Kelter** remarked that the applicant would need to demonstrate that the development's facilities would meet the MMC requirements.

Applicant Rebuttal: **Ms. Breakstone** addressed comments raised during the evening's testimony; she reported that the anticipated price range for housing units on the site would be between \$299,000 and \$319,000 and that the development would include sidewalk and crosswalk improvements on Kellogg Creek Drive.

Mayor Gamba, Council President Batey, and Ms. Breakstone discussed the requested variance for a closed-end street system and the calculations developers

make in balancing public amenities and natural resource areas while ensuring that a financially sufficient number of units are built. **Mayor Gamba** and **Ms. Breakstone** remarked on the quality of the HCA and wetland areas on the site.

Mr. Emmens commented that the development needed to abide by FEMA's guidelines and expressed confidence that the proposed facilities would mitigate the water runoff. He commented on the development's appropriateness for the community, noting that the white oaks would be saved and traffic concerns would be addressed – although not solved. He commented on how the development plan had been adjusted throughout the process per community input.

Questions of Clarification: It was noted that Council had no additional questions.

The group noted that it was 9:45 p.m. and that Council would need to vote to extend the meeting past 10:00 p.m. They discussed continuing the hearing to a future meeting.

Mr. Watts and **Council President Batey** remarked on Metro's mapping process and when the HCA maps had been initially developed.

It was moved by **Council President Batey** and seconded by **Councilor Abma** to extend the Regular Session to 10:30 p.m. Motion passed with the following vote: **Councilors Parks, Abma, Falconer, and Batey, and Mayor Gamba** voting "aye." [5:0]

Close Public Testimony: It was moved by **Council President Batey** and seconded by **Councilor Falconer** to close the public hearing. Motion passed with the following vote: **Councilors Parks, Abma, Falconer, and Batey, and Mayor Gamba** voting "aye." [5:0] **Mayor Gamba** closed the public hearing at 9:49 p.m.

Council Discussion: The group agreed to first consider the density bonus request, then the closed street and natural area variance requests, and then the planned development application.

Council President Batey commented on the public reaction to the development, the City's need for housing, and the elements of the development she liked. She concluded that the development did not meet the density bonus requirements.

Councilor Parks commented on the type of housing that was needed in the City and concluded that the development did not warrant a density bonus.

Councilor Abma expressed support for building townhomes and commented that he did not find anything exceptional about the proposed development. He said he would vote against the density bonus request.

Councilor Falconer remarked on the City's need for missing middle housing types and questioned the applicant's definition of workforce housing.

Mayor Gamba concurred with **Councilor Falconer's** and **Council President Batey's** remarks and noted elements of the development he liked. He summarized that Council unanimously agreed that the development did not meet the density bonus requirements.

Council President Batey and **Mayor Gamba** remarked on how the proposed closed-street system would impact the surrounding community and natural environment in terms of increased traffic flow. **Mayor Gamba** expressed appreciation for the applicant's efforts to save the white oak trees and suggested that the street layout was a poor design. He suggested the closed-street system variance should not be granted.

Councilor Abma commented that he did not find the closed-street system to be reasonable or appropriate given the number of units proposed. He agreed with Mayor Gamba and Council President Batey's comments and suggested that he would vote against the closed-street variance request. **Councilors Parks and Falconer** noted their agreement with Councilor Abma. **Mayor Gamba** summarized that it was Council consensus that the development did not meet the requirements for a closed-street system variance.

Mayor Gamba reviewed the approval criteria for granting a variance for building in natural areas. He noted the history of illegal fill being dumped and the presence of wetlands and creeks on the site. He expressed concern about flooding on the site and stated his opposition to granting a variance for building homes in the natural area.

Councilor Abma concurred with Mayor Gamba's remarks and commented on the impacts on wildlife of placing 92 units on the site. He noted he would vote against the variance for building in a natural area.

Councilor Falconer commented on Council's ability to grant a variance for minimum density that could be used to protect HCAs and noted that the Oregon Department of Fish and Wildlife (ODFW) and the North Clackamas Urban Watershed Council (NCUWC) had also expressed concerns about the development.

Ms. Ober noted that it was 10:24 p.m. and that Council would need to vote to extend the meeting passed 10:30 p.m. **It was moved by Councilor Parks and seconded by Council President Batey to extend the Regular Session to 10:45 p.m. Motion passed with the following vote: Councilors Parks, Abma, Falconer, and Batey, and Mayor Gamba voting "aye." [5:0]**

Council President Batey agreed that the development did not meet the criteria for a natural area variance. **Mr. Egner, Mr. Kelter, and Council President Batey** remarked on the differences in requirements between a subdivision and a planned development.

Mayor Gamba summarized that Council unanimously agreed that that the development did not meet the requirements for a variance to build in a natural zone.

The group discussed whether Council should consider the planned development application given Council's intention to deny the density bonus request and the natural resource and close-street system variances. Staff agreed that the applicant needed to adjust the development plan and suggested that Council could deny the development or see if the applicant would extend the 120-day land use clock to adjust the plan.

Mayor Gamba recessed the Regular Session at 10:33 p.m. and reconvened the Regular Session at 10:42 p.m.

It was moved by Council President Batey and seconded by Councilor Falconer to extend the Regular Session to 11:00 p.m. Motion passed with the following vote: Councilors Parks, Abma, Falconer, and Batey, and Mayor Gamba voting "aye." [5:0]

Mr. Watts reported that the applicant was interested in revising the development plan given Council's intention to deny the density request and variances. He proposed that Council continue the hearing at a Special Session on September 26, 2017. This would allow time for the applicant to take Council's input on revising the development plan and for staff to develop revised findings. He suggested that Council should not make any

final decisions at the current meeting and that the applicant be asked after the September 26, 2017, hearing about extending the land use clock.

The group commented that the September 26, 2017, hearing would not include additional public testimony and would be an opportunity for the applicant to figure out what Council envisions for the development. The group noted that Council should not discuss the development as a group outside of the public hearings but may communicate one-on-one with staff.

Council President Batey, Mayor Gamba, and Councilor Parks remarked on whether to continue the hearing now or at a future meeting. **Mr. Watts** suggested it would be best to continue the hearing on September 26, 2017.

It was moved by Council President Batey and seconded by Councilor Abma to continue the hearing to a date certain of September 26, 2017, at 6:00 p.m. Motion passed with the following vote: Councilors Parks, Abma, Falconer, and Batey, and Mayor Gamba voting "aye." [5:0]

Ms. Ober noted that the Special Session would be noticed as soon as possible.

6. OTHER BUSINESS

A. Council Reports

Mayor Gamba noted upcoming events including the Milwaukie-Sellwood Sunday Parkways, the Milwaukie Sunday Farmers Market, and City Manager Drop-In appointments. He commented on the recently unveiled design concept for the Ledding Library improvement project. **Council President Batey** noted that the City's website had information about the ongoing Solarize Milwaukie campaign. **Councilor Falconer** and **Council President Batey** noted the extended deadline for participating in the solar program.

7. INFORMATION

8. ADJOURNMENT

It was moved by Councilor Parks and seconded by Councilor Abma to adjourn the Regular Session. Motion passed with the following vote: Councilors Parks, Abma, Falconer, and Batey, and Mayor Gamba voting "aye." [5:0]

Mayor Gamba moved to adjourn the regular session at 10:58 p.m.

Respectfully submitted,



Scott S. Stauffer, City Recorder



**Regular Session
Agenda Item No.**

3

Consent Agenda

 CITY OF MILWAUKIE
COUNCIL WORK SESSION

City Hall Conference Room
10722 SE Main Street
www.milwaukieoregon.gov

MINUTES

AUGUST 15, 2017

Mayor Mark Gamba called the Council meeting to order at 4:00 p.m.

Present: Council President Lisa Batey; Councilors Angel Falconer, Wilda Parks, Shane Abma

Staff: City Manager Ann Ober

Engineering Director Chuck Eaton

Interim Assistant to the City Manager Stephan Lashbrook

Administrative Specialist II Amy Aschenbrenner

Community Development Director Alma Flores

Introduction of the Interim Assistant to the City Manager

Ms. Ober introduced Stephan Lashbrook, Interim Assistant to the City Manager, and noted the projects he would be working on, including the Solarize Milwaukie campaign, the Park and Recreation Board (PARB), Arts Committee (artMOB), and the MAXimum Music Happy Hour event. She thanked Mitch Nieman for his service to the City.

Ms. Ober noted the first Solarize Milwaukie meeting and asked if Council wanted to be involved. **Council President Batey** said she would attend and could speak.

Council Goal: Milwaukie Bay Park

Ms. Ober explained that the City was partnering with the North Clackamas Parks and Recreation District (NCPRD) to complete the Park. NCPRD would be providing funds to help hire a consultant to complete minor modifications. She noted that larger changes would require more funds and a larger community engagement strategy. The group discussed the permit and project completion timelines.

Ms. Ober explained that the City was considering a Memorandum of Understanding (MOU) with NCPRD regarding budgetary or System Development Charges (SDC) for the Park. She asked Council if they had concerns about using the budgeting process versus having a document agreement with NCPRD. **Councilor Abma** asked if there was an impact of the "ownership" question. **Ms. Ober** discussed the differences of bonding versus an agreement and discussed Park ownership. She noted upcoming changes to the City's Intergovernmental Agreement (IGA) with NCPRD and NCPRD's ability to work on park amenities.

Ms. Ober discussed sound quality at the Park and noted upcoming opportunities to test the sound levels. She noted trees in the design would help mitigate road noise in the Park and she discussed the desire to run tests now and discuss changes over the winter. It was Council consensus to proceed with Ms. Ober's proposed approach. The group discussed the feasibility of holding a movie event at the Park.

Downtown Milwaukie Business Association (DMBA) Quarterly Update

Ms. Flores introduced Kelli Keehner, DMBA President, and discussed the City's relationship with the DMBA. **Ms. Keehner** noted that the DMBA was partnering with First Friday so that it would be based around the businesses. She noted this would be a transition year and that she would be chairing the First Friday group. She reported the increased activity at First Friday events and discussed the DMBA's marketing strategy. She discussed upcoming First Friday events, a Downtown Milwaukie clean-up event, the Trick or Treat event, the Umbrella Parade, and other holiday events.

Councilor Abma asked about Ms. Keehner's statement on bringing First Friday back into DMBA. **Ms. Keehner** explained that the First Friday event was originally started by the businesses, but recently there were no businesses involved or sitting on the board.

She noted that the First Friday board was hoping to bring more businesses into the event to get involved. She added that 2017 event participation and sales had increased.

Councilor Parks, Council President Batey, Ms. Keehner, and Ms. Flores discussed the upcoming Oregon Main Street Conference in Oregon City.

Council President Batey asked about a map of downtown business. **Ms. Keehner** noted the map was in the process of being created. **Council President Batey, Ms. Keehner, and Ms. Flores** discussed design options. **Ms. Flores** discussed the map in relation to the downtown wayfinding kiosk and signs. She noted staff was willing to work with the DMBA on the project. The group noted the wayfinding signs that would be implemented and the importance of involving the DMBA.

Ms. Ober noted that staff would be coming back to Council with an update about snow plows and the ability for the City to provide removal services. She discussed the importance of clearing sidewalks and explained it is the responsibility of businesses and home owners to clear areas around their properties. **Ms. Keehner** noted that some businesses owners do not live in the City and are unable to clear the sidewalks. **Ms. Ober** noted they would continue the discussion to help find solutions.

Discussion on Proposed Healthcare Resolution

Ms. Ober asked if Council wished to discuss the proposed healthcare resolution scheduled for consideration at the August 15, 2017, Regular Session. **Mayor Gamba** and **Councilor Parks** discussed the state of the American healthcare system.

Councilor Abma and **Mayor Gamba** discussed the different ways to provide universal healthcare – by insurance providers, by the government, or another method. The group noted the difference between “healthcare coverage,” and a “healthcare system.” The group discussed single-payer healthcare and healthcare coverage and services.

Councilor Falconer summarized that Council agreed on the need for everyone to have healthcare, but the disagreement was in prescribing or not prescribing exactly how it happens. The group analyzed the text of the proposed resolution and discussed the message they want to convey to the public.

Ms. Ober explained Council’s options for formally considering the resolution. Council agreed that it would be best to have each Councilor review the resolution on their own and come back at a future meeting for discussion. The group noted possible changes that could be made to the draft resolution.

Mayor Gamba adjourned the Work Session at 5:27 p.m.

Respectfully submitted,

Amy Aschenbrenner, Administrative Specialist II

 CITY OF MILWAUKIE
COUNCIL REGULAR SESSION

City Hall Council Chambers
10722 SE Main Street
www.milwaukieoregon.gov

2252nd Meeting

MINUTES

AUGUST 15, 2017

Mayor Mark Gamba called the Council meeting to order at 6:00 p.m.

Present: Council President Lisa Batey; Councilors Angel Falconer, Wilda Parks, Shane Abma

Staff: City Manager Ann Ober	Community Development Director Alma Flores
City Attorney Dan Olsen	Development Manager Leila Aman
Assistant to the City Manager Mitch Nieman	Engineering Director Charles Eaton
Administrative Specialist II Amy Aschenbrenner	Assistant City Engineer Jennifer Garbely

1. CALL TO ORDER

Pledge of Allegiance.

2. PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. None Scheduled.

3. CONSENT AGENDA

It was moved by Council President Batey and seconded by Councilor Falconer to approve the consent agenda.

A. City Council Meeting Minutes:

1. July 11, 2017, Study Session;
2. July 18, 2017, Work Session; and
3. July 18, 2017, Regular Session.

B. Resolution 76-2017: A Resolution of the City Council of the City of Milwaukie, Oregon, purchasing a replacement CAT914M Wheel Loader.

C. Resolution 77-2017: A Resolution of the City Council of the City of Milwaukie, Oregon, acting as the Local Contract Review Board, approving the award of a contract for the construction of the 42nd Avenue Street Reconstruction Project to Brown Contracting, Inc.

D. Resolution 78-2017: A Resolution of the City Council of the City of Milwaukie, Oregon, authorizing the City Manager to approve a professional services contract with Tetra Tech in an amount not to exceed \$198,213 for professional services related to the relocation and construction of Well #2.

E. An Oregon Liquor Control Commission (OLCC) Application for Le Tap, 11301 SE 21st Avenue – New Outlet

Motion passed with the following vote: Councilors Falconer, Batey, Parks, and Abma and Mayor Gamba voting “aye.” [5:0]

4. AUDIENCE PARTICIPATION

Mayor Gamba reviewed the Audience Participation procedures and **Ms. Ober** reported that there was no follow-up report from the August 1, 2017, Audience Participation.

Rick Henden, RiversWest Small Craft Center representative, described the mission of RiversWest. He explained that the non-profit had started a capital campaign to build a boat building museum facility in the Portland area. **Council President Batey** and **Mr. Henden** noted that RiversWest was not affiliated with the boat school located in the North Milwaukie Industrial Area (NMIA). **Councilor Abma** and **Mr. Henden** noted that RiversWest was currently located on the Multnomah Channel.

5. PUBLIC HEARING

A. None Scheduled.

6. OTHER BUSINESS

Mayor Gamba announced that Agenda Item 6. E. would be moved up the agenda.

E. Citizen Utility Advisory Board (CUAB) Bylaws – Resolution (moved up agenda)

Mr. Eaton introduced Ms. Garbely, the City's new Assistant City Engineer, and discussed the CUAB's request for Council to adopt the CUAB's original revised version of the CUAB bylaws that had been presented at the May 9, 2017, Work Session. He reported that the CUAB had declined the bylaw changes proposed by Council.

The group discussed the CUAB's proposed language changes and the City's general administrative practices regarding meeting dates and noticing requirements. Council President Batey and Councilor Parks expressed support for approving the Bylaws that had been proposed by the CUAB.

Councilor Abma commented on the importance of providing notice for public meetings. The group discussed when meeting packets should be posted and it was the group consensus that CUAB packets should be posted 5 days before a meeting.

It was moved by Councilor Abma and seconded by Councilor Parks to approve the Resolution accepting the Citizen Utility Advisory Board Bylaws amending the Bylaws (Exhibit A) Article 3, Number 4, to change 7 days to 5 days. Motion passed with following vote: Councilors Falconer, Batey, Parks, and Abma and Mayor Gamba voting "aye." [5:0]

Resolution 81-2017:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACCEPTING THE CITIZEN UTILITY ADVISORY BOARD BYLAWS.

~~A. Council Goal Update Climate Action Plan (removed from the agenda)~~

B. Dissolution of the Riverfront Task Force (RTF) – Resolution

Ms. Ober reviewed the history of the RTF and reported that the task force had voted to go on hiatus in 2016. She explained that the Park and Recreation Board (PARB) had taken over the effort to complete Riverfront Park and that staff had prepared a resolution dissolving the RTF. She thanked Gary Klein, the RTF's last member, for his service and remarked on his involvement in the Park's development going forward.

Council expressed appreciation for the years of work done by the RTF.

It was moved by Council President Batey and seconded by Councilor Falconer to approve the Resolution dissolving the Riverfront Task Force. Motion passed with the following vote: Councilors Falconer, Batey, Parks, and Abma and Mayor Gamba voting "aye." [5:0]

Resolution 79-2017:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DISSOLVING THE RIVERFRONT TASK FORCE.

C. Renaming of Riverfront Park to Milwaukie Bay Park

Ms. Ober reviewed the renaming process and noted the historical use of the Milwaukie Bay name. She reported that the neighborhood district associations (NDAs) near the Park and the PARB supported the name change.

It was moved by Councilor Parks and seconded by Councilor Abma to adopt Milwaukie Bay Park as the new name for Milwaukie Riverfront Park. Motion passed with the following vote: Councilors Falconer, Batey, Parks, and Abma and Mayor Gamba voting "aye." [5:0]

The group noted that many individuals and community groups had long advocated for changing Riverfront Park to Milwaukie Bay Park.

D. Request for Qualifications (RFQ) Selection Process and Disposition Discussion for Coho Point at Kellogg Creek – Resolution

Ms. Flores introduced Ms. Aman, the City's new Development Manager, and explained the action Council was asked to consider related to the development of the Coho Point site. She noted the members of the RFQ Selection Advisory Group (SAG) that were present, including Catherine Grubowski-Johnson, Clackamas County Economic Development Manager; Patrick McLaughlin, Senior Development Project Manager with Metro; and Jerry Johnson, Principal with Johnson Economics. She also noted that Dr. Farid Bolouri and Angela Creais, both with Black Rock LLC, were present. She reviewed the RFQ selection process and the required proposal criteria. She reported that nine proposals had been submitted, four had been interviewed, and that the SAG unanimously recommended that the City enter an exclusive negotiating agreement (ENA) with Black Rock. She discussed elements of the Black Rock proposal that had stood out.

Ms. Aman discussed the significance of entering an ENA and outlined the ENA process and outcomes. **Ms. Ober** and **Ms. Aman** commented on the importance of public input and the timing of Council decisions in the process.

Councilor Abma and **Ms. Aman** noted that if the City and Black Rock did not come to terms during the ENA period the City could walk away from the deal. **Councilor Abma** asked what the City could lose if no agreement was made and **Mr. Olsen** suggested that the City would mostly lose staff resources and Council time.

Councilor Abma and **Ms. Flores** noted that Black Rock was the only group that brought a third-party expert to the interview to discuss site constraints.

Mayor Gamba discussed the process language that had been included in the Coho Point RFQ documents and asked why the top three proposals had not gone through a request for proposals (RFP) process. **Ms. Aman** summarized the City's options, reviewed costs of an RFP process, and noted that an RFP process would extend the project timeline. She pointed out that the SAG's recommendation had been unanimous and that public outreach could be a requirement of the agreement with Black Rock.

The group discussed the Coho Point RFQ and RFP process options and related public expectations regarding the process and community involvement in selecting proposals.

Mayor Gamba commented on the Black Rock group, the Coho Point RFQ process, and the proposals submitted by other development groups.

Councilor Falconer asked Dr. Bolouri to address concerns about Black Rock's profits. **Dr. Bolouri** explained that he owns Black Rock and that Black Rock is an umbrella company for other real estate assets he owns.

Council President Batey disclosed that she was a patient of Dr. Bolouri and that she had not seen him since the RFQ process had started.

Councilor Abma commented on the high quality of the proposals submitted through the RFQ process and encouraged the development teams that had not been selected to submit proposals in future RFQ processes. He expressed support for entering an ENA with Black Rock and noted that the City had the right to move in a different direction if negotiations with Black Rock did not work out.

Councilor Parks agreed with Councilor Abma's remarks. She expressed support for including students in the project and noted the importance of public outreach.

Council President Batey remarked on the quality of the other proposals submitted and expressed support for moving forward with Black Rock.

Councilor Falconer concurred with her Council colleagues' comments and suggested that the Coho Point RFQ process language be refined for future processes. **Councilor Parks** agreed that the RFQ process language should be refined.

Mayor Gamba discussed the City's limited ability to influence development in Milwaukie and remarked that he looked forward to creating a building with Black Rock.

It was moved by Councilor Parks and seconded by Council President Batey to the Resolution authorizing the City Manager to enter into an exclusive negotiating agreement with Black Rock, LLC for the Coho Point at Kellogg Creek property. Motion passed with the following vote: Councilors Falconer, Batey, Parks, and Abma and Mayor Gamba voting "aye." [5:0]

Resolution 80-2017:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN EXCLUSIVE NEGOTIATING AGREEMENT WITH BLACK ROCK, LLC FOR THE COHO POINT AT KELLOGG CREEK PROPERTY.

F. Council Input on Legislative, Regional, and County Issues – Resolution

Mayor Gamba reported that based on Council comments at the August 15, 2017, Work Session, the proposed healthcare resolution would be revised and brought for consideration at a future meeting.

G. Council Reports

Mayor Gamba announced the upcoming Solarize Milwaukie campaign kick-off event. The group noted upcoming events including the Community Clean-Up event, a Library Construction Task Force (LCTF) meeting, the August First Friday event and the Little by Little art show, and a Johnson Creek Watershed Clean-Up day.

Ms. Ober and **Mayor Gamba** noted the types of food waste now accepted for curbside pick-up.

The group expressed their appreciation for the work of former Assistant to the City Manager Mitch Nieman.

7. INFORMATION

8. ADJOURNMENT

It was moved by Councilor Abma and seconded by Councilor Falconer to adjourn the Regular Session. Motion passed with the following vote: Councilors Falconer, Batey, Parks, and Abma and Mayor Gamba voting "aye." [5:0]

Mayor Gamba moved to adjourn the regular session at 7:26 p.m.

Respectfully submitted,

Scott S. Stauffer, City Recorder

 CITY OF MILWAUKIE
COUNCIL SPECIAL SESSION

Milwaukie Public Safety Building
3200 SE Harrison Street
www.milwaukieoregon.gov

MINUTES

AUGUST 29, 2017

Members of the Council gathered at 6:00 p.m.

Present: Council President Lisa Batey and Councilors Angel Falconer and Wilda Parks

Absent: Councilor Shane Abma and Mayor Mark Gamba

Staff: Finance Director Haley Fish Library Circulation Supervisor Nancy Wittig
Community Development Director Alma Flores Supervising Librarian Jana Hoffman
Library Director Katie Newell

Members of the Council gathered at the Public Safety Building to attend the Community Input Forum for the Ledding Library Improvement Project. There was no discussion of City business and no actions were taken.

The event concluded at approximately 7:15 p.m.

Respectfully submitted,

Katie Newell, Library Director

Mayor Mark Gamba called the Council meeting to order at 4:00 p.m.

Present: Council President Lisa Batey; Councilors Angel Falconer, Wilda Parks, Shane Abma

Staff: City Manager Ann Ober
City Attorney Peter Watts
City Recorder Scott Stauffer
Planning Director Denny Egnor
Engineering Director Charles Eaton
Assistant City Engineer Jennifer Garbely
Interim Assistant to the City Manager Stephan Lashbrook
Climate Action Plan Intern Tristan Sewell
Public Works Director Peter Passarelli
Civil Engineer Sheri Markwardt
Senior Planner David Levitan

Right-of-Way (ROW) Encroachment Program Discussion

Mr. Eaton referenced a handout with comments about the ROW Encroachment program from the City Attorney. He presented draft Milwaukie Municipal Code (MMC) language for the program and asked for Council feedback.

Councilor Falconer asked if it made sense to have an appeal process for the location of an appeal permit. The group discussed the possibility of an appeal process. **Councilor Abma** supported an appeals process but did not believe the Council was the appropriate body to hear appeals. He suggested that after the Engineering Director made the decision, the City Manager should handle appeals. The group discussed the revocation process and when it would occur. **Councilor Falconer** and the group discussed ROW encroachment areas in other cities.

Councilor Abma and **Ms. Ober** discussed Council involvement in hearing individual appeals. **Mr. Eaton** and **Mr. Watts** noted that other cities designate the City Manager to make appeal decisions. It was Council consensus that the Engineering Director would make initial ROW encroachment decisions and the City Manager would hear appeals of those decisions.

Mayor Gamba suggested that the proposed Code section explaining fee amounts would be more readable if it referred to the City's fee schedule. It was Council consensus to revise the fee references per Mayor Gamba's suggestion.

Mr. Eaton and **Mayor Gamba** discussed the inclusion of zone definitions. **Mr. Eaton** noted the definitions would be in the City's public works standards. **Mayor Gamba** and **Councilor Abma** noted minor clarification corrections.

Councilor Abma and the group discussed liability, penalties, and the possibility of changing the penalty amounts. **Ms. Ober** said staff would look at the amounts and the potential affects to the MMC and City budget.

Mr. Eaton confirmed that City Council wanted an appeal process for the revocation that would be an appeal to the City Manager.

Kronberg Park Path Alignment Discussion

Mr. Eaton introduced **Ms. Garbely**. **Ms. Ober** noted Scott Archer from the North Clackamas Parks and Recreation District (NCPRD) was in the audience and would be working with the City on the project.

Ms. Garbely asked for Council direction on which pathway alignment to proceed with. She presented a map explaining where the elevated pathway could be and noted constraints and concerns. She presented the Option 1 alignment and its unique

aspects. She discussed the Option 2 alignment and noted its path was closer to SE McLoughlin Blvd. She compared the alignment options, noting the differences in structure size and noted that Option 1 had two alternative routes depending on the ability to fill a hillside area (Option 1.1) or if there needed to be an additional structure built (Option 1.2).

Mayor Gamba asked why the path would be built with concrete. **Council President Batey** asked if the City could save money if the path was not built with concrete. **Ms. Garbely** provided a cost comparison for the design options and noted the bridge costs were higher than projected in the Master Plan. **Mr. Eaton** and **Mayor Gamba** discussed the numbers provided by the Master Plan consultants. **Mr. Eaton** explained that the grant the City had received for the project required that the path be able to carry service vehicles and ambulances. The group discussed the path materials and costs.

Council President Batey suggested that Option 2 would encourage pedestrians to cross McLoughlin Blvd. The group discussed how to mitigate safety concerns and noted that Option 2 would require the City to negotiate use of the Oregon Department of Transportation's (ODOT) ROW. **Mr. Eaton** and **Ms. Garbely** discussed how design changes affected the project timeline. **Mr. Eaton** noted that the version of Option 1 that relied on filling a hillside would likely not be a viable due to the amount the amount of fill required in the floodplain.

Mayor Gamba discussed the original path design. He preferred Option 1, since it was farther away from McLoughlin Blvd. The group discussed possible pathway feature changes, project costs and funding options, and construction timelines. **Ms. Ober** observed that Council was not interested in Option 2. **Councilor Falconer** did not like the idea of taking money away from other projects.

