

**Development Review Board – Panel A
Minutes– May 10, 2021 6:30 PM**

I. Call to Order

Chair Daniel McKay called the meeting to order at 6:31 p.m.

II. Chair's Remarks

The Conduct of Hearing and Statement of Public Notice were read into the record.

III. Roll Call

Present for roll call were: Daniel McKay, Jean Svadlenka, Kathryn Neil, Rachelle Barrett, Ben Yacob

Staff present: Daniel Pauly, Barbara Jacobson, Philip Bradford, Kerry Rappold, Miranda Bateschell, Kimberly Rybold, and Shelley White

IV. Citizens' Input This is an opportunity for visitors to address the Development Review Board on items not on the agenda. There were no comments.

V. Consent Agenda:

A. Approval of minutes of April 12, 2021 DRB Panel A meeting

Chair McKay moved to approve the April 12, 2021 DRB Panel A meeting minutes with the adjournment time corrected to state, "12:23 ~~pm~~ am". Jean Svadlenka seconded the motion, which passed unanimously.

VI. Public Hearing

A. **Resolution No. 388 (revised). Canyon Creek ~~8-Lot 5-Lot~~ Subdivision: Scott Miller, SAMM-Miller LLC – Applicant for William Z. Spring and Fallbrook, LLC Owners.** The applicant is requesting approval of a Comprehensive Plan Map Amendment from Residential 0-1 Dwelling Units per Acre to Residential 4-5 Dwelling Units per Acre, a Zone Map Amendment from Residential Agriculture-Holding (RA-H) to Planned Development Residential 3 (PDR-3) and adopting findings and conditions approving a Stage I Master Plan, Stage II Final Plan, Site Design Review, Type C Tree Plan, Tentative Subdivision Plat, and Waiver for an ~~8-lot 5-lot~~ residential subdivision located at 28700 and 28705 SW Canyon Creek Road South. The subject site is located on Tax Lot 6400 and a portion of Tax Lot 3800 of Section 13BD, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon. Staff: Philip Bradford

Case Files: DB20-0039 Zone Map Amendment
DB20-0040 Comprehensive Plan Amendment

DB20-0041 Stage I Master Plan
DB20-0042 Stage II Final Plan
DB20-0043 Site Design Review
DB20-0044 Type C Tree Plan
DB20-0045 Tentative Subdivision Plat
DB20-0053 Waiver (*no longer needed in revised design*)

This item was continued to this date and time certain at the April 12, 2021 DRB Panel A meeting.

The DRB action on the Comprehensive Plan Map Amendment and Zone Map Amendment is a recommendation to the City Council.

Chair McKay called the public hearing to order at 6:37 p.m.

Chair McKay stated the resolution was a continuation of the April 12, 2021 DRB Panel A hearing, which was itself a continuation of the March 8, 2021 hearing. On behalf of the Board, he stated that he believed the Board was privileged to have listened to the testimony given last month, and he appreciated hearing some very valid arguments made using criteria applicable to the Board's review. He had noted the City's memo, which included some revisions to ensure that the Board was given adequate time to deliberate. He understood the Board was required, by rule, to provide the Applicant a review; otherwise the application was deemed to be accepted. Therefore, he wanted to ensure the Board had sufficient time to deliberate the proposed application thoughtfully, and believed it was in the public interest to follow the requirements outlined. He asked City Staff to detail those requirements to ensure the Board and members of the public were aware of them.

- He noted the significant and material changes that had been made to the application were largely a result of public testimony. The public had made an impact on the application even if all of their goals had not been met. He acknowledged City Staff and the Applicant for the revisions they made that addressed some of the concerns raised last month.
- He read the conduct of hearing format into the record. All Board members declared for the record that they had visited the site. No board member, however, declared a conflict of interest, bias, or conclusion from a site visit. No board member participation was challenged by any member of the audience.

Barbara Jacobson, City Attorney, stated she assumed everyone had seen the memo, noting her concern that the application was on its last extension of time, so the Board needed to get through it tonight and would need to be diligent about time. She suggested the Board hear the Staff and Applicant's report, and hold questions until both were finished. Any questions during citizen testimony should also be held until the end of citizen testimony and the Applicant's rebuttal.