The group summarized that Option 2 and Option 1.1 with the fill were off the table and that additional funding would need to be identified to pursue Option 1.2. **Councilor Abma** and **Mr. Watts** remarked on the MMC requirements related to the Park pathway design review. **Ms. Ober** said staff would return to Council with funding scenarios.

Council Goal: Climate Action Plan (CAP) Update

Mr. Passarelli provided a history of the project and discussed the timeline. He anticipated a draft CAP would come before Council in July 2018.

Mr. Sewell presented the scope of work. He noted the three-layered approach to the CAP and highlighted the criteria for evaluating applicants. The group discussed the project and the level of interest from various solar firms.

Ms. Ober and **Councilor Falconer** remarked on pending changes to the MMC regarding how the City's purchasing and contracting processes apply to contracts generally. **Mr. Sewell** noted that the pending contracting changes were separate from the CAP-specific evaluation criteria.

Mayor Gamba adjourned the Work Session at 5:36 p.m.

Respectfully submitted,

Amy Aschenbrenner, Administrative Specialist II



CITY OF MILWAUKIE

PROCLAMATION

WHEREAS, Oregon cities hold citizen safety as a paramount concern; and

WHEREAS, distracted driving occurs when drivers engage in activities that divert their attention from their primary task of driving, such as texting, talking on a phone, interacting with passengers, listening to loud music, and reading; and

WHEREAS, smart phone use, because it distracts the driver's visual, manual, and cognitive abilities, is especially dangerous for the driver and others; and

WHEREAS, sixty-percent of Oregonians use a smartphone; and

WHEREAS, seventy-percent of Americans admit to using their smart phone while driving; and

WHEREAS, the National Highway Traffic Safety Administration, reports that each day more than 9 people are killed and over 1,060 people are injured in crashes that are reported to involve a distracted driver; and

WHEREAS, the Oregon Department of Transportation reports that a crash involving a distracted driver in Oregon occurs every 2.5 hours; and

WHEREAS, on August 1, 2017, the Oregon Department of Transportation launched a Distracted Driving campaign aimed at raising awareness about the dangers of distracted driving; and

WHEREAS, through adoption of House Bill 2597 the Oregon State Legislature has taken steps to prohibit and discourage the use of handheld devices while driving.

NOW, THEREFORE, I, Mark Gamba, Mayor of the City of Milwaukie, a municipal corporation in the County of Clackamas, in the State of Oregon, do hereby proclaim **September 20th, 2017**, to be **DISTRACTION FREE DRIVING AWARENESS DAY** in Milwaukie and encourage all residents to join in this observance.

IN WITNESS, WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this 19th day of SEPTEMBER 2017.

Mark Gamba, Mayor

ATTEST:

Scott S. Stauffer, City Recorder



September 12, 2016

RE: Distraction Free Driving Proclamations

Dear Mayor,

Smartphone distracted driving is a huge problem in our state. 7-in-10 people engage in smartphone activities while drivingⁱ. This includes texting to social media to selfies to video chatting. It is affecting the safety of Oregon citizens. On average, a crash involving a distracted driver occurs every 2.5 hours in our stateⁱⁱ. In fact, the latest data shows that Oregon's distracted driving related crashes have increased by 25 percent since 2010ⁱⁱⁱ.

We are writing to you today asking that your city help us in our mutual efforts to address this problem. We believe there is nothing more important than the safety and wellbeing of our citizens. By declaring **Sept. 20** to be **Distraction Free Driving Awareness Day**, Oregon's cities can take a leadership role in bringing attention to this issue and help make our streets safer for all Oregonians.

For our teens, distracted driving is especially dangerous. According to the National Highway Traffic Safety Administration, distracted driving is disproportionately cited as the cause of fatal crashes for drivers under the age of 20^{iv}.

In 2010, AT&T launched an initiative called *It Can Wait* to bring attention to the dangers of smartphone use while driving. In the past six years, much has been accomplished^v:

- Danger awareness exceeds 90% for all audiences
- More than one third of people aware of the campaign changed their behavior
- People were inspired to make more than 10 million pledges
- DriveMode app downloaded 5 million+ times
- Research with state departments of transportation found a correlation between *It Can Wait* campaign activities and a reduction in crashes
- We are making a difference, but we need your help to increase awareness of this issue among our most vulnerable drivers, our young people.

ODOT is spearheading efforts to raise awareness of the dangers of distracted driving on Oregon roadways. ODOT recently launched a Distracted Driver Task Force to accelerate behavior change^{vi}. It is partnering with other public agencies such as Oregon State Police

and private companies such as AT&T to build a movement to address this leading cause of preventable crashes.

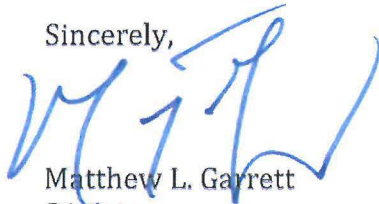
As detailed in the attached draft proclamation, smartphone distracted driving in Oregon is on the rise and is a leading cause of preventable traffic crashes. This makes our streets less safe for our students and their families.

We are partnering to engage community leaders to bring attention to this issue.

We hope that your city will consider adopting proclamations recognizing **September 20, 2016 as Distraction Free Driving Awareness Day.**

Thank you for your consideration.

Sincerely,



Matthew L. Garrett
Director
Oregon Department of Transportation



George Granger
President
AT&T Oregon

ⁱ [Smart Phone Use Behind the Wheel](#), May 2015, Study commissioned by AT&T

ⁱⁱ Oregon Department of Transportation Crash Data Unit, using data from 2010 through 2014

ⁱⁱⁱ Oregon Department of Transportation Crash Data Unit, using data from 2010 through 2014

^{iv} U.S. Department of Transportation, National Highway Traffic Safety Administration, [Traffic Safety Facts: Distracted Driving 2013](#), Published May 2015

^v [AT&T It Can Wait Campaign update](#), May 2015

^{vi} Oregon Department of Transportation, Distracted Driver Task Force:
<http://www.oregon.gov/ODOT/COMM/Pages/Distracted-Driving.aspx>

To: Mayor and City Council

Date: September 1, 2017 for September 19,
2017 Meeting

Through: Ann Ober, City Manager

Reviewed: Katie Newell, Library Director

From: Library Board

Subject: **Library Board Bylaws**

ACTION REQUESTED

Adopt a resolution accepting the Library Board Bylaws as amended.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

Jason Price, Library Board Chair, and Katie Newell, Library Director, presented Library Board Bylaws as amended by the Library Board at their monthly meeting on June 26, 2017, during the Annual Library Update with City Council at the work session on July 18, 2017, <https://www.milwaukieoregon.gov/citycouncil/city-council-work-session-188>. Council identified two areas they would like the Library Board to review and revise.

Article III, Item B, defining eligibility of non-City residents to serve on the Library Board.

Article III, F, broadening the population of the City to include the Ledding Library service area.

ANALYSIS

The Library Board Bylaws has not been revised since August 18, 2011; Library Board and City Council amended the Bylaws to specify the City of Milwaukie and the Ledding Library service area and the desire of the Board to help the library be responsive to this community.

BUDGET IMPACTS

None

WORKLOAD IMPACTS

None

STAFF RECOMMENDATION

Adoption of the Library Board Bylaws as amended.

ALTERNATIVES

Not approve the Library Board Bylaws as presented.

ATTACHMENTS

1. Current bylaws
2. Bylaws revised in accordance with June 26th Library Board meeting and July 18th work session
3. Proposed bylaws "Clean copy"
4. Resolution

#1 – Current Library Board Bylaws

BYLAWS -- LIBRARY BOARD

Article I. Name

The name of this Board is the Board of the Ledding Library.

Article II. Purpose, Authority, and Duties

- A. The purpose of this Board is to advise the Milwaukie City Council and the Ledding staff on library patrons' needs.
- B. The Board is authorized by Milwaukie Municipal Code Chapter 2.28.020 in accordance with ORS 357.400 to 357.621.
- C. The Board's duties, under the general direction of the Council, include: reviewing and commenting on rules and policies for the operation of the library; commenting on the acceptance or rejection of donations of real or personal property or funds donated to the library; commenting on sites for public library buildings or for location of library facilities; and other such activities. The Board also works toward adequate financial support for the library, although the Board has no responsibility for the budget or for any financial transactions.

Article III. Membership

- A. Each Board member shall be appointed by the Mayor with the consent of Council, Council, and those members shall serve at the pleasure of the Council. Terms are for a period of two years. Board members shall serve no more than three consecutive full terms. The Council may waive this limitation if it is in the public interest to do so.
- B. The board consists of seven members. Those non-City residents eligible for board membership shall reside within the service area of North Clackamas School District #12. No member may be a City of Milwaukie officer, agent, or employee.
- C. Vacancies are filled in the same manner as the original appointments.
- D. Upon failure of any member to attend three consecutive meetings, the Board may recommend termination of that appointment to the Council, and the Council may remove in incumbent from the Board and declare the position vacant to be filled in the manner of a regular appointment.
- E. All members shall serve without compensation.

Article IV. Officers and Staffing

- A. Officers. The officers consist of a chair and a vice chair who shall be selected by the membership and who shall serve at the pleasure of the membership for one year. Nominations and election of officers shall be taken from the floor at the Board's June meeting of each year. Officers may be re-elected.
- B. Chair. The chair shall have general supervisory and directional powers over the Board. The chair shall preside at all Board meetings and review the Board agendas with the staff liaison. The chair shall also be an ex-officio

member of all subcommittees and shall be the sole spokesperson for the Board unless the responsibility is delegated in writing.

- C. Vice Chair. The vice chair shall execute all powers of the chair in the absence of the chair.
- D. Staff. The City of Milwaukie will provide staff support to the Board for meeting notification, word processing, minutes preparation, copying, and information gathering to the extent the budget permits.

Article V. Organizational Procedures

- A. The Board shall hold meetings as necessary at a time and place designated by staff consistent with Oregon Public Meetings Law.
- B. Fifty-one percent of the voting membership of the Board shall constitute a quorum. The concurrence of a majority of the Board members present shall be required to decide any matter. If a quorum is not attained in fifteen minutes following the scheduled call to order, the meeting shall be canceled.
- C. All members who are present at Board meetings, including the Chair and Vice Chair, are allotted one vote each on all motions.
- D. These bylaws may be repealed or amended, or new bylaws may be adopted by a majority vote of the Milwaukie City Council on its own initiative, or upon a recommendation from the Board.
- E. The parliamentary authority for this Board is *Robert's Rules of Order Revised* except where superseded by these bylaws or local, state, or federal law.
- F. Individuals being considered must be willing to dedicate to, at a minimum, one meeting per month to the Board.

-- Bylaws adopted September 17, 1996, amended January 18, 2011.

#2 – Revised Library Board Bylaws with Amendments

BYLAWS -- LIBRARY BOARD

Article I. Name

The name of this Board is the Board of the Ledding Library.

Article II. Purpose, Authority, and Duties

- A. The purpose of this Board is to advise the Milwaukie City Council and the Ledding staff on library patrons' needs.
- B. The Board is authorized by Milwaukie Municipal Code Chapter 2.28.020 in accordance with ORS 357.400 to 357.621.
- C. The Board's duties, under the general direction of the Council, include reviewing and commenting on rules and policies for the operation of the library; commenting on the acceptance or rejection of donations of real or personal property or funds donated to the library; commenting on sites for public library buildings or for location of library facilities; and other such activities. The Board also works toward adequate financial support for the library, although the Board has no responsibility for the budget or for any financial transactions. **The Board also helps the library be responsive to community needs now and in the future.**

Article III. Membership

- A. Each Board member shall be appointed by the Mayor with the consent of Council, and those members shall serve at the pleasure of the Council. Terms are for a period of two years. Board members shall serve no more than three consecutive full terms. The Council may waive this limitation if it is in the public interest to do so.
- B. The Board consists of seven members. Those non-City residents eligible for board membership shall reside within the **Ledding Library of Milwaukie** service area ~~of North Clackamas School District #12.~~ No member may be a City of Milwaukie officer, agent, or employee.
- C. Vacancies are filled in the same manner as the original appointments.
- D. Upon failure of any member to attend three consecutive meetings, the Board may recommend termination of that appointment to the Council, and the Council may remove an incumbent from the Board and declare the position vacant to be filled in the manner of a regular appointment.
- E. All members shall serve without compensation.
- F. **Efforts will be made to have the library board be representative of the diverse population that makes up Milwaukie and the Ledding Library of Milwaukie service area.**

Article IV. Officers and Staffing

- A. Officers. The officers consist of a chair and a vice chair who shall be

selected by the board membership and who shall serve at the pleasure of the board membership for one year. Nominations and election of officers shall be taken from the floor at the Board's June meeting of each year. Officers may be re-elected.

- B. Chair. The chair shall have general supervisory and directional powers over the Board. The chair shall preside at all Board meetings and review the Board agendas with the staff liaison. The chair shall also be an ex-officio member of all subcommittees and shall be the sole spokesperson for the Board unless the responsibility is delegated in writing.
- C. Vice Chair. The vice chair shall execute all powers of the chair in the absence of the chair.
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- C. All members who are present at Board meetings, including the Chair and Vice Chair, are allotted one vote each on all motions.
- D. These bylaws may be repealed or amended, or new bylaws may be adopted by a majority vote of the Milwaukie City Council on its own initiative, or upon a recommendation from the Board.
- E. The parliamentary authority for this Board is *Robert's Rules of Order Revised* except where superseded by these bylaws or local, state, or federal law.
- F. Individuals being considered must be willing to dedicate, at a minimum, one meeting per month to the Board.

Changes the Library Board proposed 6/26/17; changes proposed by City Council 7/18/2017.

#3 – Proposed Library Board Bylaws “Clean Copy”**BYLAWS -- LIBRARY BOARD****Article I. Name**

The name of this Board is the Board of the Ledding Library.

Article II. Purpose, Authority, and Duties

- A. The purpose of this Board is to advise the Milwaukie City Council and the Ledding staff on library patrons' needs.
- B. The Board is authorized by Milwaukie Municipal Code Chapter 2.28.020 in accordance with ORS 357.400 to 357.621.
- C. The Board's duties, under the general direction of the Council, include reviewing and commenting on rules and policies for the operation of the library; commenting on the acceptance or rejection of donations of real or personal property or funds donated to the library; commenting on sites for public library buildings or for location of library facilities; and other such activities. The Board also works toward adequate financial support for the library, although the Board has no responsibility for the budget or for any financial transactions. The Board also helps the library be responsive to community needs now and in the future.

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- A. Each Board member shall be appointed by the Mayor with the consent of Council, and those members shall serve at the pleasure of the Council. Terms are for a period of two years. Board members shall serve no more than three consecutive full terms. The Council may waive this limitation if it is in the public interest to do so.
- B. The Board consists of seven members. Those non-City residents eligible for board membership shall reside within the Ledding Library of Milwaukie service area. No member may be a City of Milwaukie officer, agent, or employee.
- C. Vacancies are filled in the same manner as the original appointments.
- D. Upon failure of any member to attend three consecutive meetings, the Board may recommend termination of that appointment to the Council, and the Council may remove an incumbent from the Board and declare the position vacant to be filled in the manner of a regular appointment.
- E. All members shall serve without compensation.
- F. Efforts will be made to have the library board be representative of the diverse population that makes up Milwaukie and the Ledding Library of Milwaukie service area.

Article IV. Officers and Staffing

- A. Officers. The officers consist of a chair and a vice chair who shall be selected by the board membership and who shall serve at the pleasure of the board membership for one year. Nominations and election of officers shall be

taken from the floor at the Board's June meeting of each year. Officers may be re-elected.

- B. Chair. The chair shall have general supervisory and directional powers over the Board. The chair shall preside at all Board meetings and review the Board agendas with the staff liaison. The chair shall also be an ex-officio member of all subcommittees and shall be the sole spokesperson for the Board unless the responsibility is delegated in writing.
- C. Vice Chair. The vice chair shall execute all powers of the chair in the absence of the chair.
- D. Staff. The City of Milwaukie will provide staff support to the Board for meeting notification, word processing, minutes preparation, copying, and information gathering to the extent the budget permits.

Article V. Organizational Procedures

- A. The Board shall hold meetings as necessary at a time and place designated by staff consistent with Oregon Public Meetings Law.
- B. Fifty-one percent of the voting membership of the Board shall constitute a quorum. The concurrence of a majority of the Board members present shall be required to decide any matter. If a quorum is not attained in fifteen minutes following the scheduled call to order, the meeting shall be canceled.
- C. All members who are present at Board meetings, including the Chair and Vice Chair, are allotted one vote each on all motions.
- D. These bylaws may be repealed or amended, or new bylaws may be adopted by a majority vote of the Milwaukie City Council on its own initiative, or upon a recommendation from the Board.
- E. The parliamentary authority for this Board is *Robert's Rules of Order Revised* except where superseded by these bylaws or local, state, or federal law.
- F. Individuals being considered must be willing to dedicate, at a minimum, one meeting per month to the Board.

-- Bylaws adopted September 17, 1996; amended January 18, 2011; amended September 19, 2017.

#4 Resolution



CITY OF MILWAUKIE

COUNCIL **RESOLUTION No.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
ACCEPTING THE LIBRARY BOARD BYLAWS.**

WHEREAS, Milwaukie Municipal Code 2.28.020 establishes the Library Board; and

WHEREAS, Milwaukie Municipal Code 2.10.050.A states the City Council shall accept board, commission and committee bylaws and adopt them by resolution; and

WHEREAS, the Library Board has submitted proposed bylaws for consideration by City Council for acceptance.

Now, Therefore, be it Resolved that City Council hereby accepts the Library Board bylaws, as amended, attached hereto as Proposed Library Board Bylaws “Clean copy”.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Scott S. Stauffer, City Recorder

City Attorney



To: Mayor Gamba and Milwaukie City Council

Through: Ann Ober, City Manager

From: Steve Bartol, Chief of Police

A handwritten signature in black ink, appearing to be "SB", written over the text "Chief of Police".

Date: September 7, 2017

Subject: OLCC Application – 7-Eleven – 10435 SE 42ND Ave, Milwaukie, OR 97222

Action Requested:

It is respectfully requested the Council approve the OLCC Application from 7-Eleven – 10435 SE 42ND Ave, Milwaukie, OR 97222

Background:

We have conducted a background investigation and find no reason to deny the request for liquor license.



**Regular Session
Agenda Item No.**

5

Public Hearing

 CITY OF MILWAUKIE
COUNCIL STAFF REPORT

To: Mayor and City Council

Date: September 12, 2017, for September
19, 2017, Public Hearing

Through: Ann Ober, City Manager

Reviewed: Denny Egner, Planning Director

From: Brett Kelter, Associate Planner

Subject: **Kellogg Creek Planned Development**

ACTION REQUESTED

Re-open the public hearing that was held on September 5, 2017, regarding the proposed 92-unit planned development subdivision on the Turning Point Church site at 13333 SE Rusk Rd (land use application master file #PD-2017-001).

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

- **September 5, 2017** – The City Council opened the public hearing for PD-2017-001 and heard presentations from City staff and the applicant. The applicant was still fielding questions from the Council when the hearing was continued due to the late hour, so the Council has yet to hear public testimony. (<https://www.milwaukieoregon.gov/citycouncil/city-council-regular-session-212>)

ANALYSIS

The following information responds to questions raised at the September 5 hearing and following the hearing:

- **History of fill on the site** - According to anecdotal reports from a long-time resident in the vicinity, fill material was brought on to the church property as early as 1977. It is not clear whether there were any formal dumping arrangements or whether any approvals were necessary at the time. As previously noted, staff has inquired with various relevant agencies to determine whether there is an official history of permits or any record of enforcement action with respect to fill on the site—there is none. At this point, staff is not aware of any regulatory options for addressing past actions.

However, the decisions about the proposed zone change and requested density bonus are ones that leave the Council with some discretion in determining whether the relevant criteria are met. If the Council has concerns that the proposed development would have negative impacts on public health, safety, and welfare related to the potential for flooding, it can direct staff to write findings to justify that position.

- **Need for Variances** - A formal variance request is not required for those adjustments related to design—the stated purpose of the Planned Development zone is to encourage greater flexibility. Aspects such as housing type, lot size, lot dimension, and setbacks are features that can be adjusted without requesting a formal variance. That flexibility can be extended to some other standards that are indirectly affected by these adjustments, such as lot coverage and minimum vegetation. For example, where rowhouse lots are allowed to have a façade width of less than 30 ft in order to achieve the proposed density, it stands to reason that the limitation on the percentage of façade width that can be utilized for a garage door should be relaxed to acknowledge the narrower width. The same is true for the maximum percentage of front yard area that can be utilized for off-street parking (50%)—if the front yard is allowed to be smaller to achieve the proposed building design and density, no formal variance is required to exceed that standard.

- **Zone change and conditional use (1987)** - Staff reviewed the materials on file and confirmed that the 1987 application for zone change was approved independent of whether the conditional use (senior housing) was ever actually constructed.
- **TriMet bus routes** - Councilor Parks e-mailed staff to ask whether any information was available about whether TriMet would retain or reinstate bus service in the vicinity if a large housing development were to be constructed on the subject property. Attachment 4 is the chain of e-mail communication between City staff and TriMet about this question. TriMet staff noted that we should monitor whether there is an expressed demand from residents for service over time.
- **Tree Inventory** - The tree inventory and key (showing diameter and whether removal is proposed) are presented on Sheets C101 and C102 in the applicant's plan set.
- **Flood Elevation** - Within the 100-year floodplain, the floor of habitable space must be at least 1 ft above the base flood elevation. The "2-ft" reference in the preapplication notes is a typo.
- **System Development Charges** - SDCs for the proposed rowhouse units will be calculated for single-family units, not multifamily.

Note on Adjusted Conditions

The front elevation of the proposed front-loaded units, as shown on Sheet 6.0 of the applicant's plan set, is incorrect—the garage and front door on the left half of the structure should be reversed so that the two garage doors are adjacent to one another. Staff will recommend an additional condition of approval to address this item.

STAFF RECOMMENDATION

If the Council chooses to approve the proposed plan with modifications, provide staff with direction to revise the findings and conditions of approval.

The deadline by which the City is required to make a final land use decision is October 4, 2017. Without an additional extension from the applicant, the October 3 regular session represents the last opportunity for a final decision.

ATTACHMENTS

Attachments are provided as indicated by the checked boxes.

	Early Posting	Public Copies	E-Packet
1. Comments Received after preparation of Sept 5 Council packet			
a. Laura Hickman, area resident (<i>Aug 30</i>)	☒	☒	☒
b. Rowda Skinner, area resident (<i>Aug 30</i>)	☒	☒	☒
c. Baldwin van der Bijl, Oak Grove Community Council (<i>Sept 1</i>)	☒	☒	☒
d. Ray Olma, area resident (<i>Sept 5</i>)	☒	☒	☒
e. Joseph Edge, North Clackamas Urban Watersheds Council (<i>Sept 5</i>)	☒	☒	☒
f. Dick Shook, area resident (<i>Sept 11</i>)	☒	☒	☒
2. Staff responses to Councilor Abma's questions prior to Sept 5 hearing	☒	☒	☒
3. Site Fill Areas (illustration provided by applicant at Sept 5 hearing)	☒	☒	☒
4. TriMet information about bus routes	☒	☒	☒

Key:

Early Posting = materials posted online Sept 12, 2017, as "Supporting Documents"— <https://www.milwaukieoregon.gov/citycouncil/city-council-regular-session-213>.

Public Copies = paper copies of the packet available for review at City facilities and at the City Council meeting.

E-Packet = packet materials available online at <https://www.milwaukieoregon.gov/citycouncil/city-council-regular-session-213>.

ATTACHMENT 1

Kelver, Brett

From: Laura Hickman <laurajhickman@gmail.com>
Sent: Wednesday, August 30, 2017 10:13 AM
To: Kelter, Brett
Subject: Public Comment for the City Council RE: Rusk Road Development
Attachments: Rusk Road Development.docx

Mr. Kelter,

Please submit the attached to the City Council regarding the Proposed Rusk Road Development.

Thank you,
Laura Hickman

Dear Milwaukie City Council,

I understand the density bonus allows the discretion to consider whether the development offers features that are considered “outstanding” enough to outweigh the potential negative aspects of overdeveloping the land relative to the current zoning.

As a Rusk Road area resident for 10 years, like many others I am very concerned about (1) the environmental impact (flooding, habitat) even with the developer’s self-serving transfer of land to the Parks District, (2) the fact that even the developer cannot show that this will really be “affordable” housing, and (3) the very substantial underestimation of the additional traffic on Rusk Road. On the latter point, the assumptions built in to the traffic study simply do not align with the reality of this isolated location and the anticipated price range of this development.

In short, it defies common sense to assume folks living here will have only one car and Rusk Road intersections will be within acceptable limits if this development were allowed as proposed.

All of this said, I would like to especially call your attention to an pronounced hazard that has received no real consideration in the previous process: pedestrian and cyclist safety on Rusk Road.

It is critical to look at some objective criteria which demonstrate this point. Please see the attached North Clackamas School District’s 2017 Walk Zone report. This is a link to the report and I encourage you to read it:
http://www.nclack.k12.or.us/sites/default/files/fileattachments/transportation_department/page/2411/transportation_supplemental_plan_2017.pdf

You’ll see that the stretch of Rusk Road between 224 and Aldercrest is tied for the most hazardous stretch of road the District evaluated for Alder Creek Middle School. The District uses trained professionals to assess the roadways along a set of nine objective criteria developed by the Oregon Department of Education. This stretch of Rusk Road scored so high on overall hazard that it’s not even rated safe for high schoolers to walk.

Rusk Road was scored **as poorly as a road can** for usable shoulder space, the condition of the shoulder (because it several places there is no shoulder at all), and the visibility of drivers going both directions on the road – because contains both blind corners and blind hills.

The school district assessment was on the walkability of Rusk Road. But all of these same conditions make biking just as hazardous as walking, if not more so.

The proposed development would make this objectively very hazardous situation objectively worse. The attention in the application is focused on car trips going that short distance between the development and 224. The major concern for pedestrians and cyclist safety, however, is headed the other direction. There will be dramatically more trips up Rusk Road between this development site and Aldercrest. Among the attractions is the only grocery store in the area and unquestionably overwhelmed intersections at 224

Existing residents like my family around Rusk Road are already taking their lives in hands to try to walk or bike to enjoy North Clackamas Park or to walk or bike to Alder Creek Middle School for school or all the many community activities/sports held there year around for families and kids of all ages. This whole situation currently becomes dramatically more terrifying on Rusk Road during the big influx of softball season traffic.

Without question, the proposed development would considerably worsen the risk of being hit by a car for the families that currently live along Rusk Road. If the increased pediatrician and cyclist fatality risk to the existing families in the neighborhood is not considered sufficient to outweigh whatever features someone might deem as “outstanding,” there must certainly be some at least moral and ethical obligation to consider the substantial risk to the residents of this new development.

According to the developer’s own testimony before the Planning Commission, this development will largely attract young families. These would be new Milwaukie families placed right into the middle of these same objectively hazardous conditions. I ask that you read the School District’s Walk Zone report and that you give this issue some real consideration.

But most importantly, I ask that you bring your own families and park in the church parking lot some afternoon around 4:30 or 5:00. Hold your own child’s hand, walk your own dog, or attempt to bike up Rusk Road. Simply try to walk or ride to the closest intersecting street (Eric Road). Attempt to cross Rusk (at the bottom of this blind hill), like many families who are attempting to walk over the middle school without walking along the shoulder of 224.

Now imagine adding 92 more homes, with at least twice that many cars. You’ll see immediately why the current neighbors are very considered about this proposal.

Kelver, Brett

From: Rowda Skinner <shelbyroad@gmail.com>
Sent: Wednesday, August 30, 2017 12:27 PM
To: Kelver, Brett
Subject: Proposed 92 unit development off of Rusk Rd

Good Afternoon Brett,

I hope I am not too late submitting my concerns related to the proposed 92 unit development off of Rusk Rd.

I am in opposition of this plan due to the following concerns.

1. Impact on traffic - Congestion on 224 continues to rise and there aren't many public transit options. It's also not a walk-able area; with lack of sidewalks and shopping nearby. I am concerned the additional 92 units would make traffic in the area much worse. Especially since there is another plot of land off of Ruscliffe Rd. zoned for development.
2. Impact on schools - I'm not sure what is estimated for child/household is with this development but I am concerned it could be a burden on the elementary and middle schools in the area.
3. Impact on the environment - My final concern is regarding the North Clackamas Park natural area. I fear this development would cause displacement of plant and wildlife. I value the natural beauty of our neighborhood and would be very disappointed to see it diminish one development at a time.

Thank you,
Rowda Skinner

Kelver, Brett

From: Joseph Edge <joseph.edge@gmail.com>
Sent: Friday, September 01, 2017 11:32 AM
To: Kelver, Brett
Cc: Egner, Dennis; Roller, Alex; Eaton, Chuck
Subject: Re: FW: [City Council Meeting Packets] 9/5 Notice (incl. for Rusk Rd development)
Attachments: Type IV Review Comments Milwaukie Turning Point.pdf

Mr. Egner, Mr. Kelver, et al.,

Please find attached the PD-2017-001 comments for City Council from the Oak Grove Community Council (OGCC). This response has been approved by the OGCC Board of Directors.

Please forward the attached file to City Council for their review with respect to the public hearing for land use application PD-2017-001 scheduled for Tuesday, September 5.

If you have any questions or comments, please do not hesitate to contact us.

Thank you,

Joseph P Edge
Director, Oak Grove Community Council

CC: Baldwin van der Bijl, Chair, Oak Grove Community Council
CC: Mike Schmeer, Chair, Land Use Application Review Team, Oak Grove Community Council

On Tue, Aug 29, 2017 at 5:07 PM Kelver, Brett <KelverB@milwaukieoregon.gov> wrote:

Hello,

Packet materials are now available for next Tuesday's City Council hearing on the Rusk Road planned development project. This item is on the Regular Session agenda, so please choose that link below (includes the number 212), and then look under the "Supporting Documents" heading to find the materials that have been posted.

Those materials include the staff report for City Council, a background report similar to those provided to the Planning Commission, Track Changes versions of the recommended Findings and Conditions, and comments received to date. Following the Planning Commission hearing on July 25, staff has written a few small modifications into the Findings and Conditions, mostly to clarify or correct small errors but also to reflect the proposal to dedicate the open space to the City.



Oak Grove Community Council

August 31, 2017

To: Milwaukie City Council
10722 SE Main Street
Milwaukie, OR 97222

RE: PD-2017-001 Kellogg Creek Subdivision

The Oak Grove Community Council is the Community Planning Organization representing the unincorporated portions of Clackamas County abutting the city of Milwaukie's southern boundary in the vicinity of the proposed subdivision, including properties within the required notification area. Community Planning Organizations (CPOs) are part of the citizen involvement program for Clackamas County, implementing state land use planning goal 1, Citizen Involvement: *To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.* We review and provide recommendations for proposed land use actions affecting our residents and businesses.

Accordingly, we have reviewed the proposed 92-dwelling planned development subdivision of a site located at the edge of the city, directly across the street from some of our residents' homes. While we sincerely appreciate the significant need to create additional housing units in our region, we are concerned that the subject site is ill-suited for this number of households. We acknowledge that the zoning allows for a certain number of dwellings by-right; however, we believe the following concerns warrant a denial of the applicant's request to approve an increase in the number of dwelling units above the base density of the existing zones, on the basis that, as proposed, the development is not "*outstanding in planned land use*" and fails to provide "*exceptional advantages in living conditions.*"

I. Impacts from motor vehicles

A. Single egress shared with church

As proposed, all vehicular traffic would be routed to the public street system through a single intersection. Pursuant to MMC 19.708.1.E(5), "***Closed-end street systems may serve no more than 20 dwellings.***" The applicant proposes to serve not only 92 dwellings on a closed - end street system, but all trips leaving the Turning Point Church will be required to egress using the same street system.

We recognize and appreciate that this design feature resulted from the applicant's site plan amendments intended to save the Oregon white oak trees at the southwest corner of the site, a move we strongly support. However, even the earlier proposal with two street connections was logically part of a closed-end street system, as both connections linked to Kellogg Creek Drive, a dead-end street. In either case, exceeding a maximum threshold - intended to protect residents' quality of life - by greater than 4½ times does not equate to outstanding planning and is unlikely to produce exceptional advantages in living conditions.

B. Trip generation estimates not appropriate

The transportation impact study required by the city instructs the applicant to use the Institute of Transportation Engineers Trip Generation Manual to estimate the number of vehicular trips that

will originate or conclude at the subject site after development based on the proposed use. These estimates are national standards based on land use categories that do not account for factors such as distance to or quality of public transit or bicycle/pedestrian infrastructure, vehicle ownership rates based on demographics or region, access to car or bike share services, or density and mix of uses in the vicinity.

The applicant proposes a subdivision to be developed with attached single family dwellings, also known as rowhouses. A national standard for rowhouses would logically assume an urban context, with higher population densities, a diverse mix of land uses, a walkable, highly interconnected street network with high quality public transit nearby. The subject site is none of these things.

In the current market context, priced in the \$300,000-400,000 range, it can be assumed that most of these dwellings will be inhabited by dual income earning households. With a lack of quality public transit or bicycle and pedestrian connections to the subject site, and almost all jobs and services over one mile away, most of these income earners will own and operate their own cars for their daily travel. As such, it can be easily deduced that the vehicular trips originating from or concluding at this subdivision will far exceed the projections for a typical American “rowhouse” such as you might find in centrally located neighborhoods of Philadelphia, Baltimore, or New York City, where rowhouses are most common.

Ignoring the consequences of using an inappropriate assumption for modeling impacts does not equate to outstanding planning and is unlikely to produce exceptional advantages in living conditions.

C. Climate goals

To accommodate the goals that will be outlined in the city's upcoming climate action plan, significant new concentrations of housing should be located convenient to high quality transit, bicycle, and pedestrian systems. Sites that are isolated, lack high quality transit, bicycle, and pedestrian connectivity, and that offer significant value in ecological services if left undeveloped should not receive consideration for density increases.

II. 500-year floodplain

A. Climate change

Approximately half of the proposed dwelling units lie within the 500-year floodplain. Climate change will result in more frequent and severe weather impacts. As I write this, the Houston, Texas, region is experiencing a “500-year flood” for the third consecutive year. Rather than approving a density increase that will place more lives at risk, we should be exploring means of increasing flood storage capacity and reducing the impacts of climate change upon our region's residents and taxpayers.

B. Upstream flooding impacts

Due to existing repeat flooding damages to properties on Kellogg and Mount Scott creeks upstream from the subject site, FEMA has been buying out property owners. The increase in impermeable surfaces and undersized stormwater systems will exacerbate flooding for upstream properties. In light of this readily available information, the proposal does not qualify as outstanding planning and is unlikely to produce exceptional advantages in living conditions.

III. Impacts to the HCA/WQRA

A. Endangered steelhead

The Oregon Department of Fish and Wildlife has documented protected species including steelhead in the Kellogg-Mount Scott Creek system as far upstream as Happy Valley. Approval of a variance to allow creation of lots with no developable area outside of the HCA/WQR buffers will

negatively impact the natural resource areas upon which protected species are dependent for survival. This could expose the city to liability for costly mitigation of city -approved disturbances to habitat. Denying the density bonus and mandating that the eliminated lots are those that would create the greatest disturbances to the HCA/WQR buffers would reduce the city's exposure to such liability in the future.

B. Inadequate buffers

Studies from as far back as the 1990s confirm that the city's prescribed buffers to protect water quality resources are woefully inadequate to protect aquatic and terrestrial wildlife. Salmon and steelhead need buffers of at least 150 feet - possibly even 400 feet - and birds and terrestrial mammals may require a minimum of 330 feet on each side of a stream to protect their essential habitat. In light of research demonstrating negative impacts to water resources and associated habitat, approving a density bonus that will locate several lots entirely within the HCA/WQR buffers does not qualify as outstanding planning and is unlikely to produce exceptional advantages in living conditions.

IV. No guarantee of affordability

A. The affordability of proposed dwellings should not be the basis for an "outstanding" or "exceptional feature" if it isn't guaranteed.

The applicant claims that the dwelling units will support the city's goal of providing workforce housing. However, there is no guarantee that these dwellings will be priced at a point that is affordable to anybody; sale prices will be dictated by market forces. As the promise of delivering workforce housing can not be guaranteed, but the extra lots allowed by a density bonus are forever, this should not be the basis for approving an increase in density.

The Oak Grove Community Council appreciates your consideration of our residents' concerns. As neighbors of the subject site, we are also neighbors of the future residents of this subdivision, and we hope our new neighbors will be able to enjoy the same quality of life that we enjoy in this neighborhood today.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Baldwin van der Bijl', is written over a light blue horizontal line.

Baldwin van der Bijl
Chair Oak Grove Community Council

Kelver, Brett

From: Ray Olma <rayolma@yahoo.com>
Sent: Friday, September 01, 2017 9:21 PM
To: Kelver, Brett
Subject: Comment on Proposed Rusk Road Development

Dear Milwaukie City Council Members,

The Rusk Road Development you are considering is billed as affordable housing. It won't be. This is even according to the testimony given to the Planning Commission by the developer's economic expert. He stated these units would be going for at least \$350,000 for starters but would be priced at market value. The income that it takes to afford a home at that price or likely higher isn't that much different than many single family homes already in Milwaukie. So I ask you - what is really "affordable" about this proposed development?

From my real estate experience, I can tell you the only thing that's going to hold the price of these units down is the misery of living in this development. Because the developer can pretend residents won't have two to three cars each, there is insufficient parking. There is only one entrance/exit which will be huge bottle neck in the mornings/evenings. The worst is that this huge development empties onto Rusk Road. This is my neighborhood and I can tell you that Rusk is not adequate even for the traffic it currently carries. Rusk has no shoulders so there is nowhere to walk or ride your bike on Rusk Road. You are taking your life in your hands now on that road, even without the additional 92 units and all those new cars.

What this development represents is a lot more housing units than this location can accommodate but not at an affordable price. If this were a walkable neighborhood with services like groceries and public transportation right next door, that would be one thing. It isn't. It's in an isolated location without any feasible way to get by foot or bike anywhere safely and an massive bottle neck getting anywhere by car. It is a bad idea.

I really wanted to speak up because I was surprised at how disrespectful the chair of the Planning Commission was to all of the community members who turned out to testify. He clearly believed everyone was there because of bias against some stereotype of an affordable housing resident. I don't think he really listened to anyone. The concerns were all very legitimate about negative impacts on traffic, habitat, and flood mitigation, voiced by the people who really know this location the best.

The community isn't against this development because we are a bunch of bigots. We are against this development because (1) it is way too much housing for this isolated location and (2) even the developer can't show that it is really going to be "affordable."

Regards,

Ray Olma

Kelver, Brett

From: Joseph Edge <joseph.edge@gmail.com>
Sent: Tuesday, September 05, 2017 10:06 AM
To: Kelver, Brett; Egner, Dennis
Cc: Andrew Collins-Anderson; Gibson Terry
Subject: PD-2017-001 Comments from NCUWC
Attachments: final letter to City Council.pdf

Mr. Kelver and Mr. Egner:

Please find attached the NCUWC's comments for consideration by City Council with respect to tonight's hearing about the proposed Turning Point Church/Kellogg Creek subdivision.

Please let me know if you have any questions or instructions.

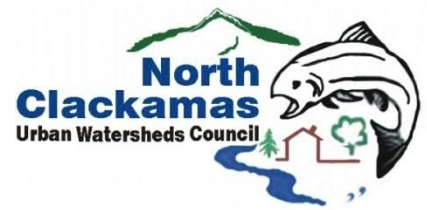
Thank you,

Joseph

--

Joseph

North Clackamas Urban Watersheds Council



2416 SE Lake Rd. • Milwaukie, OR 97222
coordinator@ncuwc.org • www.ncuwc.org

September 5, 2017

To: Milwaukie City Council
10722 SE Main Street
Milwaukie, OR 97222

RE: PD-2017-001 Kellogg Creek Subdivision

We are very concerned by the fact that approximately half of the dwelling units proposed to be built upon the subject site lie within the 500-year floodplain delineation. We disagree that a design intended to locate approximately 40 new dwelling units within a documented floodplain qualifies as "*outstanding in planned land use*" or provides "*exceptional advantages in living conditions*." Quite the opposite, in fact: many future owners of these homes will need to be bought out by FEMA and the floodplain and required buffers will likely need to be cleared when anthropogenic climate change and increased upstream development exacerbates flooding and routinely fills the 500-year floodplain far more frequently than it's official designation indicates. For example, the Houston, Texas, area has experienced two "500-year" flood in each of the last two years (2015, 2016) and then experienced a "1,000-year" flood just last week (2017), for a total of three "500-year" events in three years. The 500-year floodplain is not a safe place to build new housing.

Our concerns are further compounded by the pending revisions to the FEMA National Flood Insurance Program in Oregon, which has been buying out properties upstream from the subject site in recent years due to repeated loss due to flooding of Mount Scott and Kellogg Creeks. A biological opinion released in 2016 by the National Marine Fisheries Service - in direct response to a court-ordered settlement - found that currently adopted development standards in and near floodplains degrades and destroys essential habitat for Endangered Species Act-listed fish populations, including those that are documented to traverse and spawn in the Kellogg-Mt Scott Creek system. The City's approval of plans known to result in degradation and destruction of essential fish habitat increases the likeliness that the City can be found liable for authorizing illegal takings of ESA-listed species, in violation of the ESA, and be held responsible for potentially costly mitigation projects and/or fines. Municipalities that intend to continue their participation in the FEMA NFIP must adopt revised floodplain development standards by March 1, 2018, based on a model ordinance under production by the Oregon Department of Land Conservation and Development. At present, the City is not scheduled to consider amendments to the presently adopted standards, so it is expected that the City will become noncompliant with the requirements for continued participation the NFIP, which, after March 1, 2018, may expose new owners of these (and other) proposed lots and dwellings to full liability of any flood-related damages to their properties, without benefit of insurance coverage. A responsible, forward-thinking City looking out for all its residents' best interests - including reducing the risk of property loss and public safety concerns - would seek to avoid approving a development with such a high risk of flooding. The project as proposed will also almost certainly cost City taxpayers significantly for future mitigation work - and/or large fines - as a direct result of the proposed development's impact on sensitive habitat and natural resources.

The North Clackamas Urban Watersheds Council does not take a position on the number of dwelling units nor specific uses proposed for the subject site, provided that the net result is an improvement to the hydrological functions of the site and the overall health of the greater system of habitat within the watershed. Based on currently adopted standards, we disagree the development of the site, as proposed, will result in a net benefit to the hydrological functions of the site and the overall health of the habitat and watershed. We find that a design alternative that fully avoids the designated Water Quality Resource and Habitat Conservation Areas and associated buffers, and locates all dwelling units outside of the 500-year floodplain, would qualify for consideration as "*outstanding in planned land use*" and offering "*exceptional advantages in living conditions*."

However, as proposed, the design does not warrant the requested density bonus, and we recommend that you deny the request for a density bonus.

Sincerely,

Joseph P. Edge
Board Chair

Kelver, Brett

From: dicksallyshook@juno.com
Sent: Monday, September 11, 2017 2:09 PM
To: Kelver, Brett
Subject: RE: Turning Point Church property development

Sorry Brett. I will try again.

Mayor Gamba and members of the City Council

There are several reasons why I feel you should not approve this proposed development but foremost is the traffic congestion that will result from adding numerous vehicles to a narrow street that already services the large crowds at the North Clackamas Park ball fields, off leash dog area, the Milwaukie Center, Deer Field Assisted Living and several homes.

Less than a week ago while driving to the Milwaukie Center we encountered a fire engine, an ambulance and a Fire Chief's vehicle parked on Kellogg Creek Drive in front of the assisted Living Center effectively stopping traffic in both direction. Medical emergencies at Deer Field Manor and the Senior Center occur frequently.

Vehicles from 92 residential units with little parking available will force residents to park vehicles along the street making it a traffic nightmare and even cause medical assistance in reaching an injured or ill person to be delayed.

There is another type of traffic to be considered. Mt. Scott Creek is a "Wildlife Corridor" providing sheltered migration for wildlife up and down the Creek. Living on the North side of North Clackamas Park we frequently see wildlife moving through the creek riparian areas. On Labor Day we had a healthy looking doe and spotted fawn move thorough our back yard. Narrowing these habitat corridors will stress the wild creatures that use these passageways.

Your consideration of these problems will be greatly appreciated.

Dick and Sally Shook
4815 SE Casa Del Rey Dr.
97222

----- Original Message -----

From: "Kelver, Brett" <KelverB@milwaukieoregon.gov>
To: "dicksallyshook@juno.com" <dicksallyshook@juno.com>
Subject: RE: Turning Point Church property development
Date: Mon, 11 Sep 2017 20:53:21 +0000

Dick,

I just took a look at the e-mail you sent and don't find any attached or pasted-in comments. Can you try again?

BRETT KELVER

Associate Planner

From: dicksallyshook@juno.com [mailto:dicksallyshook@juno.com]
Sent: Saturday, September 09, 2017 12:22 PM
To: Kelter, Brett <KelterB@milwaukieoregon.gov>
Subject: Turning Point Church property development

Hello Brett

I attended the Sept. 5th City Council meeting with the intention of presenting my opposition to the 92 dwelling units being proposed for the Turning Point Church property. Since the City Council postponed taking public testimony, I am submitting my comments electronically below.

Thanks, Dick Shook

Sept. 5, 2017



ATTACHMENT 2

Kelver, Brett

From: Kelver, Brett
Sent: Friday, September 01, 2017 2:45 PM
To: Gamba, Mark; Batey, Lisa; Parks, Wilda; Falconer, Angel
Cc: Abma, Shane; Egner, Dennis; 'Tim Ramis'; Ober, Ann; Stauffer, Scott; Fish, Haley
Subject: FW: Rusk Road development questions

Councilors and Mayor Gamba,

See below for Tim Ramis' response to the most recent question from Councilor Abma regarding the review process for the Kellogg Creek (Rusk Road) Planned Development.

BRETT KELVER

Associate Planner

From: Tim Ramis [mailto:Tim.Ramis@jordanramis.com]
Sent: Friday, September 01, 2017 12:46 PM
To: Abma, Shane <AbmaS@milwaukieoregon.gov>
Cc: Kelver, Brett <KelverB@milwaukieoregon.gov>; Egner, Dennis <EgnerD@milwaukieoregon.gov>; Darlene Ferretti <Darlene.Ferretti@jordanramis.com>; Daly, Maggie <maggie.daly@jordanramis.com>
Subject: RE: Rusk Road development questions

Shane,

These are very good questions because we have the obligation to identify the criteria applicable to an application. To the extent we fail to clearly do that, we have not implemented the decision making process correctly.

Regarding addressing the purpose section, it is typical for staff reports to leave this unaddressed. The reason is that LUBA has held that, absent code language to the contrary, purpose statements are not application criteria. They are sometimes referred to in interpreting ambiguous text in the clearly applicable criteria, but are not themselves criteria that must be addressed in making a decision.

If the Council wished to establish the purpose statement in the PD section of the code as criteria there are two possibilities, First, Chapter 19.311 could be amended to require compliance with MCC 19.311.1. This of course would not apply to a pending application.

A second possibility would be to try to take advantage of the deference LUBA grants to local elected bodies in the interpretation of local code. The Council would need to expressly interpret the code to require application of MCC 19.311.1 and explain the basis for the decision. This could be done in the context of a current application. Because of LUBA's past statements on the non applicability of purpose statements, I am not how it would resolve a battle between those precedents and the principle of deference to local interpretation.

A possible justification for applying our PD purposed statement would be this: The PD Zone is not a base zone. Rather, it is a zone that is sometimes applied in conjunction with the base zone when the circumstances justify it. For that reason a PD application must be accompanied by a zone change application and therefore must address the MCC19.902.6B.2 zone change criteria of demonstrated need. Because that term is undefined, the City interprets it in light of the criteria in the PD purpose statement. This makes the PD purpose statement directly applicable as a criteria.

I can't say this would prevail if challenged, but it is a reasonable argument.

Regarding your second question, the different terms employed in .2 and .3, it will be important that the findings address the proposed use under .2 and the zone, plan and densities under.3. I think it is most useful to break down the requirements, subsection by subsection, so that we are applying the tests based on the actual language. For example, in considering MCC 19.311.2(A) the question is whether the “dwellings, other structures and uses” can be found to comply with comprehensive plan policies.

I hope this helps.

Tim

From: Abma, Shane [<mailto:AbmaS@milwaukieoregon.gov>]

Sent: Thursday, August 31, 2017 10:29 PM

To: Tim Ramis

Cc: Kelter, Brett; Egner, Dennis

Subject: Re: Rusk Road development questions

Tim,

You mentioned MCC 19.311.2 and 19.311.3. What about the "purposes" section 19.311.1?

Could Council still approve the PD zone if it finds that 19.311.2 ("use") was satisfied but not 19.311.1 ("purpose")? The applicant discusses and responds to the "purpose" section but that isn't really discussed in the staff report it seems. Must Council find that the Purpose section is met as well as the Use section?

Also, is it relevant to us that 19.311.2 refers to "types of dwellings and other structures" while 19.311.1 refers to the "zone" in general?

Sorry to all involved for the many questions here. I just need to know what criteria we are applying.

Thanks,

Shane
(via phone)

On Aug 31, 2017, at 6:46 PM, Tim Ramis <Tim.Ramis@jordanramis.com> wrote:

Brett and Shane,

Brett's opening paragraph of the most recent entry is an excellent summary of the responsibility of the Council in cases involving discretionary decisions.

In the case of a PD application, the discretion authorized by MCC 19.311.11 must be exercised based on the Council's analysis of the application's compliance with the various requirements of 19.311.2 and .3. Some of these are objective but many are quite subjective. The chief function of the findings adopted by the Council are to explain the reasoning supporting the conclusion of compliance or noncompliance with these criteria.

On appeal to LUBA and beyond, the findings will be the basis of the legal debate. Appellants may debate whether the Council: applied the correct criteria, properly interpreted the criteria, had substantial evidence for its conclusions, followed the correct procedure, acted unconstitutionally, violated applicable state statutes, and other issues that creative challengers invent.

We use the term "discretionary" in a very specific way in our land use system. Rather than meaning absolute authority to decide the outcome, it means that the decision involves the application of legal, policy or factual judgment by the decision maker. A discretionary decision contrasts with a ministerial decision, which is driven by objective criteria and therefore does not involve discretionary judgment.

Tim

Sent from my iPhone

On Aug 31, 2017, at 2:16 PM, Kelter, Brett <KelterB@milwaukieoregon.gov> wrote:

Shane,

Even a "discretionary" decision must relate to the applicable criteria for approval. Having discretion in this case means the Council is free to weigh whether the applicant has sufficiently met the approval criteria, and the "findings of fact" will describe Council's decision with respect to those criteria.

If the Council decides not to approve the PD, it can't just say, "We don't like it." It has to explain within the findings how it believes the proposal does not meet one or more of the approval criteria. For example, if the Council were to decide to deny the requested density bonus, it would want to provide some explanation of how the proposal does not provide outstanding design or exceptional amenities or advantages in living conditions; otherwise, someone could appeal the decision and argue that the City provided no basis for the denial.

If the Council chooses not to approve the PD zone, then instead of adopting the proposed ordinance, we would prepare a Final Order to reflect the decision to deny the proposal. The same would be true in your R-10 to R-7 re-zone example—if the Council were to deny such a request, we have to capture the decision in a Final Order (with findings) and that would be appealable to LUBA.

Whether legislative, quasi-judicial, or administrative, I believe any final local land use decision is appealable to LUBA. And LUBA would consider the City's findings as well as the City's code as part of its decision on the matter.

I'll ask Tim or Denny to correct me if I'm off base on this.

BRETT KELVER

Associate Planner

From: Abma, Shane

Sent: Thursday, August 31, 2017 1:27 PM

To: Kelter, Brett <KelterB@milwaukieoregon.gov>

Cc: Egner, Dennis <EgnerD@milwaukieoregon.gov>

Subject: Re: Rusk Road development questions

Thanks Brett.

Your answer goes to the heart of my question and so I want to be very clear on Council's roles and obligations here. And I'm still uncertain.

If this is purely discretionary, and if MCC 19.311.11 says that Council "may" adopt an ordinance OR it "may" decide to "reject the proposal and abandon further hearings and proceedings," then what "clear and defensible findings of fact" are necessary? I'm trying to figure out the standard, if any, that we need to follow.

If Council just said, "thanks, but no thanks. Not interested today," what kinds of "defensible findings" would be necessary to support this purely discretionary decision? What does Council have to "defend"?

Assuming we must adopt findings, how does Council adopt those findings if Council chooses NOT to adopt an ordinance allowing for the PD Zone? Are we required to adopt an ordinance either way (which isn't how I read it)?

If, for example, someone came to Council and lobbied us to change some area of town from R-10 to R-7 and Council simply said "no thanks," how is that appealable if it's purely legislative and discretionary?

I am trying to understand the standard we must apply (if any) and why we need findings of fact if it's completely a discretionary decision.

Thanks again. I am not "replying to all" but I do expect these questions and your responses will be sent to the full Council. Please include Tim Ramis if you feel necessary.

Shane

On Aug 31, 2017, at 12:05 PM, Kelter, Brett <KelterB@milwaukieoregon.gov> wrote:

Shane,

Thanks for the questions.

Yes, the Planned Development (PD) approval process is a discretionary process, so you are correct in your understanding of the "may" language throughout the PD section of the zoning ordinance (Milwaukie Municipal Code (MMC) Section 19.311). Just like any requested zone change, Council has the discretion to deny the request, grounding its decision in clear and defensible findings of fact. The decision could be appealed to the Land Use Board of Appeals (LUBA) and would be subject to the State's rules for that kind of appeal.

Similarly, the request for a density bonus is subject to the discretion of the Council. As per MMC Subsection 19.311.3.C, up to a 20% increase in density may be allowed, if it is determined that the PD **"is outstanding in planned land use and design and provides exceptional advantages in living conditions and amenities not found in similar developments constructed under regular**

zoning.” Council could deny or reduce the requested density if it finds that the proposal is not exceptional or outstanding in design and/or amenities, and this part of the decision could be appealed to LUBA as well.

If Council decides to approve the PD but not the density increase, it would refer the proposal back to Planning Commission with some direction about how the proposed development plan and program should be adjusted. The Planning Commission would make a new recommendation about the adjusted development plan, which would come back to Council for reconsideration.

I hope this helps. Thanks again for the questions.