Daniel Pauly, Planning Manager, expressed his appreciation for everyone involved who took the time to go through the Board's long meeting last month. The setback waivers were a major

issue last month. The City did not believe the setback waivers were approvable, but without the waivers, the Applicant did not believe the proposed eight homes would fit on the lots, which otherwise met the minimum lot size. The Applicant amended the application down to the current proposal for five lots and a wider street, as discussed last time. Otherwise, not much had changed, including the tree removal proposal.

Philip Bradford, Associate Planner, announced that the criteria applicable to the application were stated on page 2 of the Staff report, which was entered into the record. Copies of the report were made available to the side of the room.

Mr. Bradford presented the Staff report regarding the Applicant's revised proposal via PowerPoint with these key comments:

- The primary change to the proposed subdivision was a reduction from eight to five lots. The new proposal would relocate the Tract A open space from the west to the northeastern corner of the developable area of the property, and now only one home was proposed on the eastern side of the site where three homes had been proposed previously. Lots 1-5 were now wider, still met all the minimum lot size standards, and still fell within the density range allowed by the PDR-3 Zone as well as the Applicant's requested Comprehensive Plan Amendment. (Slide 2)
 - The relocated Tract A open space had decreased in size based on the developable area of the project now decreasing without including a portion of the property to the west. However, it still met the size requirements for an open space for a development of this size.
 - Currently, there was no detailed design for the proposed open space area because there was not enough time between hearings for the Applicant's landscape architect to design the open space tract for the new location. As such, the Staff report contained a condition of approval requiring the Applicant to return to the DRB for the final design of Tract A. He understood the landscape architect would not change; however, the condition was written such that if the landscape architect did change, a new affidavit and list of projects would be required to be submitted to City Staff to ensure that all requirements of the residential open space were met upon final design.
- The new site configuration removed the need for any waivers. The updated proposal now showed a 10-ft setback for Lot 5, which complied with the corner lot standard, and all interior lot lines now featured a setback of 7 ft, the standard for a two-story home, so waivers were no longer required and the waiver requests had been removed.
 - Lot 1 was in excess of 10,000 sq ft, which triggered different Code requirements compared to lots under 10,000 sq ft. The side yard setback for lots over 10,000 sq ft was 10 ft and Lot 1 was in compliance. Although the Applicant had shown a 7-ft setback, Staff did not condition it because the setbacks would be verified at the Building Permit stage and nothing about the shape or configuration of the lot led Staff to believe the 10-ft setback could not be met in the future as there was plenty of room to provide the correct setback. The noted the existing zoning for the site called for a 10-ft setback, and any home built there today would still require that 10-ft setback.

- The Applicant also widened the street for parking on one side. Previously, the right-of-way width, once built out, was approximately 24 ft, slightly under the threshold TVF&R allowed for parking on one side. With the changes to the application, the street width would now be 26-ft wide, which would allow for parking on one side, which hopefully addressed concerns about having additional parking.
- The amended Tree Removal Plan was mostly the same as the original. By default, fewer trees were proposed for removal because the new proposal removed part of the property from development, so five trees would remain as they were now offsite and no longer subject to the application. The trees still slated for removal were consistent with the trees slated for removal last time. Staff believed the conditions would still effectively protect the trees in the future. If the Applicant demonstrated a valid need in the future for those trees to be removed, Staff would work with the Applicant to evaluate that and approve it if necessary.
- He displayed an aerial view of the area, including the subject site, as it appeared in 1988 (Slide 7) and indicated a row of large trees on the northern boundary of the subdivision near the apartment complex on Vlahos Dr. The 1997 aerial showed the site with those trees having been removed for development, (Slide 8) as well as the younger trees currently on the site north of the property line, as Mr. Spring stated in his testimony, that were slated for removal. The slides demonstrated that the City had required the protection of significant trees within its natural resource zones in a consistent manner for years. Trees do get approved for development, and the valuable natural resource on the subject site, the Boeckman Creek Corridor, was protected or enhanced as evidenced by its unchanged state as shown between the two slides. The trees that were removed were for necessary development.
 - The new condition of the property to the south had resulted in a lot more trees as the redevelopment required new street trees along the frontage of Vlahos Dr where many homes had up to three street trees per lot. The apartment complex also featured additional tree plantings in its open space, parking lot, and along the street frontage. This showed that the City's approach to tree removal and preservation had stayed consistent throughout the years. As the area had redeveloped, trees had been approved for removal and for mitigation in their place. That was how the City kept track and maintained Wilsonville's urban tree canopy through development and other changes to the city over the years.
 - **Mr. Pauly** added it was about preserving those natural areas. Half the subject site was preserved as natural forest and riparian area and other trees on the site that fell outside the protected natural area. The Code was written in a way to balance tree removal with other considerations and site design considerations.
- Based on the available evidence and revisions to the project, Staff recommended approval to City Council on the Comprehensive Plan and Zone Map Amendments, and that the Board approve with conditions, contingent on City Council, the requested applications. Although the Applicant had not withdrawn the waiver request, Staff did not recommend approval for the waiver, because it was no longer necessary.