BRETT KELVER

Associate Planner

From: Abma, Shane

Sent: Wednesday, August 30, 2017 10:16 PM

To: Kelter, Brett <KelterB@milwaukieoregon.gov>

Cc: Egner, Dennis <EgnerD@milwaukieoregon.gov>

Subject: Rusk Road development questions

Brett,

I just wanted to confirm my understanding that Council has complete discretion in determining whether to authorize the PD zone. MCC 19.311.11 uses the word "may." Please confirm. If Council says "no" to any increase, are there appeal rights to LUBA, etc?

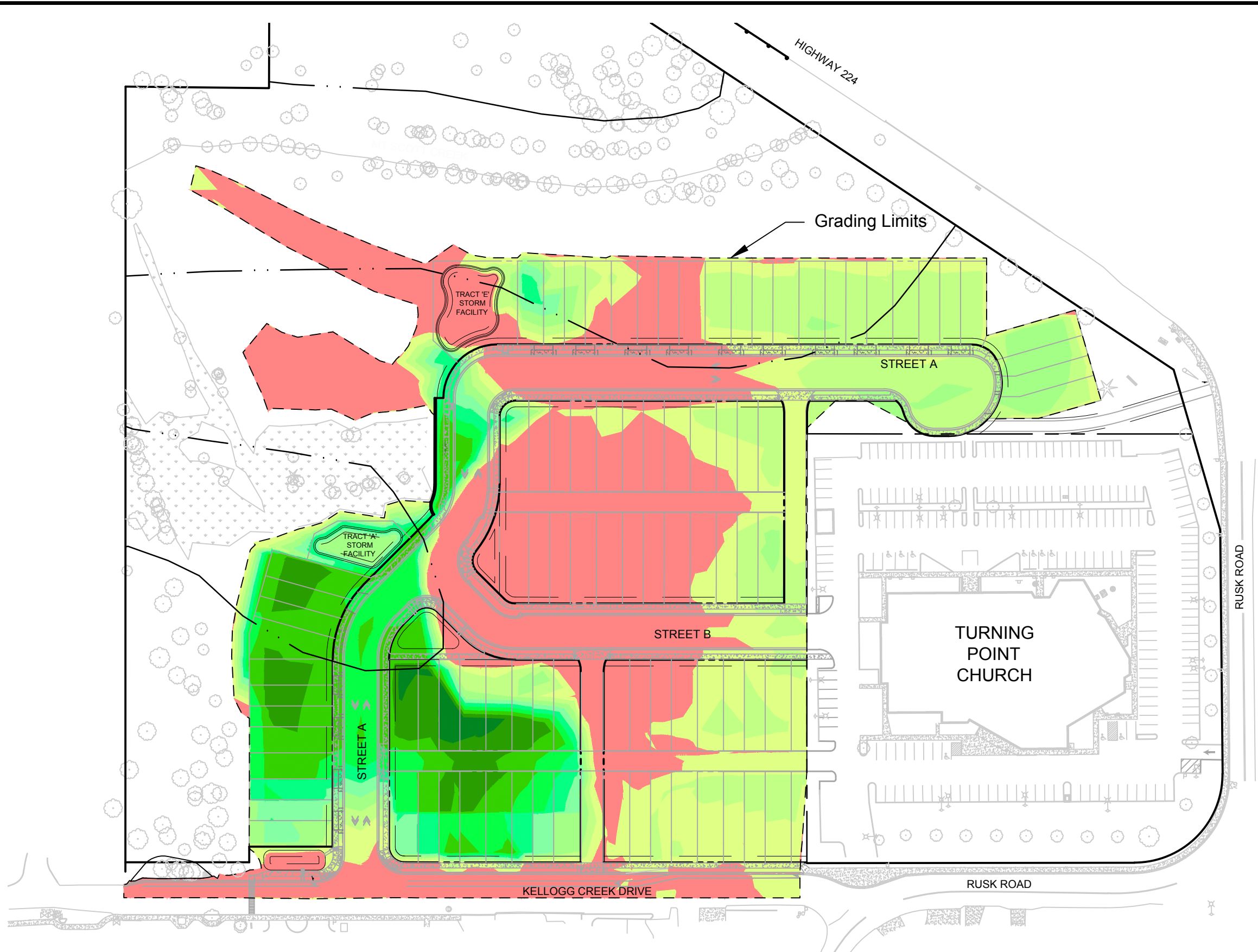
Same with the density increase. MCC 19.311.3.c also says the city council "may" approve an increase, and so I want to confirm that this is entirely discretionary with the Council. If Council says "no" to any density increase, are there appeal rights to LUBA, etc?

If Council said "yes" to the PD zone in general, but "no" to any increase in density, what is next step for the applicant? Does it redesign and go back to PC, or does Council approve the ordinance but without any density increase?

Thanks in advance.

Shane

E-MAIL CONFIDENTIALITY NOTICE: The contents of this e-mail message and any attachments are intended solely for the addressee(s) and may contain confidential and/or legally privileged information. If you are not the intended recipient or this message has been addressed to you in error, please notify the sender by reply e-mail and delete the message and any attachments. You are further notified that any use, dissemination, distribution, copying, or storage of this message or any attachment by anyone other than the intended recipient is strictly prohibited.



Color	Cut/Fill Depth	
	Cut	Fill
	-6.00	0.00
	0.00	+1.00
	+1.00	+2.00
	+2.00	+3.00
	+3.00	+4.00
	+4.00	+5.00
	+5.00	+6.00
	+6.00	+7.00
	+7.00	+8.00
	+8.00	+9.00

Note: Negative values represent cut depths, and positive values represent fill depths.

-  Proposed Finish Grade below Existing
-  Proposed Finish Grade above Existing

\\BL-FS\\BL-projects\\2214258-01\\65CAD\\Exhibits\\2017-09-05- Earthwork Fill Exhibit\\Kellogg Fill Areas Exhibit.dwg PLOT DATE 2017-9-5 16:24 SAVED DATE 2017-09-05 16:16 USER: kgiddens



KELLOGG CREEK SUBDIVISION
SITE FILL AREAS

PROJECT	14258.01
DATE	9/5/2017

FIGURE 1

Kelver, Brett

To: Egner, Dennis
Subject: RE: TriMet service on Kellogg Ck Drive/Rusk Rd

From: Mills, Tom [<mailto:MillsT@trimet.org>]
Sent: Monday, September 11, 2017 4:00 PM
To: Egner, Dennis <EgnerD@milwaukieoregon.gov>
Cc: Ayres Palanuk, Kerry <PalanukK@trimet.org>; Vissar, Vanessa <vissarv@TriMet.org>; Nilenders, Eve <NilendeE@TriMet.org>
Subject: RE: TriMet service on Kellogg Ck Drive/Rusk Rd

Denny,

Thanks for clarifying. At this time, we are not thinking that this development would warrant a route change on Line 29. Though we support high density development, there isn't enough development around the townhome community to support the route change. Additionally, the SE Service Enhancement Plan calls for Line 29 to be streamlined as well and no longer deviate down Webster and back up Johnson. Service on Webster and Johnson would be replaced by a new bus line. We think we can grow ridership by streamlining the bus lines so they run faster (i.e., fewer deviations). Running Line 29 down Rusk wouldn't allow us to streamline Line 29.

I suggest that in the meantime we keep an eye on the development and see what kind of demand we hear from people living in the community over time.

-Tom

From: Egner, Dennis [<mailto:EgnerD@milwaukieoregon.gov>]
Sent: Monday, September 11, 2017 1:17 PM
To: Mills, Tom <MillsT@trimet.org>
Cc: Ayres Palanuk, Kerry <PalanukK@trimet.org>; Vissar, Vanessa <vissarv@TriMet.org>; Nilenders, Eve <NilendeE@TriMet.org>
Subject: RE: TriMet service on Kellogg Ck Drive/Rusk Rd

Thanks for the response Tom. I think the Council has a pretty good understanding about the rationale behind the change. The received excellent presentations about the proposal last winter. Councilor Parks was asking whether a new 92 unit development in this area would prompt Tri-Met to resume service to the area. One idea that was briefly discussed last winter was serving the area with Line 29.

Thanks,
Denny

From: Mills, Tom [<mailto:MillsT@trimet.org>]
Sent: Monday, September 11, 2017 12:05 PM
To: Egner, Dennis <EgnerD@milwaukieoregon.gov>
Cc: Ayres Palanuk, Kerry <PalanukK@trimet.org>; Vissar, Vanessa <vissarv@TriMet.org>; Nilenders, Eve <NilendeE@TriMet.org>
Subject: FW: TriMet service on Kellogg Ck Drive/Rusk Rd

Denny,

Vanessa Vissar asked me to respond to your email below. Vanessa has moved into a new position, and I am managing the Southeast SEP area until our new Planner, Eve Nilenders, gets up to speed.

Regarding Line 152, we are changing the route so that we can serve Clackamas Community College's Harmony campus and the North Clackamas Aquatic Center on Harmony Rd. For many years, we have received requests for service on Harmony Rd. By serving Harmony rather than Rusk, we will also be streamlining the route and improving speed and reliability, which will attract new riders. The current number of deviations (to Milwaukie Marketplace, Xceed Enterprises, and to Kellogg Creek Rd.) dis-incentivizes people from riding Line 152. The new route will keep the deviation to Xceed, but eliminate the deviations to the Milwaukie Marketplace and Kellogg Creek Rd.

Ridership on Rusk and Kellogg Creek has averaged just a handful of boardings per day. Though there will be a new community of row houses along Kellogg Creek, we don't expect ridership will improve as much as it would by serving Harmony Rd. This is the rationale for choosing Harmony over continuing to serve Rusk and Kellogg Creek. Note, we are also increasing the number of trips on the line to also attract more riders.

I'd be happy to discuss this further with you and Councilor Parks, if you'd like. Thanks.

-Tom

From: "Egner, Dennis" <EgnerD@milwaukieoregon.gov>

Date: September 11, 2017 at 10:19:39 AM PDT

To: "Vissar, Vanessa (vissarv@TriMet.org)" <vissarv@TriMet.org>, "Kerry Ayers-Palanuk (PalanukK@trimet.org)" <PalanukK@trimet.org>

Subject: TriMet service on Kellogg Ck Drive/Rusk Rd

Hello Vanessa and Kerry –

Last winter you spoke to the Milwaukie City Council about plans to reroute bus line 152 to provide more direct service between Clackamas Town Center, Clackamas Community College, International Way, and Downtown Milwaukie. The Council is currently in the middle of a public hearing for a planned development that will provide up to 92 rowhouse units at the corner of Kellogg Creek Drive and Rusk Rd. Line 152 on its current route would be a benefit to the proposed rowhouses. In the email below, Councilor Parks asks about the possibility of retaining/resuming service on Kellogg Creek Drive. Can you offer any thoughts on this? The public hearing resumes on September 19 so a response before that time would be appreciated.

Thanks,
Denny

Dennis Egner, FAICP
Planning Director

City of Milwaukie

From: Parks, Wilda

Sent: Sunday, September 10, 2017 12:13 PM

To: Kelter, Brett <KelterB@milwaukieoregon.gov>; Egner, Dennis <EgnerD@milwaukieoregon.gov>

Cc: Flores, Alma <FloresA@milwaukieoregon.gov>; Ober, Ann <OberA@milwaukieoregon.gov>

Subject: TriMet service on K C Drive/Rusk

Hi – Is there a way we can find out if there is strong (or not) possibility of TriMet resuming service on Kellogg Creek Drive/Rusk Road if a housing development is built there? And, if so, when? And where? Thanks! W

Wilda Parks, Councilor
City of Milwaukie
503-957-9093 (Cell)



CITY OF MILWAUKIE

COUNCIL ORDINANCE No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, ADOPTING THE FINAL DEVELOPMENT PLAN AND PROGRAM FOR THE KELLOGG CREEK SUBDIVISION (FILE #PD-2017-001) AND AMENDING THE CITY’S ZONING MAP TO ADD THE “PD” DESIGNATION TO THE SUBJECT PROPERTY AS SHOWN IN EXHIBIT D BELOW (FILE #ZA-2017-001).

WHEREAS, the approved final development plan and program will establish the standards and requirements for development within the Kellogg Creek subdivision; and

WHEREAS, the proposed amendments to the Zoning Map will result in residential development that is compatible with the surrounding neighborhood; and

WHEREAS, legal and public notices have been provided as required by law; and

WHEREAS, on July 25, 2017, the Milwaukie Planning Commission conducted a public hearing as required by MMC 19.1007.5 and adopted a motion in support of the final development plan and program and proposed amendments; and

WHEREAS, the Milwaukie City Council finds that the final development plan and program and proposed amendments are in the public interest of the City of Milwaukie.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Findings. Findings of fact in support of the final development plan and program amendments are adopted by the City Council and are attached as Exhibit A.

Section 2. Final Development Plan and Program. The final development plan and program for the Kellogg Creek subdivision are adopted by the City Council and are attached as Exhibit B.

Section 3. Conditions. Conditions of approval related to the final development plan and program are adopted by the City Council and are attached as Exhibit C.

Section 4. Amendments. The Milwaukie Zoning Map is amended as described in Exhibit D (Proposed Zoning Map Amendments).

Section 5. Acceptance of Open Space Dedication. On behalf of the City of Milwaukie, the City Council accepts the proposed dedication of the open space tract (Tract E), as shown on the final development plans attached as Exhibit B, and directs the City Manager to proceed with the necessary arrangements to complete the dedication.

Section 6. Effective Date. The amendments shall become effective 30 days from the date of adoption.

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Scott S. Stauffer, City Recorder

City Attorney

**To review the Exhibit documents referenced in this draft ordinance,
see the September 5, 2017, City Council Regular Session meeting page
online at:
<https://www.milwaukieoregon.gov/citycouncil/city-council-regular-session-212>**



PUBLIC HEARING ATTENDANCE SIGN-UP SHEET

If you wish to have standing and/or to be on the mailing list for Council information from tonight's hearing, please sign-in below.

9/19/17

Kellogg Creek (Rusk Road) Planned Development – Ordinance – Continued from 9/5/17

Land Use File No. PD-2017-001, ZA-2017-001

NAME	ADDRESS	PHONE	EMAIL
Joel Gunderson	13333 SE Rusk Rd, Milwaukie 97122	503-522-7300	joe@truepointcare.org
Wallace Brown	5324 SE Kellogg Creek Dr.	503-516-6856	wallacebrown@hotmail.com
Tyler King	3708 SE Aldercrest Rd.	503-735-5868	tkking@mac.com
Karen & Steve Tandy	13330 SE Rusk Rd	503-522-7300	thdywmn@msn.com
DICK SHOOK	CASA DEL REY DR	9722	
Mark Fitzsimons	13736 SE Briarfield Ct 97222	503-756-7534	msitzsimonice@gmail.com
Rosemary Crite	4917 SE Aldercrest Rd	503-720-7341	
Judy Sherley	5804 SE Kellogg Cr. Dr.	503-265-9307	5Judy39@msn.com
Pam Hodge	5890 SE Fairbrook Dr.	503-962-0099	pamela.l.hodge@att.net
Chris Ruyard	2325 NE 32nd	503-239-5844	cruyard@msn.com



PUBLIC HEARING ATTENDANCE SIGN-UP SHEET

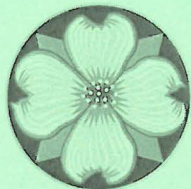
If you wish to have standing and/or to be on the mailing list for Council information from tonight's hearing, please sign-in below.

9/19/17

Kellogg Creek (Rusk Road) Planned Development – Ordinance – Continued from 9/5/17

Land Use File No. PD-2017-001, ZA-2017-001

NAME	ADDRESS	PHONE	EMAIL
CHARLES ROUGH	5184 SE CASA DEL REY DR		charles.rough@gmail.com
ERICA TOUSSAINT	12399 SE OATFIELD RD		erica.toussaint@gmail.com
JOHN CHRISTIANSON	5586 SE LAKE RD		johnlouc@msn.com
Laura Hickman	13786 SE Briarfield Ct. Milwaukie	503 642-6462	lhickman@px.edu
Ramon Myers	P.O. Box 2375 LAKE OREGON		
GWENN L. ALVAREZ	12671 SE WINTER CREEK LN MILWAU 97222		
Greg Baatz-Bowman			
Kim Braden	609 SE ERIC	on file	on file
TERREY GIBSON	5884 SE JENNIFER AVE	503 642-6462	tgibson@lcn.net
Jane Civiletti	14614 SE Fair Oaks Ave, Oak Grove	503 786-0393	



**CITY OF MILWAUKIE
CITY COUNCIL**

10722 SE Main Street
P) 503-786-7502
F) 503-653-2444
ocr@milwaukieoregon.gov

Speaker Registration

The City of Milwaukie encourages all citizens to express their views to their city leaders in a **respectful** and **appropriate** manner. If you wish to speak before the City Council, fill out this card and hand it to the City Recorder. Note that this Speakers Registration card, once submitted to the City Recorder, becomes part of the public record.

Name: Joel Gunderson

Organization: Turning Point Church
on staff associate pastor

Meeting Date: 9/19/17 **Topic:** _____

Address: _____

Phone: _____

Email: joel@turningpointcares.org

Agenda Item You Wish to Speak to:

☐ #4 Audience Participation

☒ #5 Public Hearing, Topic:

☐ #6 Other Business, Topic:

You are Speaking...

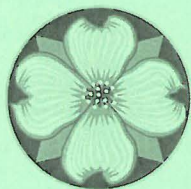
☒ in Support

☐ in Opposition

☒ from a Neutral Position

☒ to ask a Question

Comments:



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Name: Gloria Koeth

Organization:

Address: 6030 SE Eric Street

Phone: 503-708-7319

Email: GloriaSFR@gmail.com

Meeting Date: 9/19/19

Topic: _____

Agenda Item You Wish to Speak to:

☐ #4 Audience Participation

☒ #5 Public Hearing, Topic:

☐ #6 Other Business, Topic:

You are Speaking...

☐ in Support

☒ in Opposition

☐ from a Neutral Position

☒ to ask a Question

Comments:



**CITY OF MILWAUKIE
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Name: DICK SPROOK

Organization:

Address:

Phone:

Email:

DONATE MY 3 MIN. TO
CHRIS RUNYARD

Meeting Date: 1-19-17

Topic: 5-A

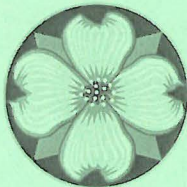
Agenda Item You Wish to Speak to:

- ☐ #4 Audience Participation
☒ #5 Public Hearing, Topic:
☐ #6 Other Business, Topic:

You are Speaking...

- ☐ in Support
☒ in Opposition
☐ from a Neutral Position
☐ to ask a Question

Comments:



**CITY OF MILWAUKIE
CITY COUNCIL**

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P) 503-786-7502
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Speaker Registration

The City of Milwaukie encourages all citizens to express their views to their city leaders in a **respectful** and **appropriate** manner. If you wish to speak before the City Council, fill out this card and hand it to the City Recorder. Note that this Speakers Registration card, once submitted to the City Recorder, becomes part of the public record.

Name: Chris Runyard

Organization:

Address: 2325 NE 32nd Ct

Phone: 503 239 5844

Email: crunyard

Meeting Date: 9/19/17

Topic: TPC

Agenda Item You Wish to Speak to:

☐ #4 Audience Participation

☒ #5 Public Hearing, Topic:

☐ #6 Other Business, Topic:

You are Speaking...

☐ in Support

☒ in Opposition

☐ from a Neutral Position

☐ to ask a Question

Comments:



**CITY OF MILWAUKIE
CITY COUNCIL**

10722 SE Main Street
P) 503-786-7502
F) 503-653-2444
ocr@milwaukieoregon.gov

Speaker Registration

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Name: STEVE TANDY

Organization:

Address: 13330 SE Rusk Rd

Phone: 503-522-7300

Email: SDTfish@yahoo.com

Meeting Date: 9/19/17

Topic: Kellogg Cr. Development

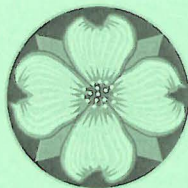
Agenda Item You Wish to Speak to:

- ☐ #4 Audience Participation
- ☐ #5 Public Hearing, Topic:
- ☐ #6 Other Business, Topic:

You are Speaking...

- ☐ in Support
- ☒ in Opposition
- ☐ from a Neutral Position
- ☐ to ask a Question

Comments:



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Name: ERICA TOUSSAINT

Organization:

Address: 12399 SE CATFIELD RD

Phone: 503-654-7129

Email: erica.toussaint@gmail.com

Meeting Date: 9/19/2017

Topic: Land use

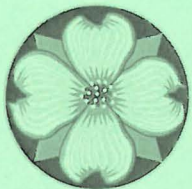
Agenda Item You Wish to Speak to:

- ☐ #4 Audience Participation
- ☐ #5 Public Hearing, Topic:
- ☐ #6 Other Business, Topic:

You are Speaking...

- ☐ in Support
- ☒ in Opposition
- ☐ from a Neutral Position
- ☐ to ask a Question

Comments:



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Name: Wallace Brown

Organization:

Address: 5824 SE Kellogg Creek Dr

Phone: 503-516-6856

Email: wallacebrown@hotmail.com

Meeting Date: 9/19/17

Topic: Turning Point

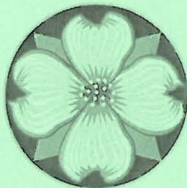
Agenda Item You Wish to Speak to:

- ☐ #4 Audience Participation
- ☒ #5 Public Hearing, Topic:
- ☐ #6 Other Business, Topic:

You are Speaking...

- ☐ in Support
- ☒ in Opposition
- ☐ from a Neutral Position
- ☐ to ask a Question

Comments:



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Name:

Mark Fitzsimons

Address:

Phone:

Email:

Organization:

Meeting Date:

9/19

Topic:

Kellogg Creek / Rust Rd Development

Agenda Item You Wish to Speak to:

☐ #4 Audience Participation

☒ #5 Public Hearing, Topic:

A. Kellogg Crk

☐ #6 Other Business, Topic:

You are Speaking...

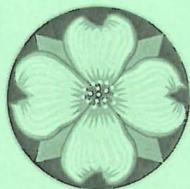
☐ in Support

☒ in Opposition

☐ from a Neutral Position

☐ to ask a Question

Comments:



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Name: Judy Sherley

Organization:

Address:

Phone:

Email:

Meeting Date: 9-19-17 **Topic:** Destruction of Land

Agenda Item You Wish to Speak to:

☐ #4 Audience Participation

☒ #5 Public Hearing, Topic: A Kellogg Creek

☐ #6 Other Business, Topic: A Russek Rd.

You are Speaking...

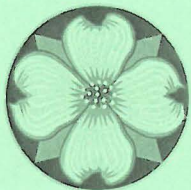
☐ in Support

☒ in Opposition

☐ from a Neutral Position

☐ to ask a Question

Comments:



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Name:

Rosemary A Grites

Organization:

Address:

Phone:

Email:

Meeting Date:

9/19/2017

Topic:

environmental issues

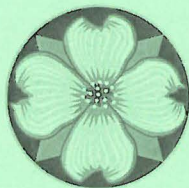
Agenda Item You Wish to Speak to:

- ☐ #4 Audience Participation
- ☒ #5 Public Hearing, Topic: A
- ☐ #6 Other Business, Topic:

You are Speaking...

- ☐ in Support
- ☒ in Opposition
- ☐ from a Neutral Position
- ☐ to ask a Question

Comments:



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Name: Laura Hickman

Organization:

Address: 13786 SE Briarfield Ct. 97222
Phone: 503-330-8622
Email: Laura.Hickman@gmail.com

Meeting Date: 9/19/17 Topic: Rusk Road Development

Agenda Item You Wish to Speak to:

You are Speaking...

☒ #4 Audience Participation

☐ in Support

☒ #5 Public Hearing, Topic: Rusk Road Development

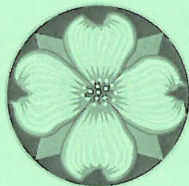
☒ in Opposition

☐ #6 Other Business, Topic:

☐ from a Neutral Position

☐ to ask a Question

Comments:



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Name: Greg Baartz-Bowman **Address:**
Organization: _____ **Phone:**
Email:

Meeting Date: 9.19. **Topic:** _____

Agenda Item You Wish to Speak to:

- ☐ #4 Audience Participation
- ☒ #5 Public Hearing, Topic:
- ☐ #6 Other Business, Topic:

You are Speaking...

- ☐ in Support
- ☒ in Opposition
- ☐ from a Neutral Position
- ☐ to ask a Question

Comments:



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Name: GWEN L. ALVAREZ

Organization: LAKE ROAD NOA

Address: 12671 SE WHELE ELSE LN

Phone: 503 737 4970

Email:

Meeting Date: 18 SEP '17 **Topic:** T P C DEVELOPMENT

Agenda Item You Wish to Speak to:

☒ #4 Audience Participation

☒ #5 Public Hearing, Topic:

☐ #6 Other Business, Topic:

You are Speaking...

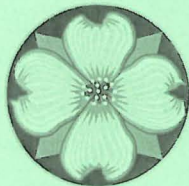
☐ in Support

☒ in Opposition

☐ from a Neutral Position

☐ to ask a Question

Comments:



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★ HOLD FOR LAST POSITION, PLEASE!
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Name: VINCENT ALVAREZ

Organization: LAKE ROAD NDA

Address: 12671 SE MILWAUKIE BLVD LN

Phone: 971. 479. 4777

Email:

Meeting Date: 18 SEP '17 **Topic:** TPC DEVELOPMENT

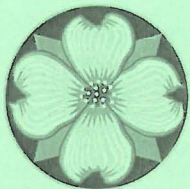
Agenda Item You Wish to Speak to:

- ☒ #4 Audience Participation
☐ #5 Public Hearing, Topic:
☐ #6 Other Business, Topic:

You are Speaking...

- ☐ in Support
☒ in Opposition
☐ from a Neutral Position
☐ to ask a Question

Comments:



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Name: Bronwen Jones-Broderick

Organization:

Address: 6109 SE ERIC Street
Phone: 503 757 8446
Email: chefbronwen@gmail.com

Meeting Date: 9/18 **Topic:** _____

Agenda Item You Wish to Speak to:

☐ #4 Audience Participation

☒ #5 Public Hearing, Topic: Development

☐ #6 Other Business, Topic:

You are Speaking...

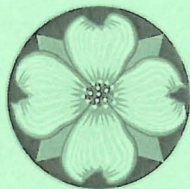
☐ in Support

☒ in Opposition

☐ from a Neutral Position

☐ to ask a Question

Comments:



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Name:

Kirby Broderick

Organization:

Address:

6109 SE GRIC

Phone:

503.312.4769

Email:

innerpiece@hotmail.com

Meeting Date:

Topic:

Agenda Item You Wish to Speak to:

☐ #4 Audience Participation

☒ #5 Public Hearing, Topic:

A: PD-2017-001
Rogic Road

☐ #6 Other Business, Topic:

You are Speaking...

☐ in Support

☒ in Opposition

☐ from a Neutral Position

☐ to ask a Question

Comments:

To: Milwaukie City Council,

We are Gary and Sherrie Johnson and we have lived at 13477 SE Rusk Road in Milwaukie for 45 years. We are very concerned about the number of homes proposed to go into the Rusk Road Project which should be called the Kellogg Creek Dr. project as none of it borders on Rusk.

One of the special amenities this project offers in order to get it's variance is the inclusion of a community garden and a playground. As this project abuts North Clackamas Park this would be nothing special as the park offers both of these.