Chair McKay called for the Applicant's presentation.

Steve Miller, Emerio Design, 6445 SW Fallbrook Pl, Unit 100, Beaverton, OR, 97008 provided the Applicant's presentation via PowerPoint with the following key comments:

- He was happy to have the opportunity to show the Board that the Applicant had heard the neighbors' comments at the last meeting, and after a lot of thought and consideration, had amended the layout to five lots. It was important to note that the new layout did not take advantage of the SROZ density transfer, so the new plan was at the absolute bare minimum density.
- The Applicant was still working on getting all of the plan sheets updated, which was challenging to do in the short amount of time, particularly the storm sheet as it required more detail. He displayed the revised site plan showing the five lots. On the Existing Conditions Plan, the only item being removed was the old tract with everything else remaining the same. (Slide 2) The Tree Removal and Mitigation Plans would remain the same except for the five trees noted by Mr. Bradford that were in the previous tract which was no longer part of the project, so they no longer needed to be removed or mitigated for. (Slides 3 and 4)
 - The Applicant had explored what else could be done with the layout and the only other option was to shift the street to the south and put the lots to the north; that was how limited the Applicant was with options on the site. However, if the street was moved to the south, those trees would have to be removed, so the Applicant thought it best to keep the same proposal with Staff's conditions of approval, and work to mitigate preservation of some of those trees to the extent possible with the future homes.
 - The Applicant had seen some comment letters received this morning that included a conversation about moving the open tract space to the south, but the Applicant had chosen to put it to the north for two reasons. First, the north area was flatter so there would be more usable open space compared to the southeast area of the site, which had the most dramatic elevation change. Second, when the Applicant had worked on the previous layout, Staff had been very concerned about the other tract due to the line of sight into that open space area, how it interacted with the neighborhood, and how inviting it would be for people to use the space. The Applicant understood Staff liked the open space being at the end of the street instead because it accomplished the goals of it being open and visible with no places where people could hide, as well as more inviting to the neighborhood. He noted the road was currently shown extending all the way to the end, but it could be shortened. (Slide 5)
 - None of the grading had been changed, but the open space tract needed to be removed from the plan sheet.
 - The Utility Plan had been updated for the five lots with nice driveways. Some stormwater facilities were still being worked on but utilities could easily be provided to each lot. An opposition letter had shown the stormwater line running in a straight line, but it had to run in the direction shown on the Plan due to where the existing manhole it had to connect to was located. The truck turnaround met City criteria for delivery trucks and emergency vehicles, and the garbage hauler confirmed with the Applicant that the turnaround worked for their needs. (Slide 7) The only item that changed on the Public

Street Plan was the widening of the paved surface a bit; the rest of the Plan would remain as before.

- The new layout still included the required street trees, which were also in Tract A as well. The Lighting Plan was almost complete except the Applicant was still working on the location of one light which would probably shift to the east, based on the driveways. (Slide 10) Again, the original Tract A would also be relocated on the Plan.
- The Tree Plan showed which trees were necessary for removal to construct the project and which could potentially be saved in the future with the homes. Again, the Applicant supported the updated Staff report as written and the conditions of approval that addressed the trees. It was reasonable, complied with City Code, and did not remove the Applicant's ability to construct dwellings based upon a tree that could potentially conflict with a foundation in the buildable area of the lots. He was sorry the Applicant could not satisfy everybody's concerns with the reconfigured layout, but they had put a lot of time in trying to respond to those concerns. The revised project met all applicable review criteria. There were no more waiver requests and the lot sizes complied with the lot size standards.
- The setbacks also complied. He noted in an effort to get the revised Site Plan submitted in a timely manner, he overlooked the 10,000 sq ft lot requirement, which was why the Plan showed a 7-ft setback. The Applicant understood it was a 10-ft setback for lots over 10,000 sq ft and were okay with that. The Applicant did have a 10-ft setback for the side yard as it was a corner lot. Everything had been updated to address the Code. The subdivision was as simple as they could make it. It complied with all review criteria, met all Comprehensive Plan requirements, and provided needed housing for the city.
- He wished there was more they could do, but he was grateful Mr. Bradford had shared the aerial photos that showed the history of the site, the surrounding neighborhood, and how both had developed over time. He had presented a very clear picture that with development, trees were sometimes removed to accommodate homes, streets, and additional amenities that went into subdivisions. With that, however, came tree mitigation as well. Right-of-way trees were planted along streets, additional trees were planted in open spaces, and trees were mitigated on individual lots and preserved in the SROZ boundary.
- He confirmed the driveways were still wide enough to park a car in them, adding at 24 ft, they were even wider now.

Chair McKay called for public testimony in favor of, opposed, and neutral to the application.

Sharon Sala stated she wished to cede her time to Joan Carlson.

Shelley White, Planning Administrative Assistant, stated Staff had planned to call on those who were unable to testify at the last meeting first. She informed Ms. Sala that if she wished to testify, she should do so now as a decision had been made prior to the meeting that there would be no ceding of time to other neighbors who wished to speak.

Mr. Pauly replied that there should be consistency among everyone tonight on that point.

Ms. Jacobson confirmed she had nothing to add but they did have to get through the hearing tonight, as the City was out of time.

Ms. Sala stated she would not speak and would leave it to Joan or David Carlson if that could be accommodated later.

Ms. White said she believed the only other person who was unable to testify at the last meeting was Rene Sala. Although he had called in earlier, he was not in the Zoom meeting. The remaining people were those who were in attendance and either testified at the last DRB meeting or ceded their time to others. She noted about five people in Council Chambers wanted to testify, as well as another person online. She noted each speaker would have three minutes to testify.

David Carlson thanked the DRB for their hard work and the time it took to review the testimony and letters. He believed they all had the mutual goal of wanting to do what was best for the citizens of Wilsonville and the neighbors of the proposed development. He advised the Board he would be referencing Mr. Calcagno's document, adding that Mr. Calcagno was ill and could not attend. He apologized to his neighbor, Mr. Spring, for any hurt that this had caused him, as he was a good man and he certainly did not intend to disparage him in any way, and he was sorry for anything that had come across that way. He noted he would be 95 years old before those trees were back to the same height they were now. He hoped he and his wife lived long enough to see them.

- The relocation of Lot 1 made a lot of sense. He lived there, and the property was essentially flat across the back. He was concerned about having a large house 10 ft from his property line and preferred 20 ft. It seemed logical to move it back and swap the home and the open space tract locations. Then, none of the 10 trees along his property line would need to be cut down because they would be in the open space. It would not impact his large Big Leaf Maple or the dripline, and his maple tree would not be touching or encroaching on the new house 10 ft from his property line, which seemed like a good balance to him.
- Swapping the proposed home and open space tract would also eliminate the need for a private drive. He understood the City was careful about creating more impervious surfaces. Instead, there could be a nice pathway, which would be a very nice space. Having raised a lot of children, he would rather have his open space be a bit protected by neighbors rather than open to the street. It would actually create a more desirable open space, reduce the amount of severe grading necessary, and potentially, by running the storm line over the back hill similar to Phase II of the project, reduce additional impact to trees. He had a large oak tree on his property that would probably be killed by the storm drain access and he would appreciate the Applicant's consideration in relocating the open space.

Joan Carlson stated her address was on record. She noted the previous speaker was her husband and they were thankful for the DRB and how they had taken a tremendous amount of time to evaluate the proposed project as it was very important to them, their neighbors, their children, and grandchildren. She cared about the city and what was done in the city as it continued to grow and develop. Wilsonville was a great place to live, and she wanted to keep it

that way. However, at some point, the high rate of development needed to slow down. Wilsonville was a Sterling Tree city, and residents took that very seriously. She had reviewed the March and April editions of the Boones Ferry Messenger, which included multiple articles about what a great city Wilsonville was and how the City protected trees. The proposed project did not match up with that. She was very concerned that the developer wanted to remove 21 trees and believed that in reality, all of the trees would be removed. Those trees are big, beautiful, native trees that had stood there for many years and even survived the February ice storm. She asked the DRB to do the right thing and slow this down.