North Clackamas Park closes it's gate at 10:00pm or dark, whichever comes first. Kellogg Creek Dr. becomes a dead end road. The driveway to this project is across from an assisted living facility called Deerfield Village. Fire trucks are dispatched to Deerfield Village once or twice a month. Fire trucks cannot turn around in the driveway of Deerfield Village thus they must stop on Kellogg Creek Dr. which halts traffic sometimes in both directions.

North Clackamas School Dist. uses Rusk road every school day several times a day and traffic becomes very backed up. There also is a large Mormon Church, The Michael school which has 265 students, activities at the park and of course the Milwaukie Center. I guess I am trying to say that traffic has already become a problem. I would also like to note that the school district has listed Rusk Road as the #1 dangerous pedestrian road for it's students. The stop sign at the intersection of Rusk and Kellogg Creek is run all the time. I cannot count on both hands how many times I have had to screech to a halt to avoid an accident.

We recognize the need for affordable housing in Milwaukie but this project is just too dense. And though this would be a great sight for some homes, 92 is just too many. It would do nothing to enhance our neighborhood. If they could scale it to 40 or even 60 homes this could work.

Since we have lived here so long we can tell you from experience that that property floods every 4 or 5 years. The water table is so high it just doesn't take much. We know they plan to fill up to 8 feet. This is going to cause more flooding in the park.

We appreciate the questions you have been asking as many are the same as ours. We have been frustrated at some of the responses such as "I believe so" "I'm not sure" I don't have that confirmation" and worst of all "our maps are not correct ". In proposing such a large project for our neighborhood we don't want problems "after the fact".

We thank you for the opportunity you have given us to have input in this matter as we are unable to attend this meeting.

Regards,

Gary and Sherrie Johnson

Kelver, Brett

From: sherrie johnson <clackamill@msn.com>
Sent: Saturday, September 16, 2017 10:47 AM
To: Kelver, Brett
Subject: Re: Reminder = Continued hearing for Kellogg Creek (Rusk Rd) Planned Development is Tues, Sept 19

Just wanted to mention that in the past week we have had 5 deer (3 small and 2 very large) cross over our back yard and over into the designated project property. We had not seen them too often this past summer but were glad to see they were back. Since we are not going to make the meeting just hoped you would mention this to the council. They may even have the chance to see them on their walkabout.

Sent from [Outlook](#)

From: Kelver, Brett <KelverB@milwaukieoregon.gov>
Sent: Friday, September 15, 2017 5:14 PM
To: Kelver, Brett
Cc: Egner, Dennis; Roller, Alex; Eaton, Chuck
Subject: Reminder = Continued hearing for Kellogg Creek (Rusk Rd) Planned Development is Tues, Sept 19

Hello,

A quick reminder that the public hearing for the Kellogg Creek (Rusk Rd) Planned Development will resume this coming **Tuesday, September 19 at 6:00pm** at Milwaukie City Hall.

This is the primary item on the Regular Session agenda, so after the other standard business is conducted at the beginning (e.g., Outstanding Student award, consent agenda items, etc.), this hearing will pick back up. If you are interested in attending, I would encourage you to arrive close to 6:00pm. We do expect the Council to hear public testimony at this meeting, so please fill out a comment slip if you wish to testify.

At the last meeting on Sept 5, the applicant agreed to stake out some of the proposed new fill areas on the site so the councilors could visit the site and get a better sense of the location and scale of the proposed fill. The church has agreed to let the individual councilors visit the site and asked them to contact the church office to coordinate their individual visits—however, the church has requested that the general public defer from visiting the site, due to general liability concerns. Please respect the church's request and do not trespass on the church's private property—contact the church office directly if you wish to request permission to enter the site.

Thank you,

BRETT KELVER

Associate Planner
City of Milwaukie
o: 503.786.7657 f: 503.774.8236
6101 SE Johnson Creek Blvd • Milwaukie, OR 97206

Kelver, Brett

From: karl berger <karlin2it@hotmail.com>
Sent: Monday, September 18, 2017 10:02 AM
To: Kelter, Brett

I'm a resident of Clackamas co. I wasn't able to go to the town hall meeting concerning the property at 5400 Kellogg Creek drive because my wife is disabled. I would like to encourage that this property that is scheduled for development be protected because of it's esthetic beauty and access to Kellogg creek. It's a magnet to wild animals and is relatively safe from encroachment from humans because of the Hiway 224 being it's northern boundary. Please consider it for being undeveloped, please. Karl Berger 503-752-3930



Kelver, Brett

From: Steve Berliner <forcreeks@comcast.net>
Sent: Monday, September 18, 2017 5:02 PM
To: Kelter, Brett
Cc: Andrew, Coordinator; 'Joseph Edge'
Subject: PD-2017-001 Kellogg Creek Subdivision
Attachments: Turning Point Church development testimony 9-18-17.docx

Dear Mr. Kelter,

Please enter my attached letter into testimony for tomorrow's hearing on the above.

Thanks,

Steve Berliner

Steven B. Berliner
10824 SE Oak St., #311
Milwaukie, OR 97222

RE: PD-2017-001 Kellogg Creek Subdivision

Dear Mayor and City Councilors:

I attended the Sept. 5th Hearing on the above referenced Application, and would like to make a few comments and observations, to be entered into the case record as testimony.

It was stated that the Applicant believes the FEMA mapping of floodplain elevations for this site is wrong. In most cases throughout the urban developed area, FEMA maps have become obsolete over time, and each time newer mapping is adopted, the case has been that the risks of flooding have increased, such that the 100-year and 500-year floods have moved to higher elevations than determined in earlier mapping, and this would be true for areas of storm water storage and conveyance, like wetlands, streams and rivers onto their adjacent lands. This happens for the obvious reasons that increased development upstream of the sites, with transition from vegetated landscape to developed impervious surface cause both increased volumes for conveyance, and reduced ground retention of rainfall.

Therefore I would be highly skeptical that the subject site has been "over-rated," for years on its area within the floodplain. It would seem entirely inappropriate to approve anything based on, or "pending" a revision of mapping showing increased ability of the site to store, infiltrate, or convey water from currently mapped floodplain zones. It seems much more likely that such a claim would be a pro-development tactic, than a reality in terms of floodplain conditions.

Additionally I noted the drawings projected for the audience; specifically the area designated as HCA.. I think the Applicant is questioning that it's as extensive as currently mapped, but maybe I'm wrong. Regardless, what I saw on projection placed native White Oak trees too close to the proposed developed areas; you see there was not adequate accounting for the extensive root systems underground necessary to support the trees' health. In fact Oak trees have feeder roots, not the more central tap root, but the shallower root systems responsible for most of the nutrient uptake of the tree, that stretch from two to four times the canopy spread of the tree. So please examine the mapping yourself to see if you agree, these roots are not appropriately accounted for with undisturbed buffer areas.

Thirdly, the Mayor brought up the issue of zoning designations that do not conform to actual property boundaries / lot-lines. He did so several times, and I noticed that the issue was not resolved; not

adequately explained. Instead a number of possible reasons were given him that this "could have" happened. The question is valid and appropriate, because the number of units to be approved is dependent on the current zoning. One staffer used the term "spring-back" or similar to say that the zone would not necessarily "revert" to the presumably lower density original zone which existed before a senior living facility had been contemplated. This seems to me backward thinking. A zone change should not so much be needed to "spring-back" if an application is not completed and approved, as it should be "contingent" on successful completion of a development plan, certainly dependent on final platting of lots that would match and align to the "proposed" zone changes. Why would anyone change a zone within boundaries that don't match lot lines, and then make that "finalized," without lot-boundaries to support it? It doesn't make sense to me.

Therefore I ask the Council to delay any approval of an application based on higher-density zones within subject lots, that are not so-supported until a more definitive investigation and explanation of what the zones truly are., the surveys defining the zone boundaries, and an accurate record of the proceedings that created or approved these higher density, unbounded zones so that the Council and the community can assess their validity.

And my fourth and final comment is to point out that hundreds of new proposed home-sites are working their way through the regulatory process, to be concentrated on Scouter's Mountain in Happy Valley, the specific headwaters site for Mt. Scott Creek on which this site you are considering is located. I'm asking that you consider FEMA mapping in terms of the obvious likelihood that future flooding will be much worse along the entire length of the Mt. Scott Creek system, including the site in this Application.

Thank you all so much for your great endurance and patience in hearing an especially large volume of testimony on this Application,

Steve Berliner

Email: forcreeks@comcast.net



NORTH CLACKAMAS
PARKS & RECREATION DISTRICT

MEMO

TO: Mr. Brett Kelter, Associate Planner, City of Milwaukie

FROM: Kathryn Krygier, Planning and Development Manager

Copy: Scott Archer, Director

DATE: September 19, 2017

RE: Kellogg Creek (Rusk Road) Planned Development (PD-2017-001)
Pedestrian Safety

Thank you for the opportunity to provide additional comments on the Kellogg Creek Subdivision proposal. There is a new item I would like to bring to your attention. The latest plan eliminates a portion of the sidewalk on the north side of SE Kellogg Creek Drive and adds a midblock pedestrian crossing to provide access to North Clackamas Park (Park). While NCPRD is an enthusiastic supporter of saving the white oak trees, this change compromises pedestrian safety. In reality, pedestrians coming from the subdivision and other places from the north, will walk in the street (probably at a diagonal) to the Park creating a hazardous situation. I suggest eliminating the need for this midblock crossing by enhancing proposed intersections.

Improved intersections at SE Street A and SE Kellogg Creek Dr. with stripes on the street and curb ramps on both the north and south sides of the street would provide appropriate locations for pedestrians to cross to access the Park. The western crossing will need design attention to make sure pedestrians land safely outside of the existing Deerfield Village Assisted Living facility driveway. Perhaps a modified curb configuration can remedy this situation.

Creating crossings at intersections is in keeping with best practices for pedestrian safety. In general, pedestrian crossings are safer at intersections rather than midblock crossings because it is a more normal location where bikes, cars and pedestrians cross and therefore riders and walkers are on the look-out for each other. NCPRD requests the City and the developer enhance the proposed intersections at SE Street A and SE Kellogg Creek Drive to improve pedestrian safety and connectivity to the Park.

NCPRD is aware that the pedestrian entry into the Park needs to be improved on the north side of SE Kellogg Creek Dr. where the existing sidewalk ends at a gate. It is our goal is to improve this condition in the future and it is our hope that NCPRD can work with the City in coordination with the Safe Routes to Schools Program to provide ADA access to the Park on the north side of SE Kellogg Creek Dr.

Kelver, Brett

From: St. John's <jimbevstjohn@yahoo.com>
Sent: Tuesday, September 19, 2017 5:01 PM
To: Kelver, Brett
Subject: development on 224 and rusk road: PD-2017-001

Hi Brett,

I'm not able to make it to the meeting tonight but have voiced concerns. Is there a vote on this? I vote no to the development if there is. I've stated concerns before about traffic density, pedestrian safety(walker's and biker's) to get to destinations that don't involve cars and mass transit. There are other concerns but I just wanted to put a no vote in if that's possible.

Thank you,
Bev

Aldercrest neighborhood
Milwaukie, Or



Governor talking points (different doc, why not Kate declared a state of Salmon emergency!)

City Council Talking Points

Zoning:

Illicit Fill meets "Cut & Fill"

FEMA Floodplain / Salmon / Flooding

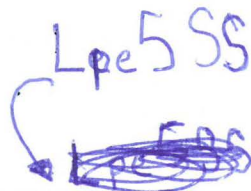
Salmon & Removal of Kellogg creek dam

Giving away the risk / Externalizing costs to the city

Planned development status

Fit and function within community/ traffic/safety, planning debt

Dodgy developer



This doc: <https://goo.gl/LwYTGd>

Photos: <https://goo.gl/atNRCv>

34 17/ on either side
driveways

City Council Talking Points

This document contains oppositional talking points in regards to the 92 doorknob development at the corner of 224 and Rusk road (turning point church) that is under consideration by city leadership. This document is broken into parts each one could be a talking point of their own. Feel free to pick and choose from this information if you choose to speak at the public meeting on 9/19, 6:00 @ City Hall downtown Milwaukie. If you have any questions, feedback or otherwise here is an anonymous form you can fill out. Thanks for your time! -kirby (a concerned nerdy neighbor)

Zoning:

The site was R10, in the mid-80's the wetland half was rezoned as R3, given an intent to develop the site into senior living. The senior living development was not carried out (perhaps, because the site is a wetland thus hard to build on) but the R3 zone stuck.

The current developer is leveraging that partial re-zone, for a purpose that was a good fit to the community and facilities, to lay claim the whole site should be considered as R3 then seeking a density bonus on top of that. Then they are "giving away" the unbuildable portion of the site - which was the footing for them to seek the R3 rezoning. Classic bait and switch, allowing the landowner to get full value for their unbuildable land - then transfers the stewardship burden to the public / the city. This rezoning and

RS 5. A.
9/19/17
Exhibit







KELLOGG CREEK PROJECT

CITY COUNCIL HEARING

TUESDAY, SEPT. 19, 2017

- **Scott Emmens, DOWL**
- **Serah Breakstone, DOWL**
- **John Van Staveren, Pacific Habitat Services**
- **Kristine Connolly, Kittelson & Associates**
- **Jerry Johnson, Johnson Economics**
- **Randy Myers, Brownstone Development, Applicant**

Property owner: Turning Point Church

FOLLOW UP ITEMS

1. Size of the proposed townhomes?

Approx. 1,500 SF

2. Energy standard for the homes?

High-Efficiency Mini-Split system

High-Efficiency heat pump electric water heater

LED Lighting

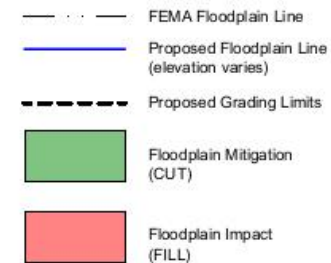
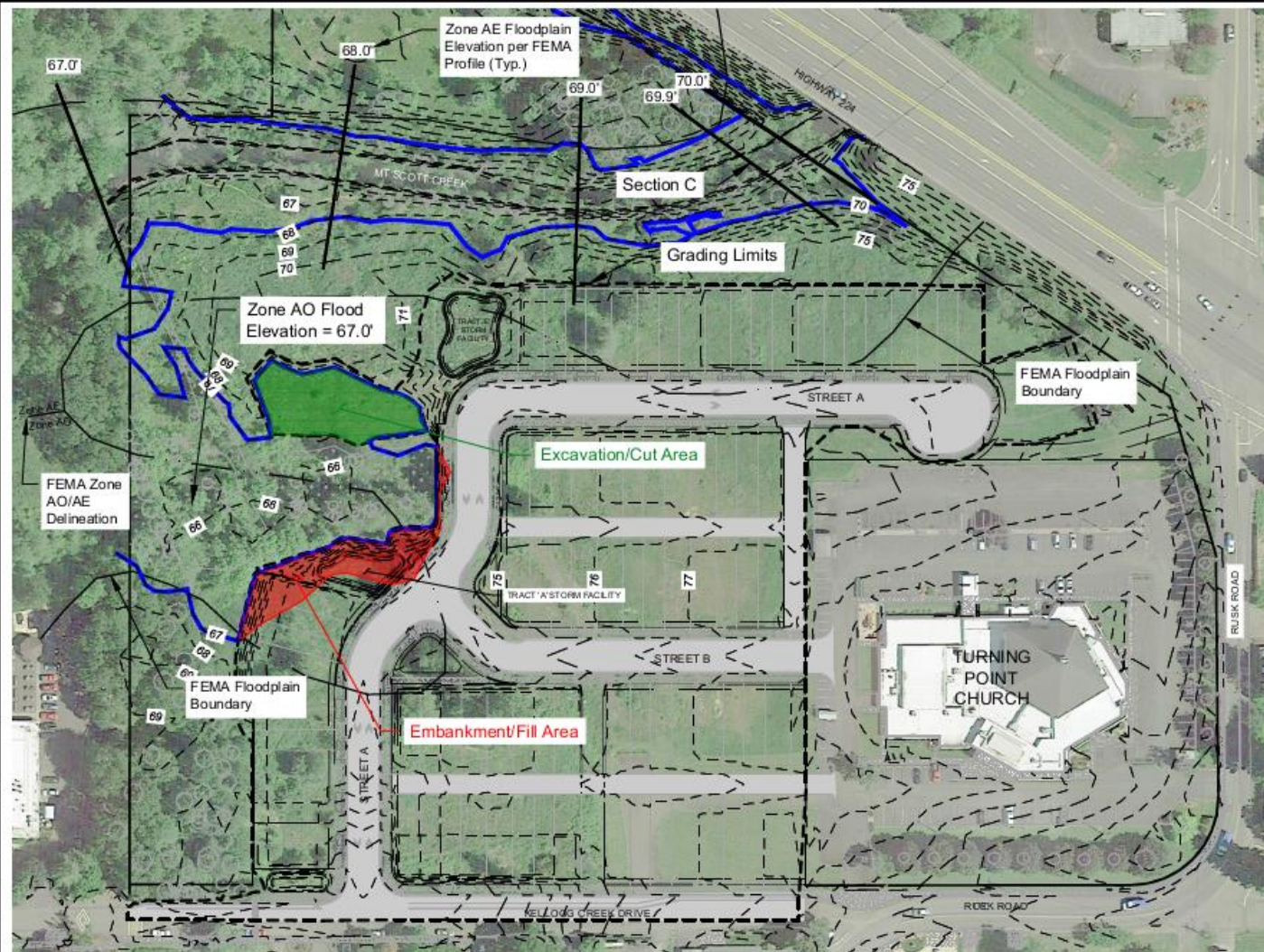
Blower door tests on all units

Option for energy-star appliances

3. Site was staked

4. Additional floodplain information

5. Housing/economics and traffic questions



Floodplain Summary

Zone AO:

Impact = -96 CY
Mitigation = +108 CY
Surplus = +16 CY

Zone AE

Impact = 0 CY
Mitigation = 0 CY
Surplus = 0 CY

Net Floodplain Surplus = +16 CY



KELLOGG CREEK SUBDIVISION FLOODPLAIN IMPACTS & MITIGATION

PROJECT 14259.01
DATE 9/18/2017

FIGURE 4/4

 Floodplain Impact (FILL)

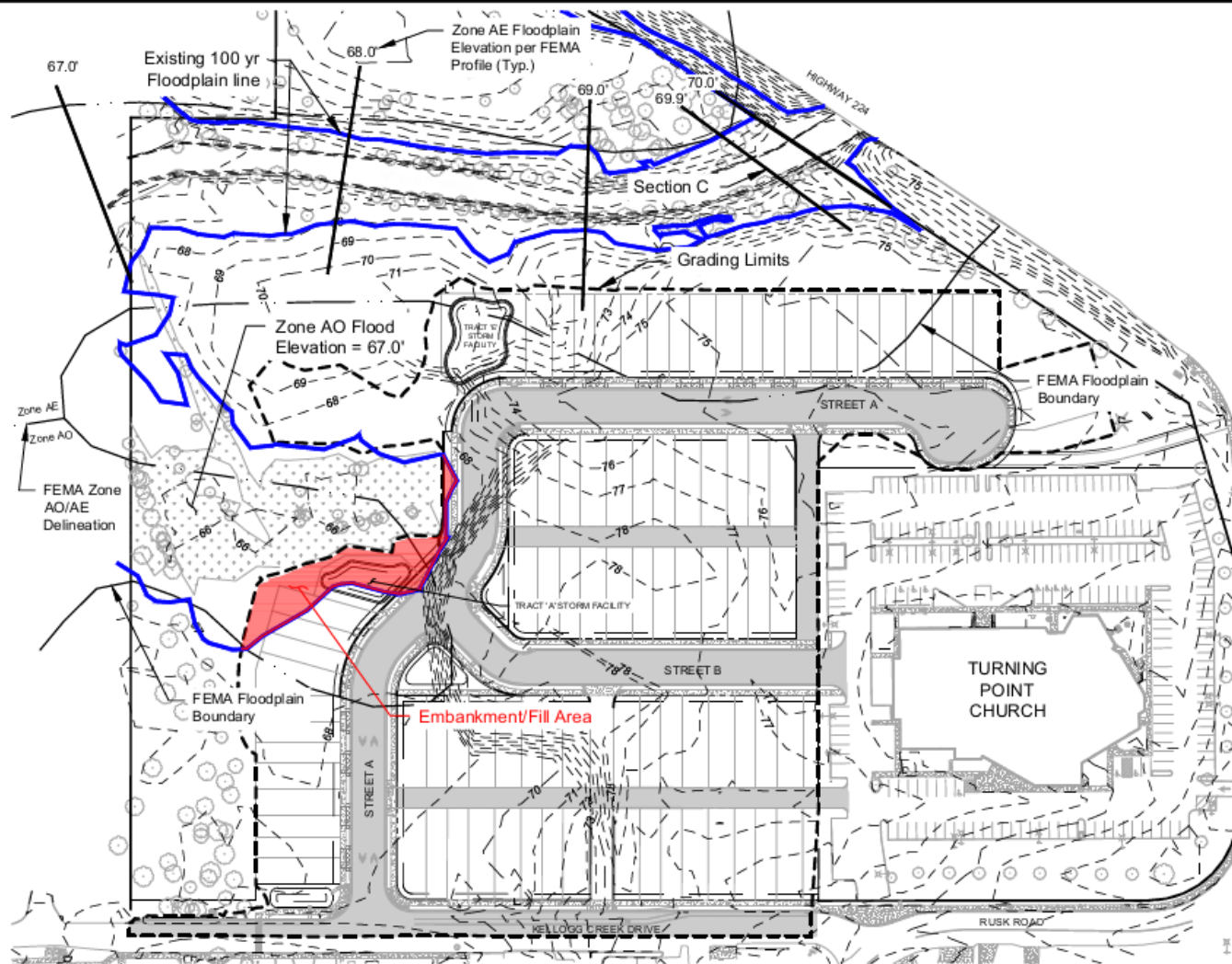
Zone AO: BASE FLOOD EL: 67'
Impact = -96 CY

Zone AE: BASE FLOOD EL: Varies (70.5' - 67.0')
Impact = 0 CY



PROJECT	14258.01
DATE	9/18/2017

FIGURE 3/4



- · — · — FEMA Floodplain Line
- - - - - Proposed Grading Limits
- Existing Floodplain Line (elevation varies)

Floodplain Impact (FILL)

Floodplain Summary

Zone AO: BASE FLOOD EL: 67'
Impact = -96 CY

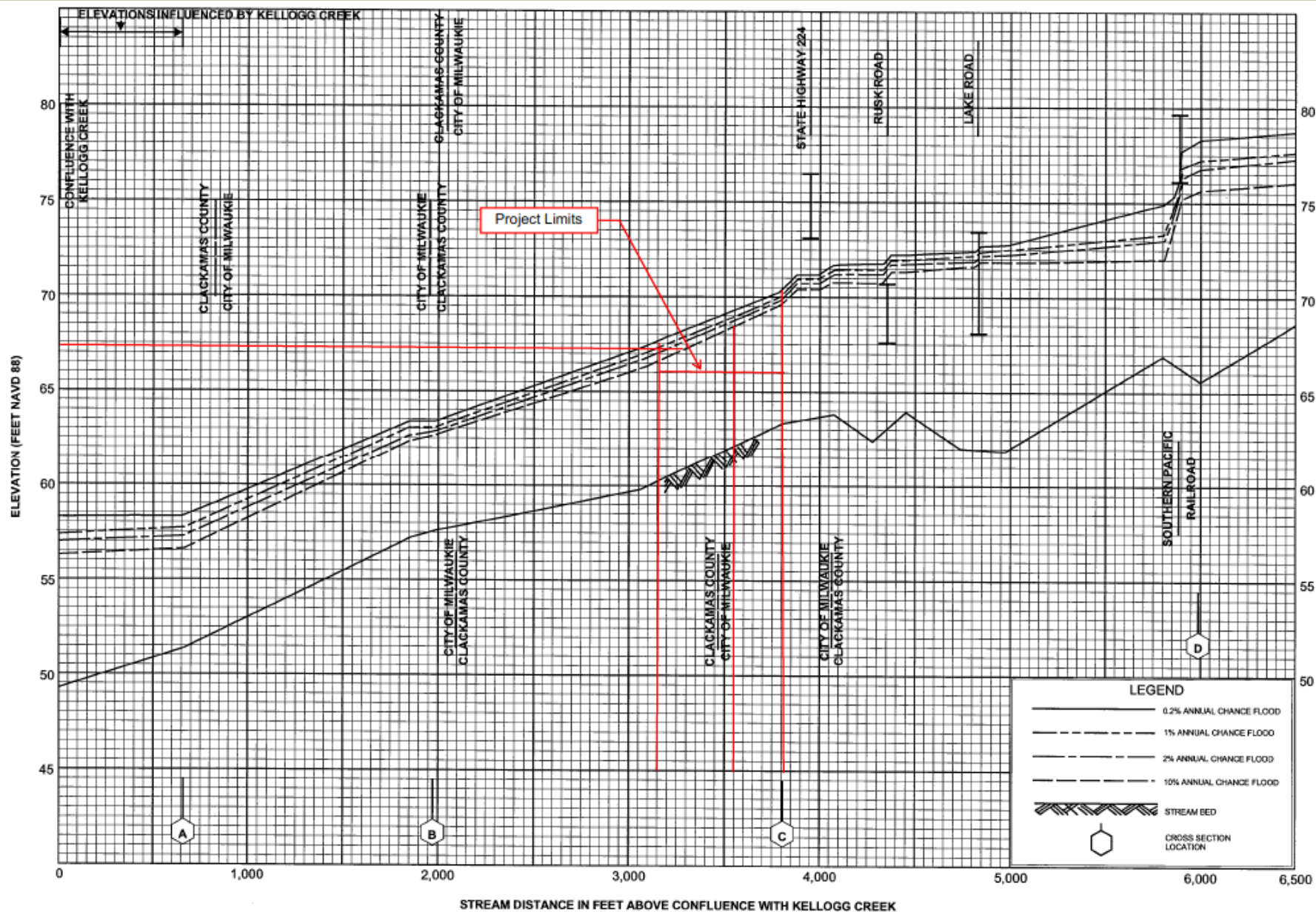
Zone AE: BASE FLOOD EL: Varies (70.5' - 67.0')
Impact = 0 CY



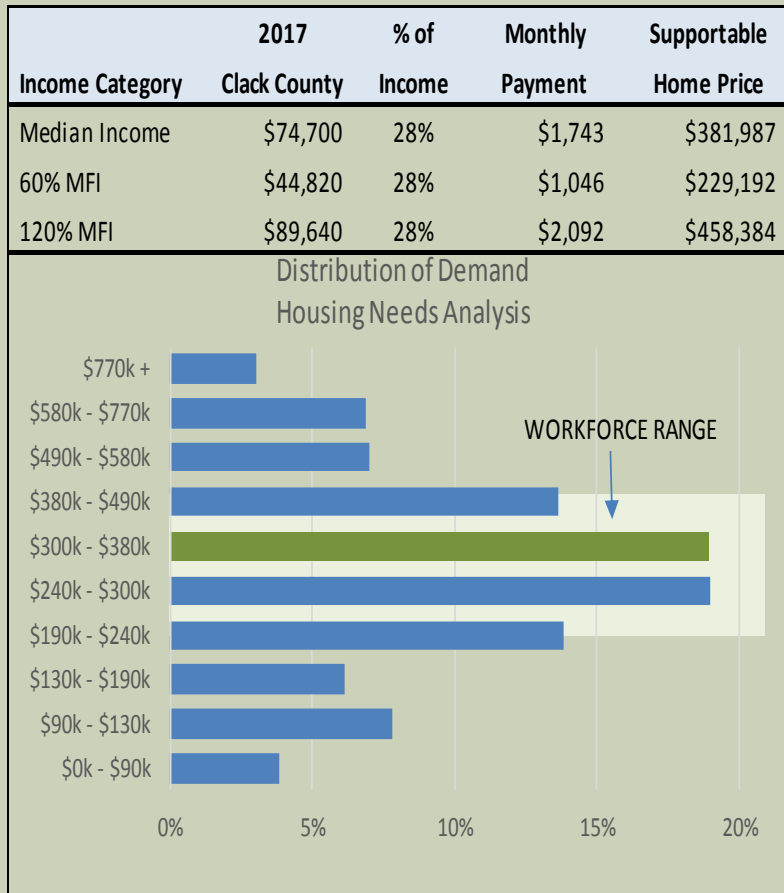
KELLOGG CREEK SUBDIVISION EXISTING FLOODPLAIN

PROJECT	14258.01
DATE	9/18/2017

FIGURE 3/4



PROPOSED HOUSING WITHIN CONTEXT OF HOUSING NEEDS ANALYSIS AND “WORKFORCE” DEFINITION



■ ASSUMPTIONS

- Workforce defined as 60% to 120% of MFI
- 28% of income towards housing payment
- 15% down payment
- 5.00% interest rate
- 30-year mortgage

UPDATED TRAFFIC STUDY

Table 1. June 1, 2017 Operational Results and Comparison to Previous

Intersection	Jurisdiction	Applicable Peak Hour Operating Standards	Previous Total Traffic Results		June 1, 2017 Total Traffic Results		Mets Standard?
			AM Peak	PM Peak	AM Peak	PM Peak	
#1 OR-224/SE Rusk Road	ODOT	Intersection V/C ≤ 0.99	0.88	0.86	0.95	0.93	Yes
#3 SE Rusk Road/SE Ruscliffe Road	City of Milwaukie & Clackamas County	LOS "D" & PM V/C ≤ 0.99	LOS "B"	LOS "B" 0.01	LOS "B"	LOS "B" 0.09	Yes
#4 SE Rusk Road/SE Kellogg Creek Drive	City of Milwaukie & Clackamas County	LOS "D" & PM V/C ≤ 0.99	LOS "B"	LOS "B" 0.23	LOS "B"	LOS "B"* 0.17*	Yes
#5 SE Kellogg Creek Drive/Site Driveway	City of Milwaukie	LOS "D"	LOS "B"	LOS "A"	LOS "B"	LOS "A"	Yes

* Note that on June 1, 2017, the volume of eastbound traffic on SE Kellogg Creek was lower than on the previous count day in November 2016 (per the February 2017 traffic report). Using the higher count from November 2016, the results for the weekday PM peak hour would be LOS "C" (16.1 seconds of per-vehicle delay) and a v/c ratio of 0.28. Both the November 2016 and June 2017 results are well within the respective operating standard.



RS 5. A.

9/19/17

Staff Presentation

Kellogg Creek Planned Development

Master File #PD-2017-001

(with ZA-2017-001, S-2017-001, NR-2017-001, TFR-2017-001,
VR-2017-003, and CSU-2017-001)

City Council

Continuation of Hearing – September 19, 2017

Staff Presentation by Brett Kelter, Associate Planner

Approval Criteria for Planned Development

(MMC Subsection 19.311.2)

- A. Conform to the Comprehensive Plan
- B. Form a compatible and harmonious group
- C. Be suited to the capacity of existing & proposed utilities and facilities
- D. Be cohesively designed and compatible with the protection of public health, safety, and welfare in general
- E. Afford reasonable protection to the permissible uses of properties surrounding the site

Allowance for Increased Density

(MMC Subsection 19.311.3.C)

If Council determines that the planned development is outstanding in planned land use and design and provides exceptional advantages in living conditions and amenities not found in similar developments constructed under regular zoning.

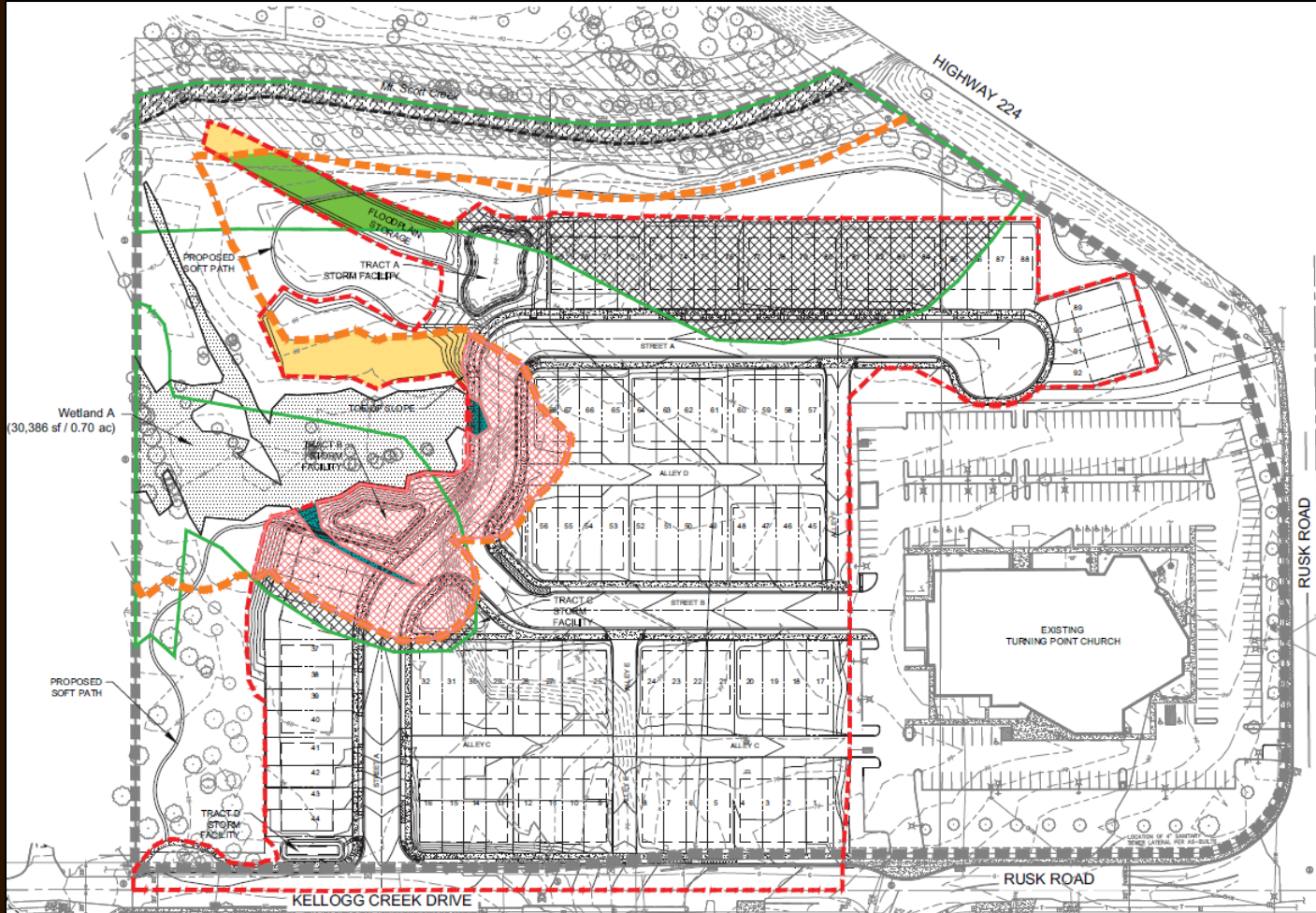
- Maximum density increase of 20%

Approval Criteria for Variance

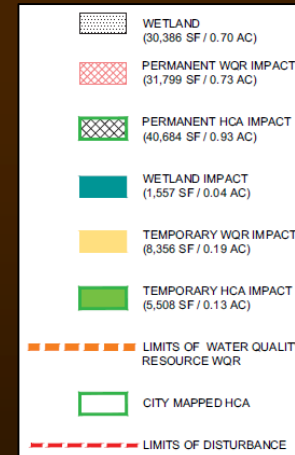
(MMC Subsection 19.911.4.B)

- A. Provide an alternatives analysis of impacts and benefits of variance proposal as compared to baseline code requirements.
- B. The proposed variance is determined to be both reasonable and appropriate and meets one or more of the following criteria:
 - 1) The proposed variance avoids or minimizes impacts to surrounding properties.
 - 2) The proposed variance has desirable public benefits.
 - 3) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.
- C. Impacts from the proposed variance will be mitigated to the extent practicable.

Natural Resource Review



- Approval criteria
 - ✓ Avoid
 - ✓ Minimize
 - ✓ Mitigate





Kellogg Creek Planned Development

Master File #PD-2017-001

(with ZA-2017-001, S-2017-001, NR-2017-001, TFR-2017-001,
VR-2017-003, and CSU-2017-001)

City Council

Continuation of Hearing – September 19, 2017

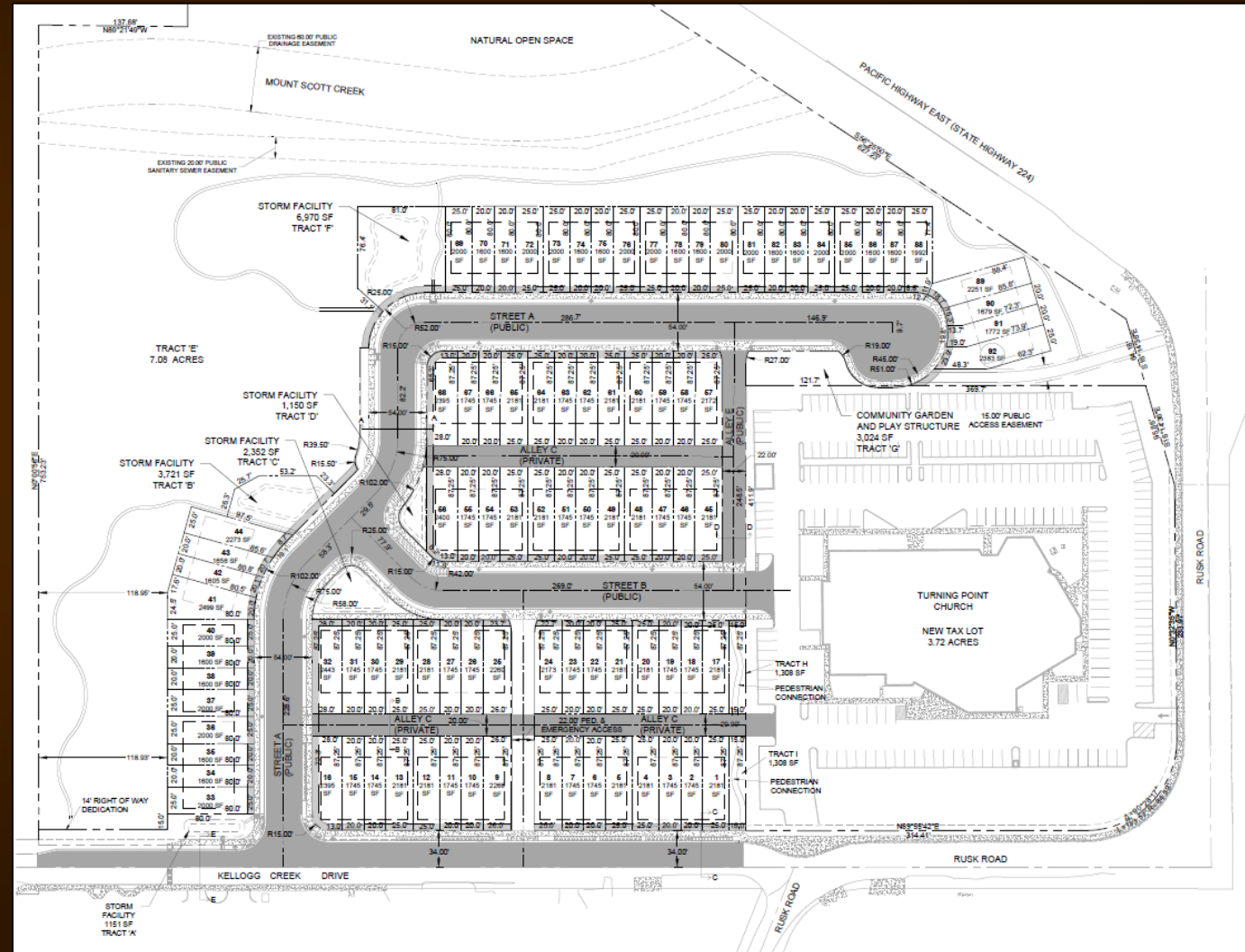
Staff Presentation by Brett Kelter, Associate Planner

Extra Slides—for use if needed

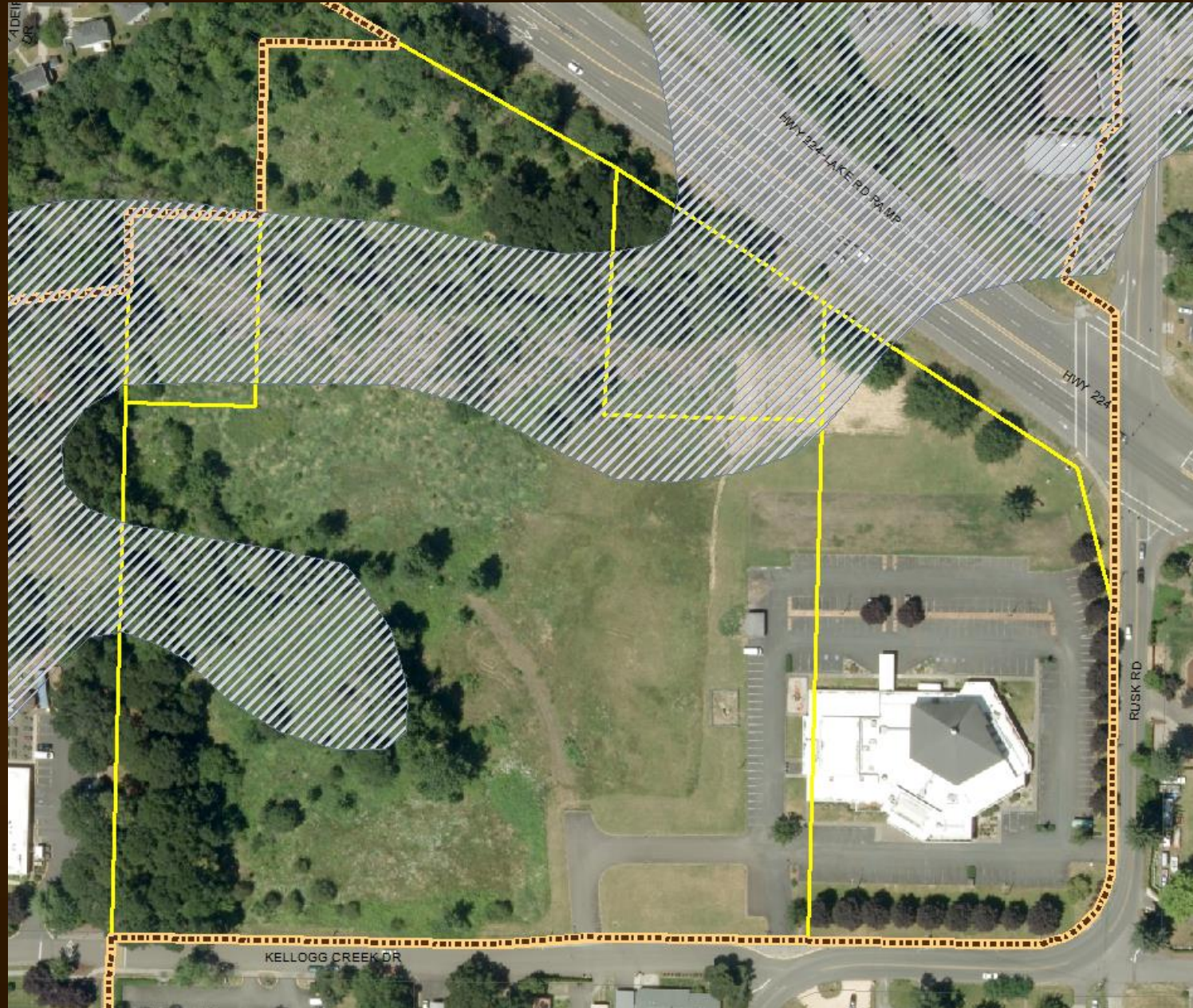


Proposal

- 92 rowhouse units (12% increase in density)
- Open space tract (c. 7 acres) dedicated to City
- Community garden
- Pedestrian/bicycle connections
- Preservation of oak trees
- Stormwater swales
- Variances (lots served by closed-loop system and lots in WQR/HCA)
- Floodplain alteration



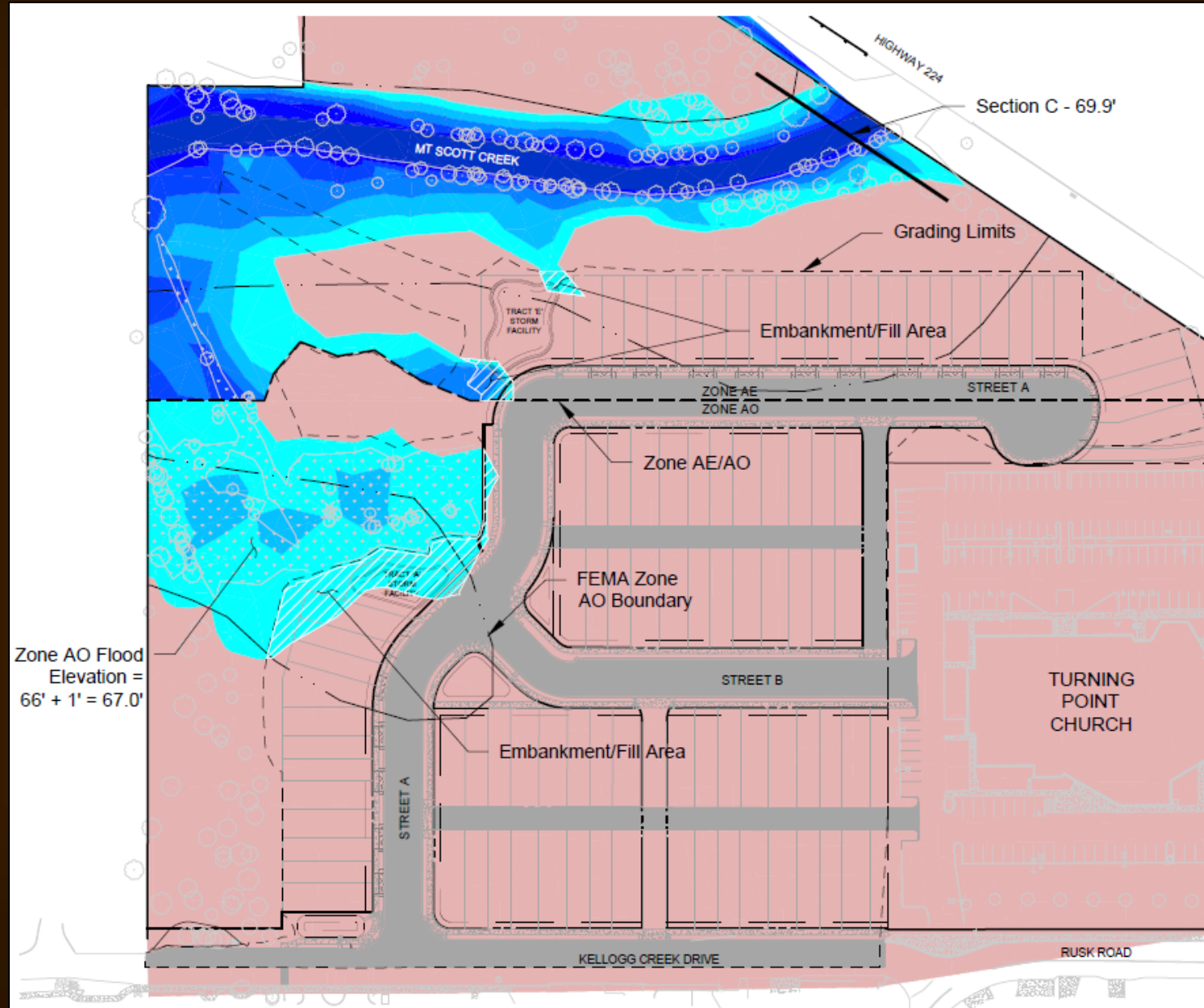
Floodplain Map (Site)



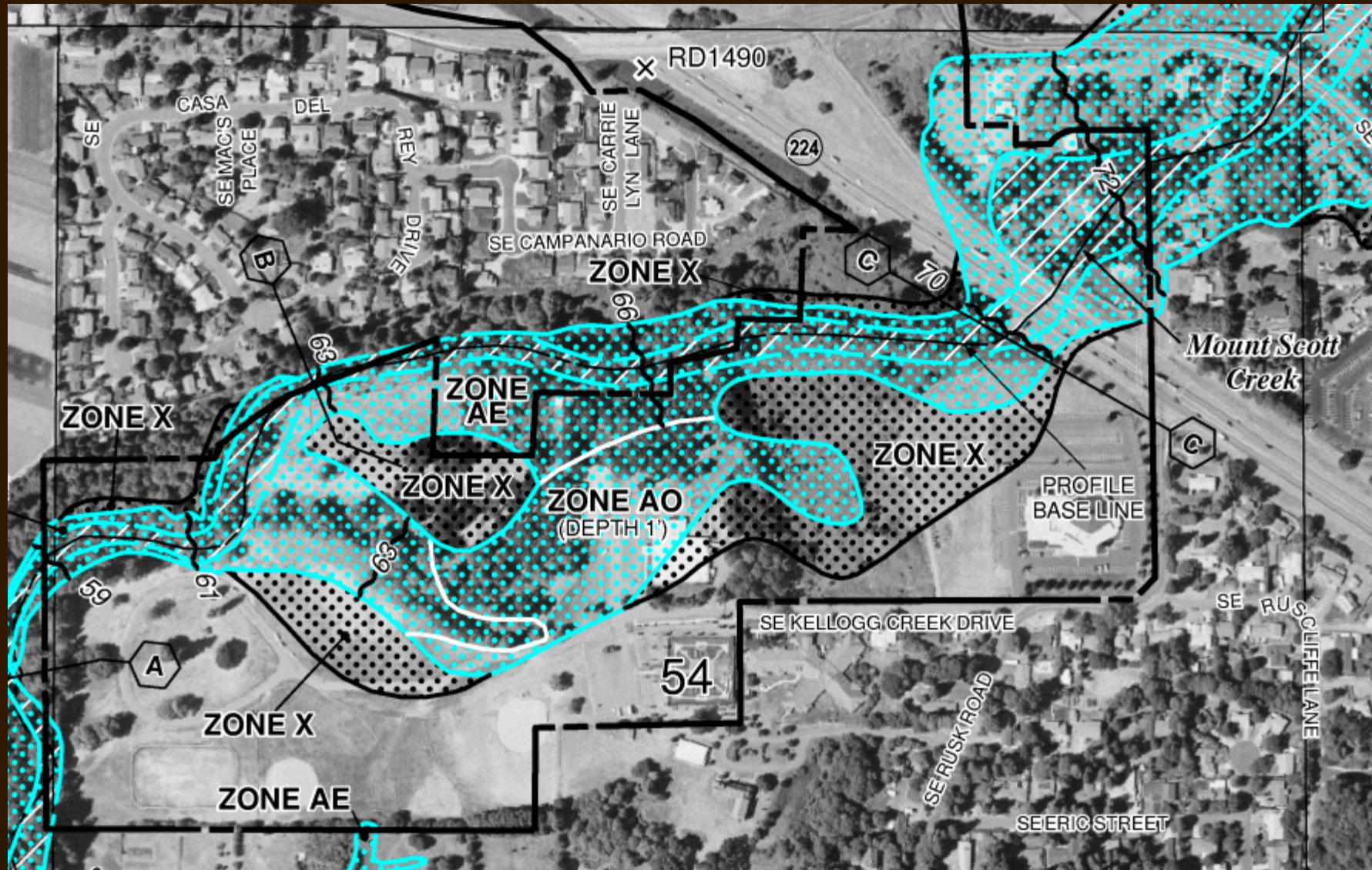
FEMA Floodplain Map



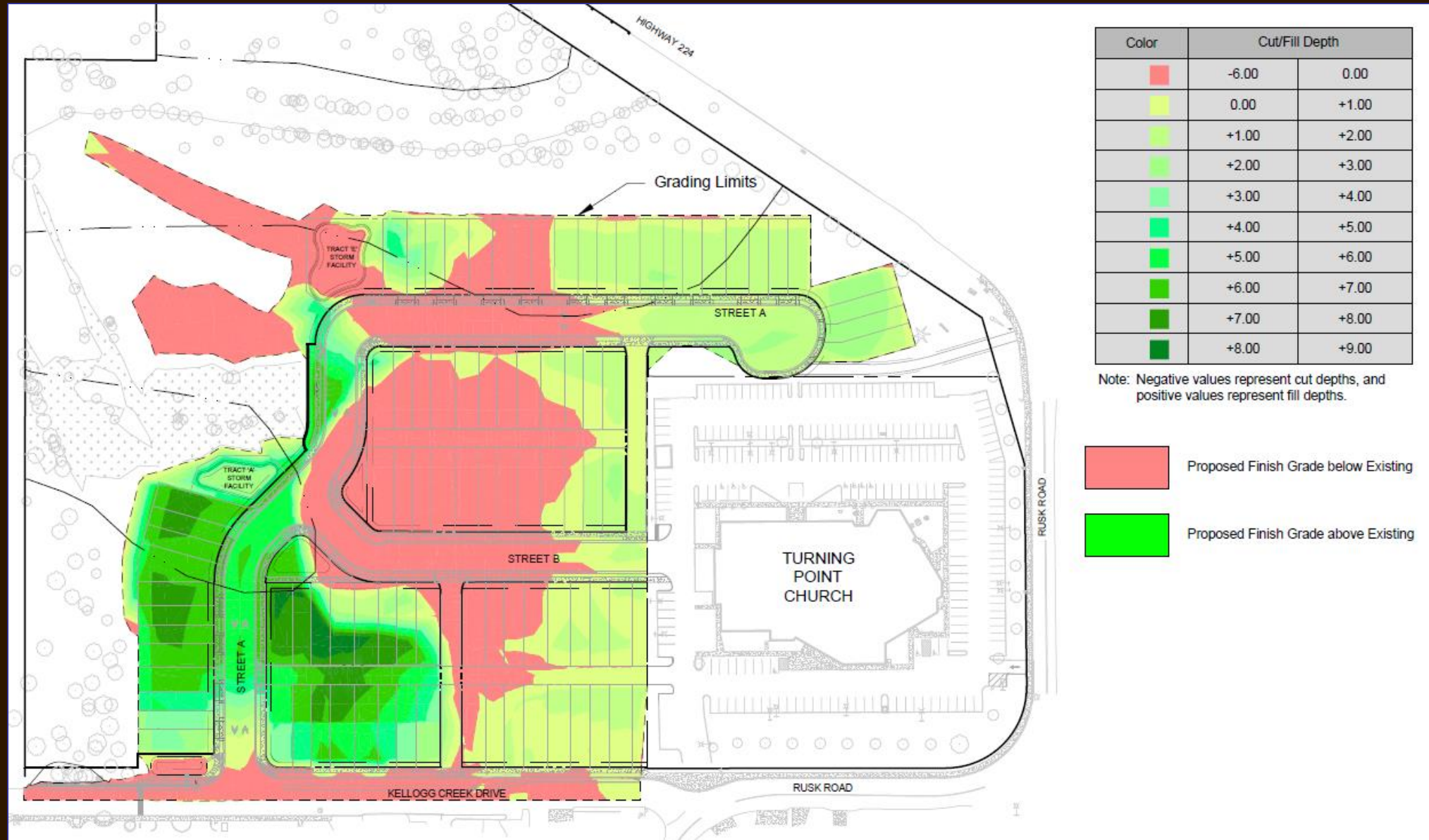
Floodplain Alteration (revised)



Flood Insurance Rate Map

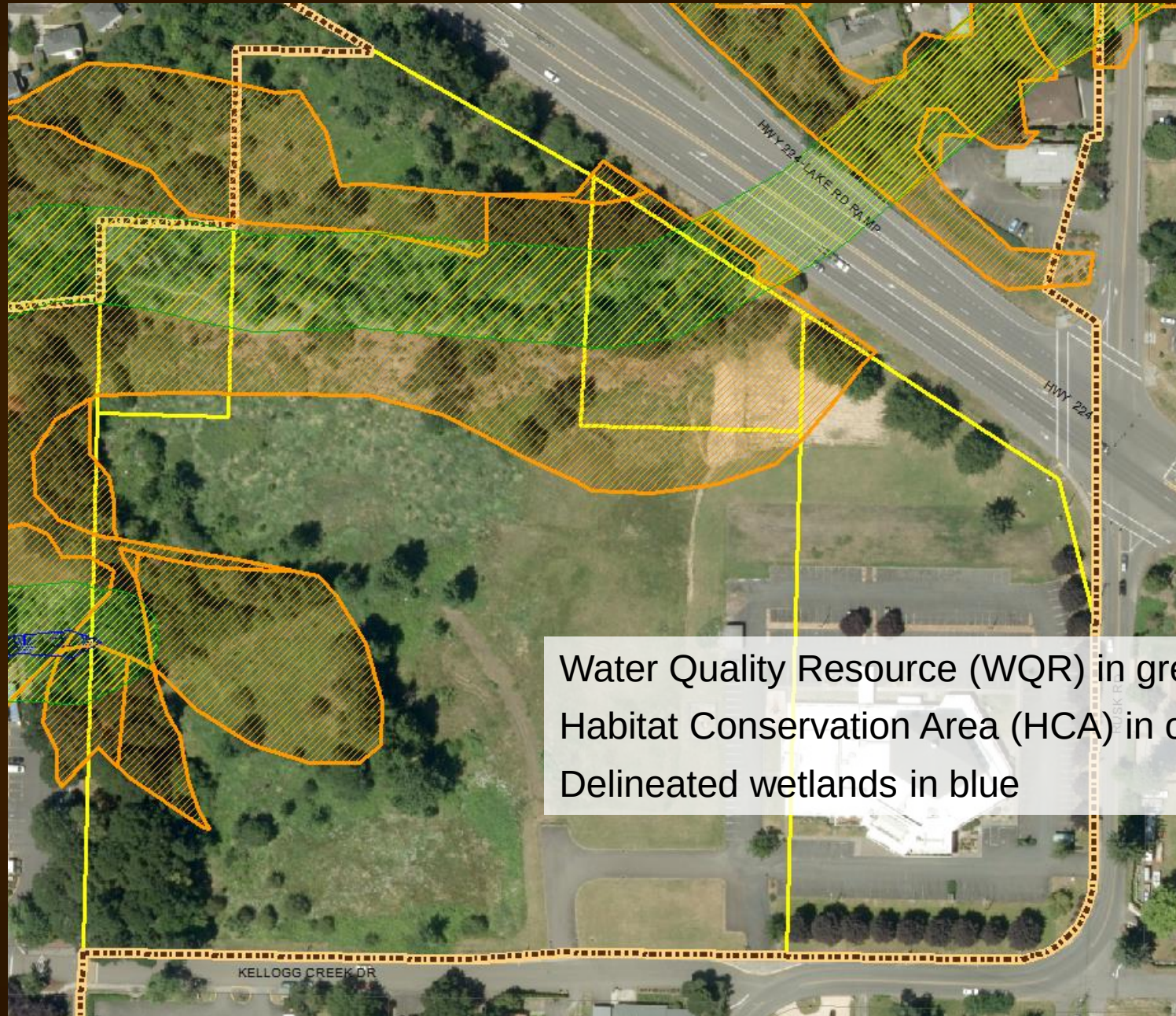


Proposed Cut & Fill Areas



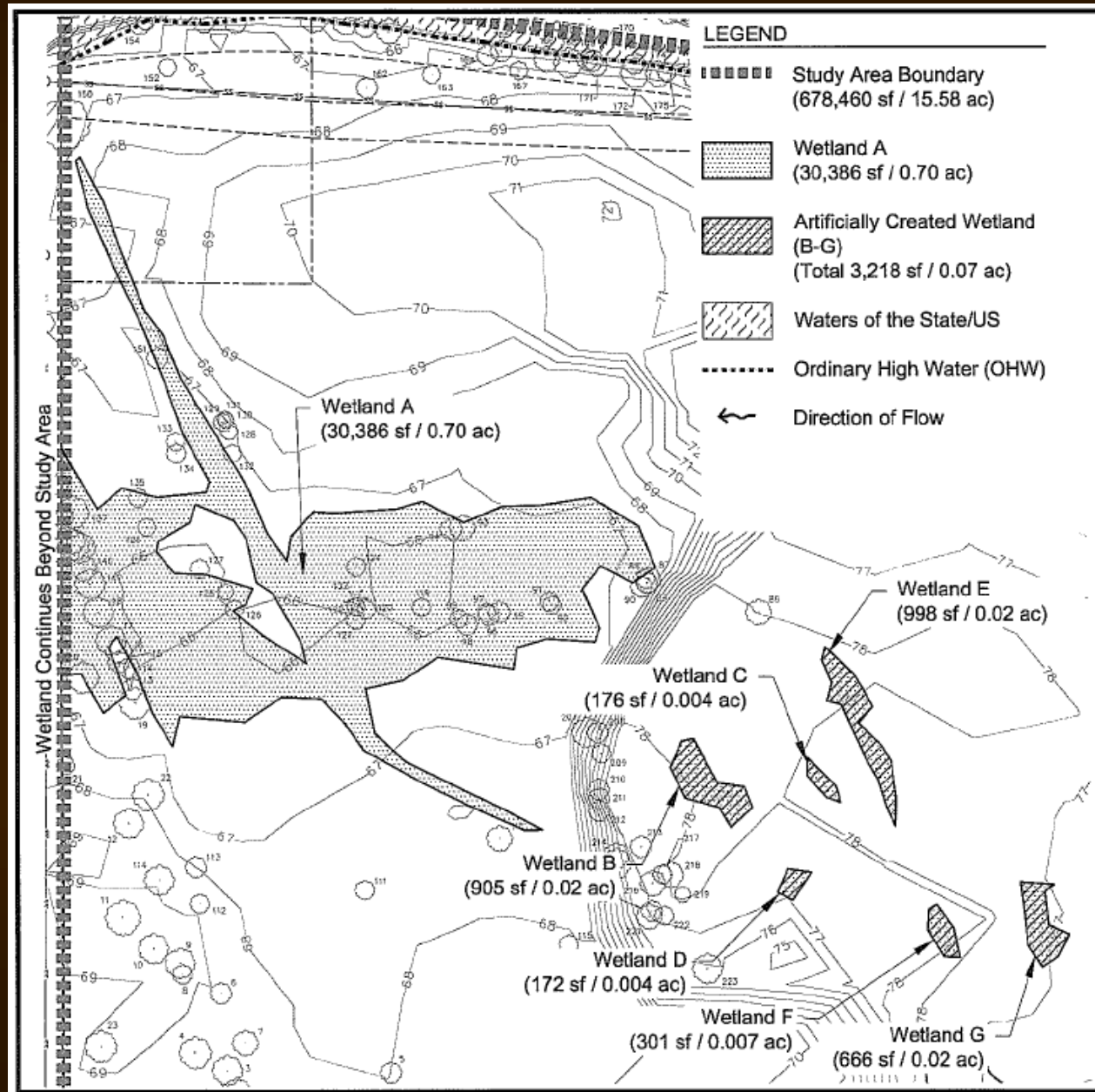
[illegible]

Natural Resource Areas



Water Quality Resource (WQR) in green
Habitat Conservation Area (HCA) in orange
Delineated wetlands in blue

Delineated Wetlands



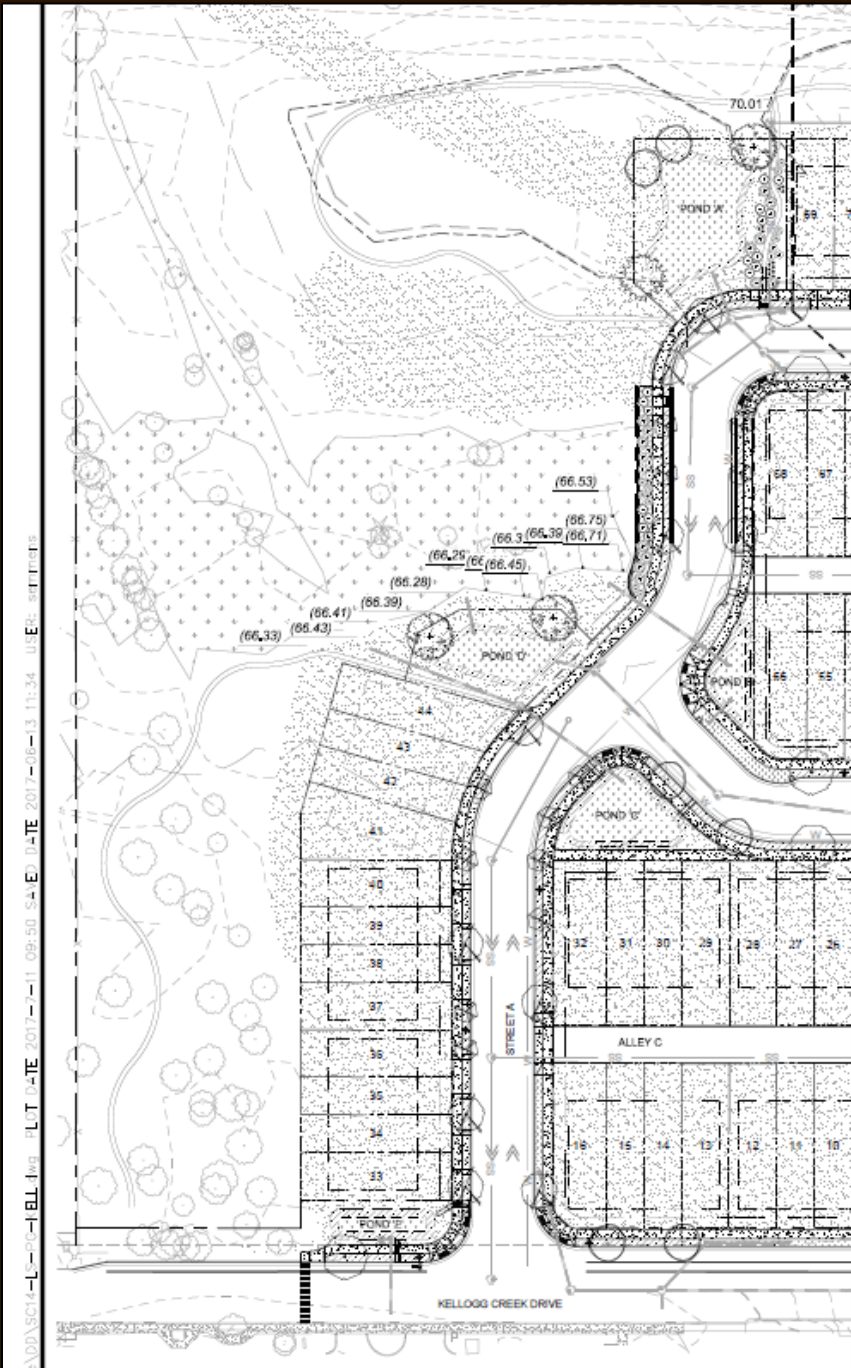
Key Issues for Planning Commission

1. Public ownership of open space tract
2. Preservation of white oak trees
3. Floodplain issues
4. Traffic impacts

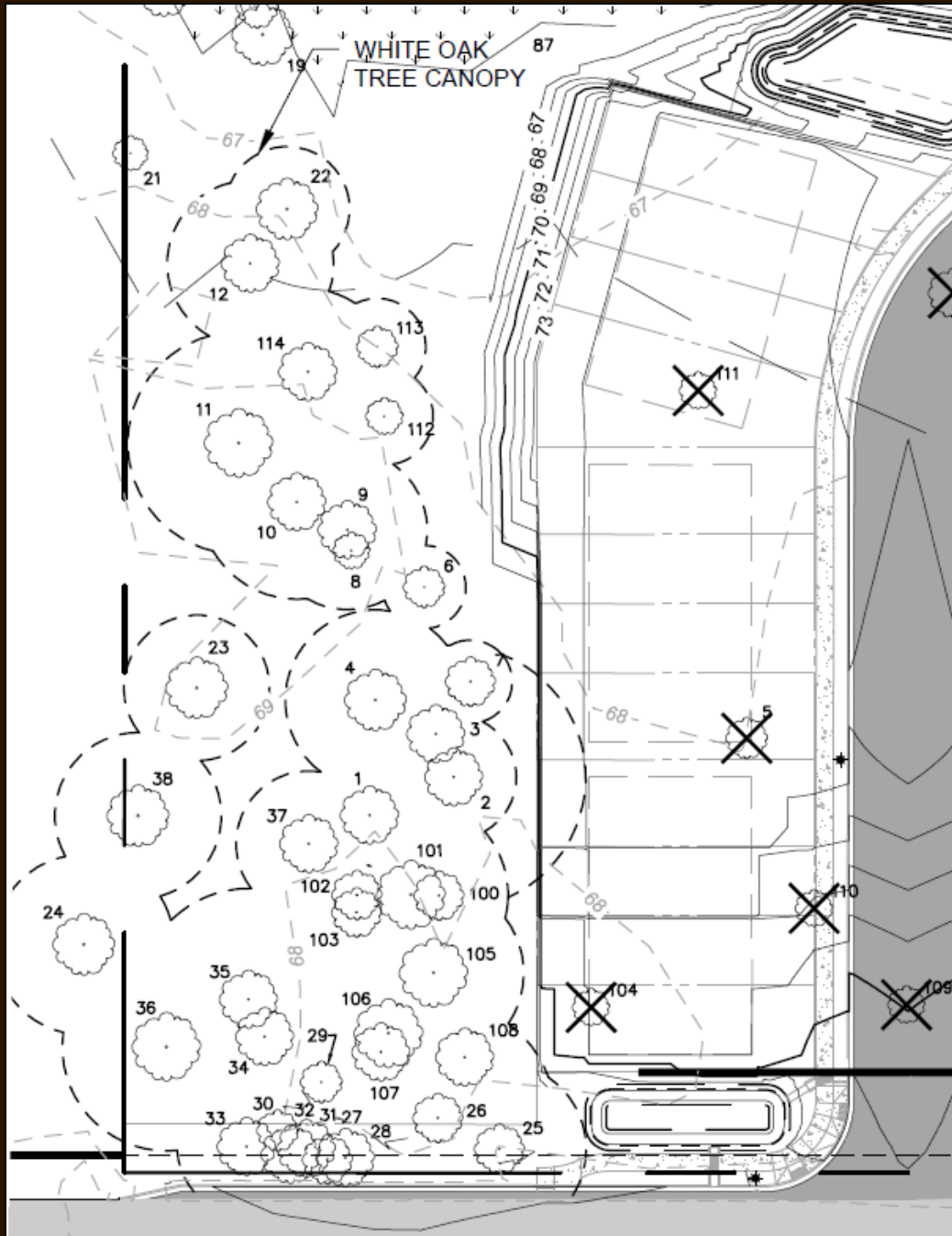


Open Space Tract

- City ownership
- Management by NCPRD
- Initial mitigation plantings by applicant (w/ 2-year monitoring/survival period)

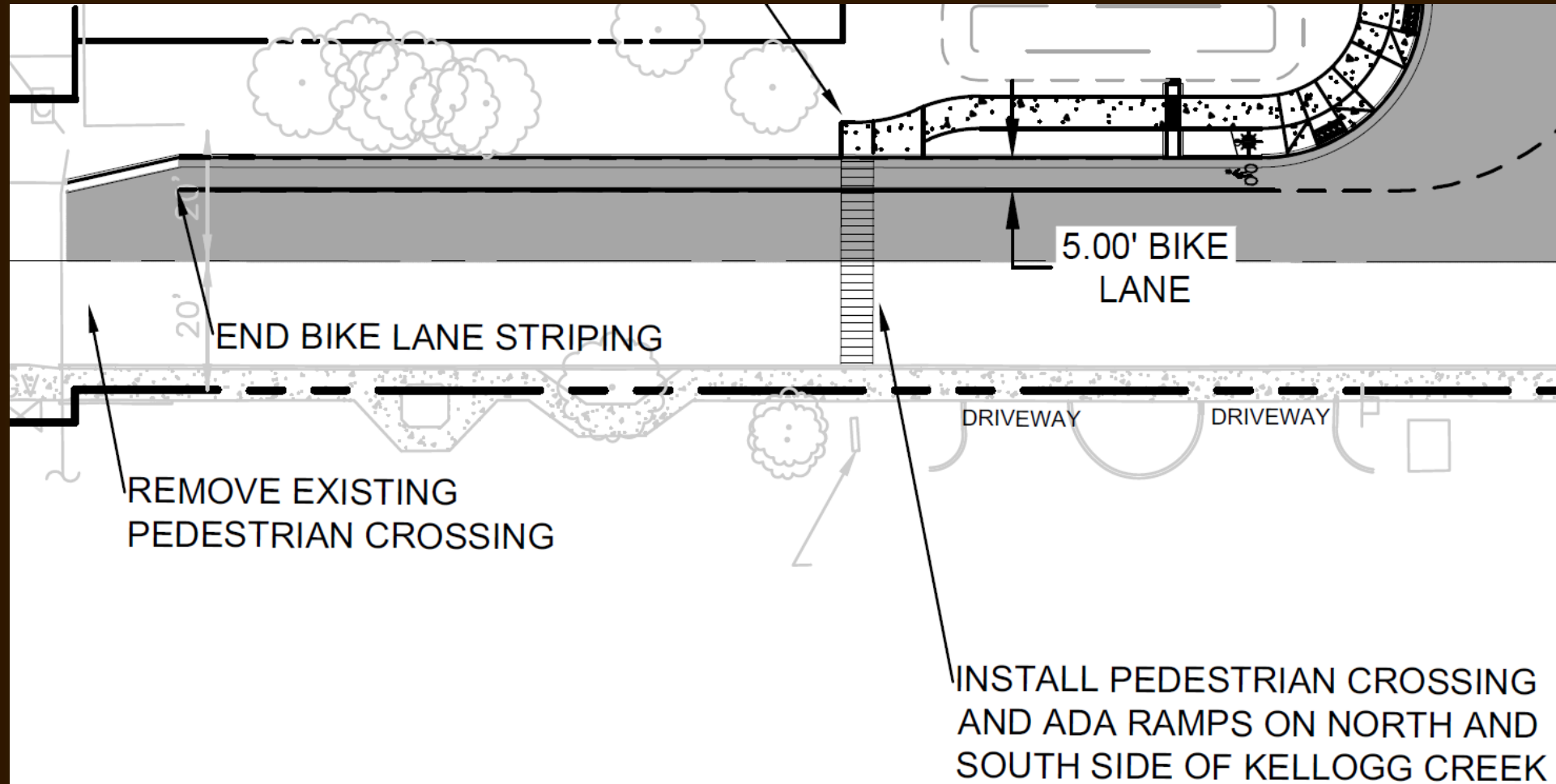


White Oak Trees



- No oaks to be removed
(Scouler's willow, English hawthorn)
- Tree protection around canopy

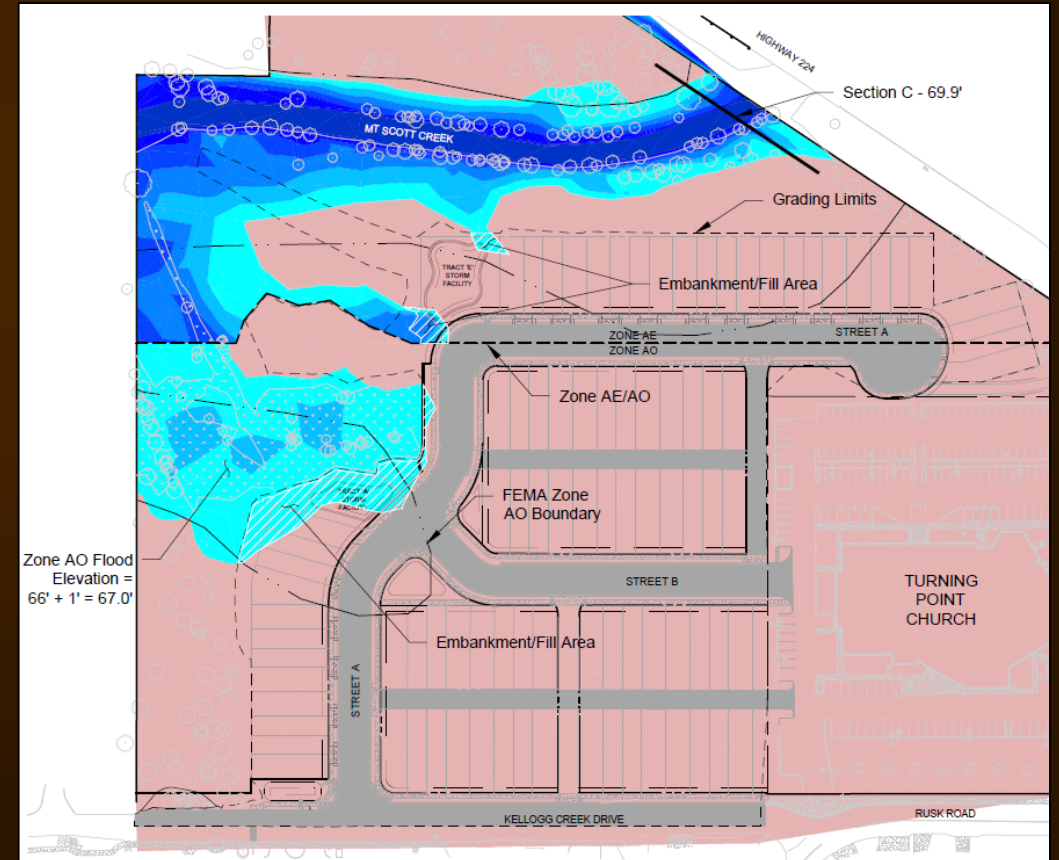
Oaks in Right-of-Way



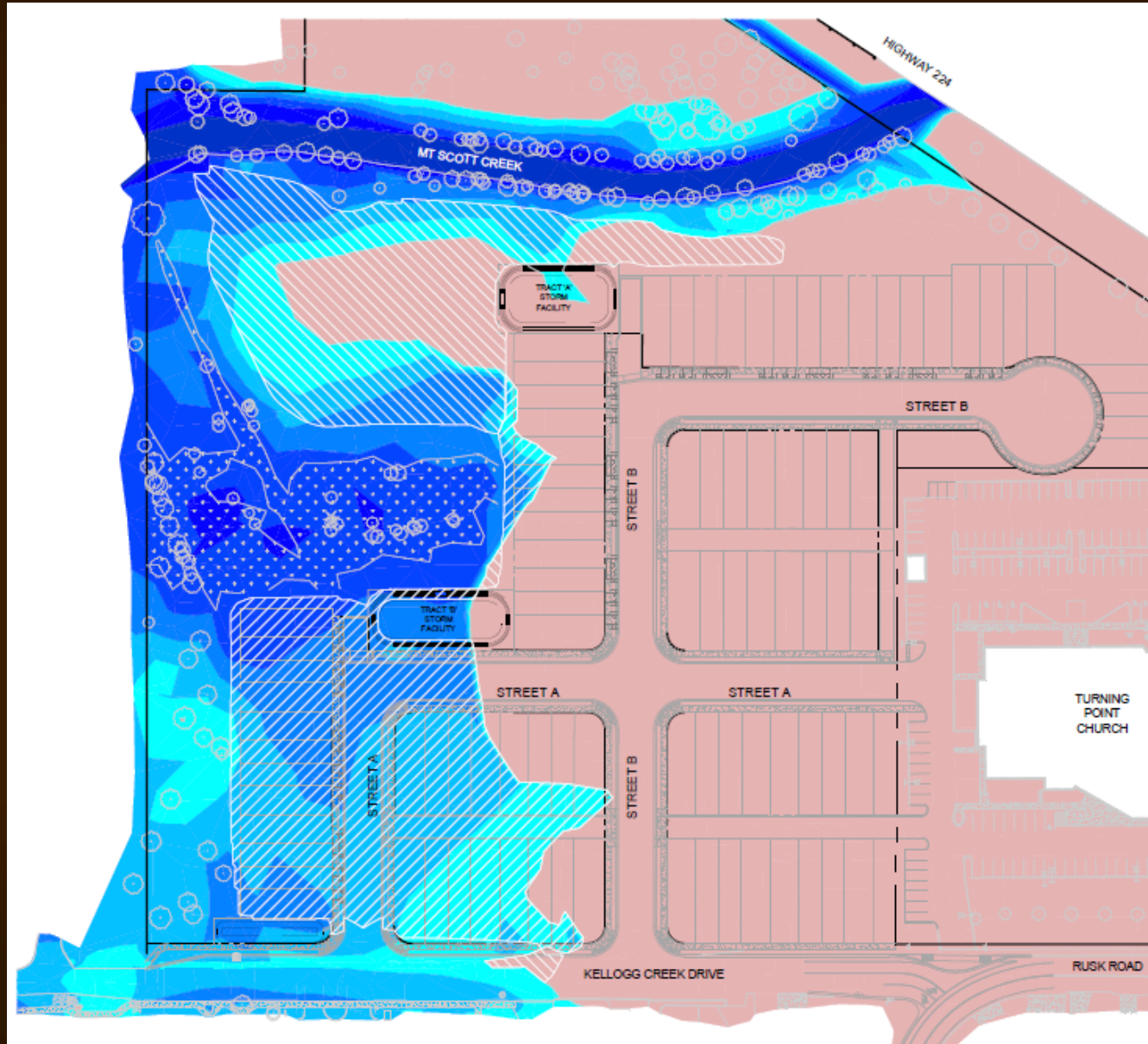
- Adjusted improvements
- Root exploration

Floodplain Impacts

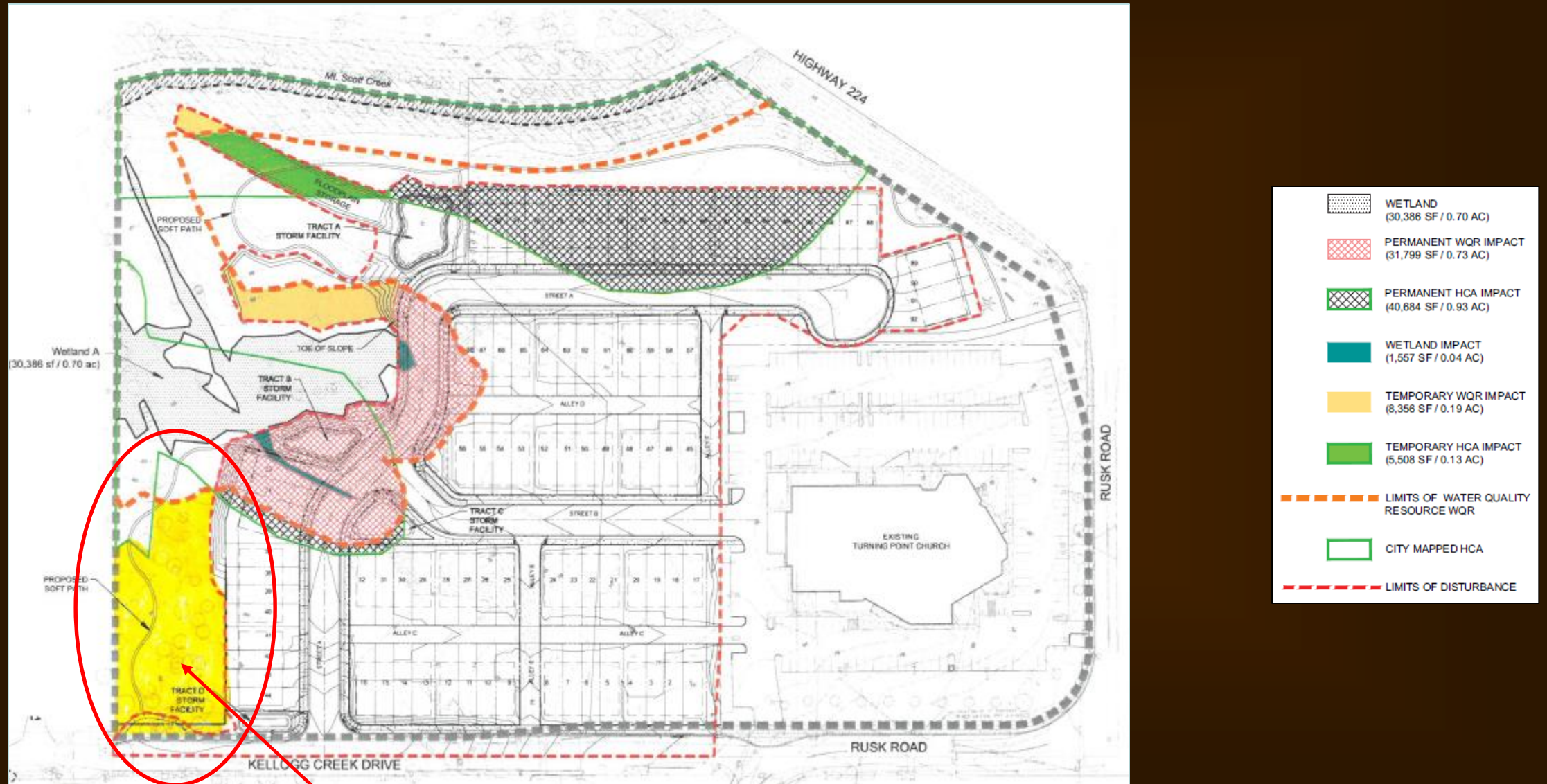
- Technical review by Engineering Department
 - Applicant has shown site capacity for balancing cut and fill
 - Additional data is required at later stages in development review process
- Consideration of impacts
 - Natural Resource review for WQR & HCA impacts
 - Outstanding design



Floodplain Alteration (original)



Exhibit—Revised Natural Resource Map



Area to be added to NR map as HCA

Mitigation Plan



LEGEND:

STUDY AREA BOUNDARY

ORDINARY HIGH WATER

REMAINING WETLAND
(28,973 SF / 0.67 AC)

REMAINING WQR

REMAINING HCA

MITIGATION AREA A
(38,264 SF / 0.88 AC)
- Restore native plant community
- Seed bare soils with native seed mix
- Inventory and remove debris and noxious weeds.

MITIGATION AREA B
(56,391 SF / 1.29 AC)
- Inventory and remove debris and noxious weeds

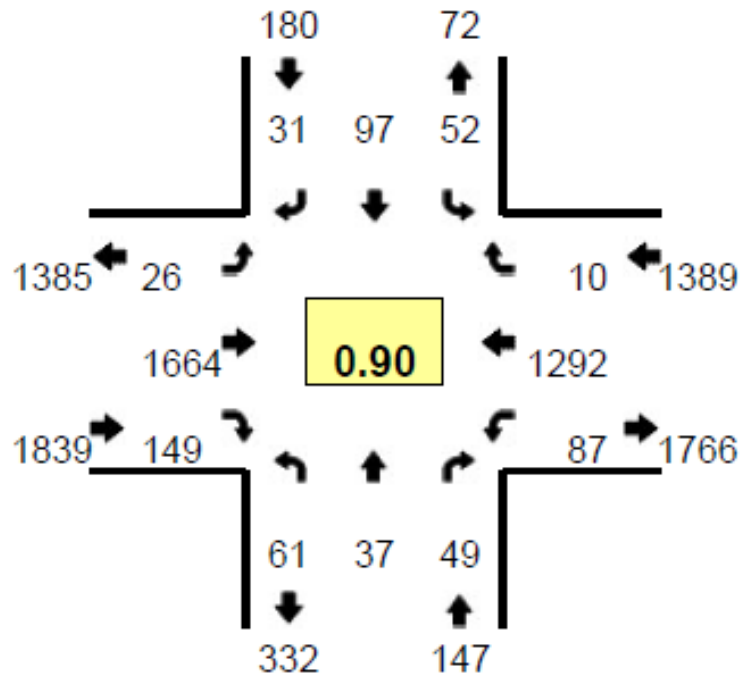
ADDITIONAL ENHANCEMENT AREA
TOTAL = 47,485 SF / 1.09 AC

Updated Traffic Counts

PM Peak Hour (approx. 4:30 pm to 5:30 pm)

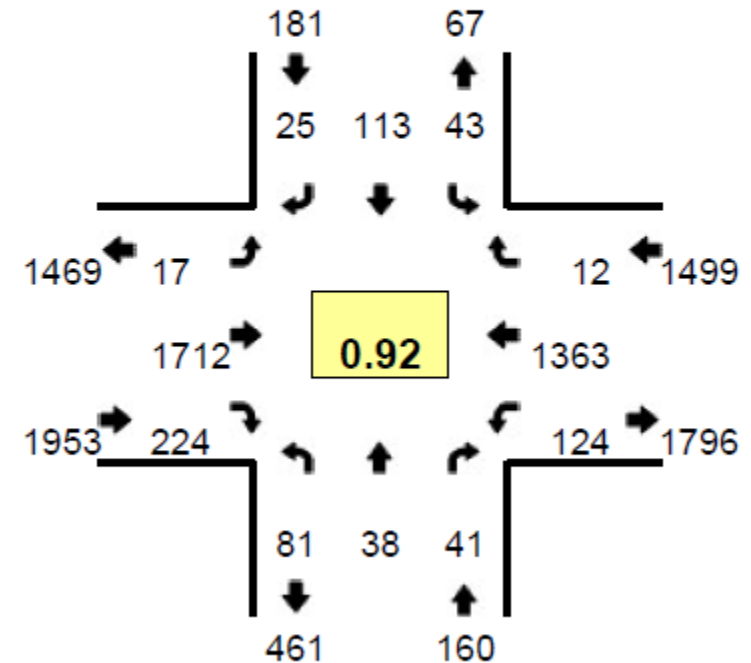
Original—November 2, 2016

LOCATION: SE Rusk Rd -- Milwaukie Expy
CITY/STATE: Milwaukie, OR



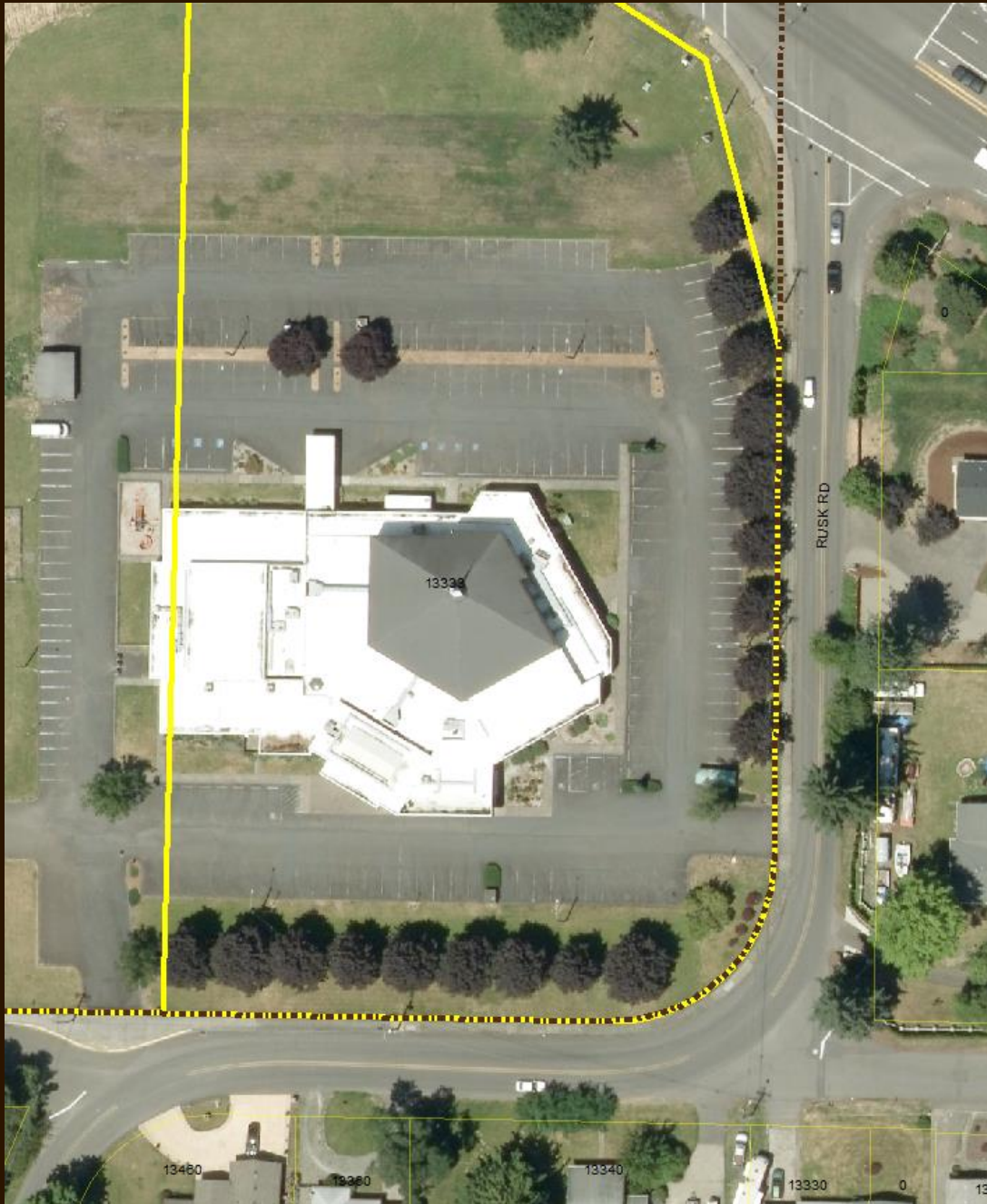
Revised—June 1, 2017

LOCATION: SE Rusk Rd -- OR-224
CITY/STATE: Milwaukie, OR



Traffic Impacts

Right-of-way for right turn lane on Rusk Road



Key Conditions

- Extend northbound right-turn lane on Rusk Road at Highway 224
- Dedicate open space tract to City
- 2-year maintenance bond for new mitigation plantings
- Root exploration and protection (white oak trees)
- Fencing with no gates adjacent to open space tract
- Retaining wall design & landscape screening

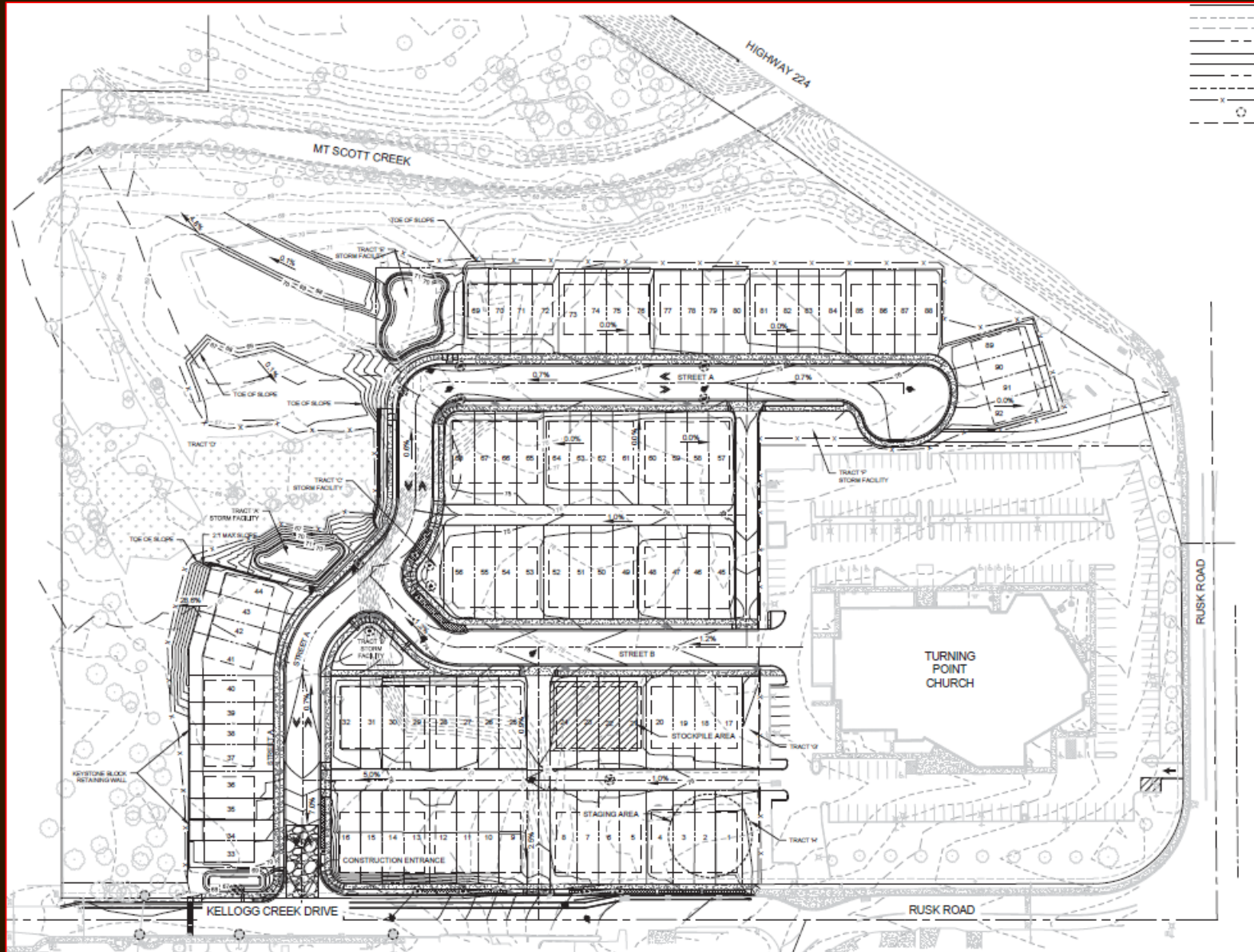


Key Questions for City Council

1. Does the proposed development offer enough outstanding design elements and extraordinary amenities to warrant the requested density bonus?
2. Does the project do enough to avoid and/or minimize impacts to the WQR and HCA?



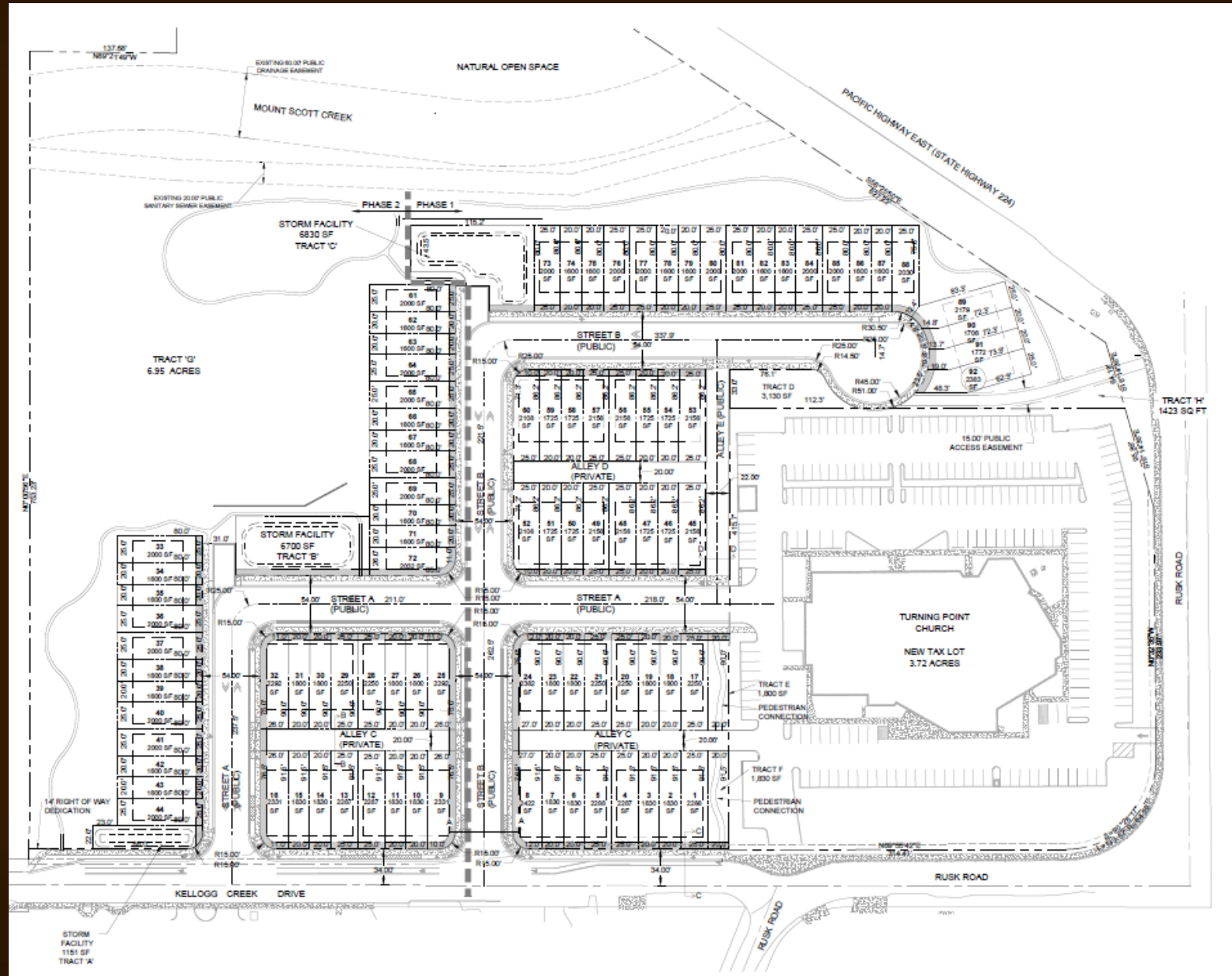
Grading Plan



Grading Plan showing proposed fill



Original Proposed Plan



[illegible]

1987 zone change

CITY OF MILWAUKIE COMMUNITY DEVELOPMENT DEPT.

STAFF REPORT

DATE: September 8, 1987
FILE NO: CPA-87-01/ZC-87
05/CU-87-05
90TH DAY: Dec. 7, 1987

APPLICATION : Plan Amendment, Rezone
and Conditional Use
APPLICANT : Pacific Western Development
PROPERTY OWNER: Clackamas Christian Ctr./Assembly of God Church
LOCATION : 13333 S.E. Rusk Road (Tax Lots 700, 900 & 901 of
Tax Map T2S-R2E-6AD, W.M.)

PROPOSAL:

This proposal is a combination of three different applications intended to accomplish the following:

1. Amend the Comprehensive Plan designation from Low to Medium Density Residential;
2. Rezone from R-10 to R-3; and
3. Conditional Use in R-3 for a senior housing development, including a density bonus and an additional story height allowance.

The proposal would result in the construction of a 160 unit senior housing project on 9.25 acres of property, currently owned by and adjacent to the Assembly of God Church at 13333 S.E. Rusk Road. The site lies between Kellogg Creek Drive (on the south), Hwy. 224 (on the north), North Clackamas Park (on the west) and the Clackamas Christian Center (on the east).

CRITERIA:

Comprehensive Plan:

Plan Review and Amendment Procedures (pp. 4-5)
Residential Land Use and Housing Element (pp. 24-33)
Environmental and Natural Resources (pp. 10-15)
Transportation, Public Facilities....(pp. 62-80)

Zoning Ordinance:

Zoning Map Amendments - Section 7.03 (p. 87)
Conditional Use Criteria - Section 6.01.2 (p. 79)
Senior Housing CU Criteria - Section 6.01.11 (p. 82c)
Senior Housing Definition (p. 8)
R-3 Standards - Section 3.04 (pp. 17-18)

STAFF REPORT - BRINKLEY SCHEDEEN
CPA-87-01/ZC-87-05/CU-87-05
SEPTEMBER 8, 1987
PAGE THIRTEEN

- Transitional Area Plan Review (Planning Commission)
- Minor Land Partition (Staff)
- Flood Hazard Permit Review (Staff)
- Significant Natural Review (Staff)
- Building Permits (Staff)

CONCLUSIONS:

1. This proposal meets Comprehensive Plan Amendment Criteria.
2. Zoning Map Amendment Criteria have been met.
3. The Conditional Use Criteria have been met provided conditions are applied.

RECOMMENDATIONS AND CONDITIONS:

1. For approval of CPA-87-01, a Plan Amendment from low to medium density residential.
2. For approval of ZC-87-05, a Zoning Map Amendment from R-10 to R-3.
3. For approval of CU-87-05, a Conditional Use for a 160 unit senior housing project, subject to the following conditions:
 - a. Approval of CU-87-05 shall not be final until final approval is received from City Council for applications CPA-87-01 and ZC-87-05.
 - b. That development of this site occur in accordance with the approved site plan.
 - c. That variations from item b. including the placement of site signage, receive approval by consideration of the Planning Commission.
 - d. That items 1.-6. of the Clackamas County Transportation memo (from Dennis Everson, dated 8/12/87) be complied with in order to meet traffic and design standards for Kellogg Creek Drive.
 - e. That an engineering traffic study be provided by the Applicant to assess improvement needs for the intersection of Rusk Road and Kellogg Creek Drive. The Applicant is to provide improvements specified as needed by this study.

Oaks in Right-of-Way



- Back of existing sidewalk = extent of improvements



Project Location & Vicinity



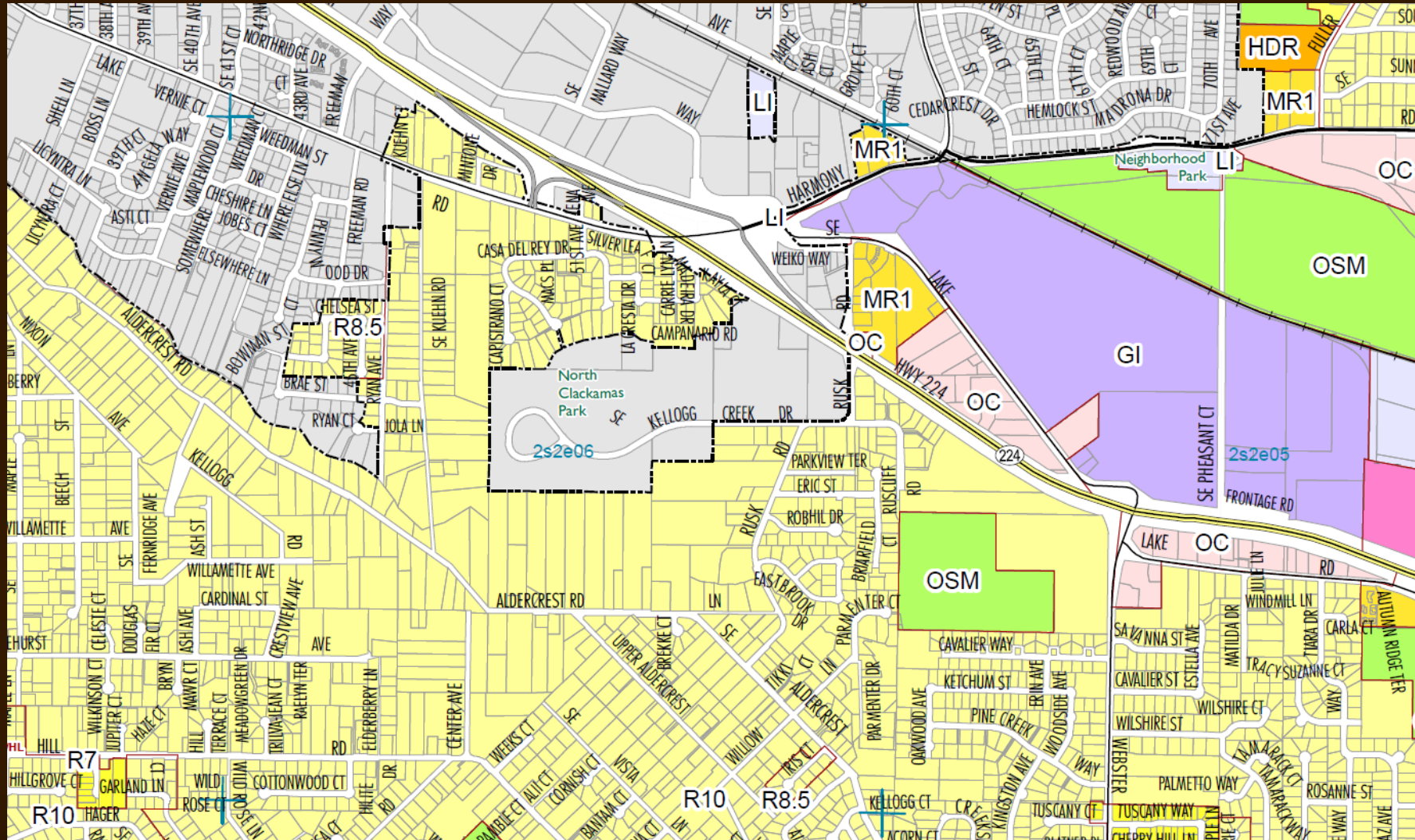
Site



City Zoning



County Zoning



Planned Development

(MMC Section 19.311)

- Zone change
- Type IV review (PC & CC)
- Flexible design
- Required open space (33% of gross area)
- Up to 20% increase in density

Net Area for Maximum Density Calculation

Subtract from gross area:

- Floodplain
- Public right-of-way
- Open space
- Steep slopes