- In her perfect world, the zoning would not be changed and her neighbors to the north could buy the property and put a horse on it. Short of that, she was grateful the project had been reduced from eight to five homes, but she would also like to see Lot 1 moved to the north. She had chickens in that back corner on her property and they were very noisy in the morning. That would be a problem for her new neighbors if Lot 1 stayed in its current proposed location.
- She asked the DRB to protect the city's urban treescape. The tree canopy in the area was beautiful and they hated to see it go. She asked the DRB to take another look at the SROZ area as shown in the 1997 aerial photograph displayed earlier and note all the trees that used to be there. The current developer had spoken about replanting down in there, but she did not think that was a viable idea because the trees being removed were 20 to 30 ft tall. She noted the developer still wanted to remove the four trees on the City property and did not believe his Tree Plan had changed at all.

Brenda Troupe stated that her address was on record and thanked the Applicant for reducing the number of homes from eight to five. Lot 1 was the largest lot on the site at 10,000 sq ft. As proposed, the side of the home on Lot 1 would back up against her back property line and be only 10 ft from her backyard. The other four homes would have normal 20-ft setbacks. She would have part of a Lot and all of Lot 2 in her backyard. One home would be 10 ft from her backyard and the other 20 ft. At the very least, it should be 20 ft from her property line consistent with the other four homes.

- The maximum height of a home in Wilsonville was 38 ft from ground level. She asked if the DRB understood how tall that really was. To give them an idea, she presented a photo of the Cape Meares Lighthouse, which was 38 ft tall. She would have a structure as tall as a lighthouse 10 ft from her property line. Because the original Plan had called for three homes to be built along the east side of the property, and now that was reduced to one, it would seem there was sufficient room to move that house farther to the north and eliminate some of the problems she had outlined.
- She agreed with Mr. Carlson's suggestion to switch the locations of Lot 1 and Tract A. It would solve the problem of a 38-ft house 10 ft from her backyard. In addition to the ideas mentioned by Mr. Carlson, the switch would prevent car headlights from shining into their back windows, minimize fire hazards caused by the close proximity of a house on Lot 1 to her house, and improve privacy for both her family and the new homeowner. The change would make it equitable to both herself and the new homeowner. She thanked the DRB for their consideration and time and noted that now was the time to do the right thing.

Chip Halstead stated his address was on file and he wanted to focus on the new road that would access the five homes and the waivers required to build it. Current City Code stated that no dead-end road could exceed 200 ft and that any such road needed to be 28-ft to 34-ft wide. To avoid those restrictions, the developer's proposed plan indicated their access road was not a dead end, but a through street. That was not true. The proposed future through street would need to cut straight through the next door neighbor's \$1.8 million property, dividing their recently built home from the church building in back. It would strand their home on an island surrounded closely by streets on all four sides. No one he knew who would want to live in such a terrible location. He wondered who would spend \$1.8 million to buy the home and church only to tear them down to construct a through street and another subdivision. He did not believe any through street would be built during his or anyone's lifetime. That meant the Code violations for the access road would not be rectified for 50 to 100 years. It would really be a dead-end road over the 200-ft limit, not 34-ft wide, and with no turnaround at the end for cars, trucks, or emergency vehicles. For those reasons, he strongly recommended the proposed subdivision plan and access road not go forward as planned.

- Over the weekend, he and his wife had walked through the neighborhood and had spoken to many people about their feelings regarding the rezoning needed to build the proposed development. Of the 42 people they had spoken to in person, 39 signed the petition to oppose the development, which was more than 90 percent. Additionally, a Facebook poll sent to the Renaissance Canyon Creek neighborhood received 34 more responses with one person in favor and 33 opposed, many of whom were not even aware of the proposed development until they got the poll; that was more than 95 percent opposed. The majority of the neighbors he reached stated they were concerned about the trees, the parking, the safety, and firmly opposed this proposed subdivision. He hoped the DRB would listen carefully to all of their voices and thoughtfully take their concerns to heart.

Michelle Calcagno, 7563 SW Vlahos Dr, Wilsonville, OR stated she had not planned on speaking but wanted to address something Mr. Bradford had said in his presentation. She understood the considerations of development and what had occurred in the past, but just because something was done before, did not mean it was still the correct course of action in the present. In 1988, climate change was something people talked about that might happen, but that was not the reality today. She wondered why people would continue to be complacent when they should be more aggressive in their decisions about what to do with trees. Climate change was not coming—it was here. There were insane fires, ice, hurricanes—insane weather. How much rain had fallen this month? Hello—climate change was here. The trees had to be considered. While not amazing white oak or a precious species to keep, they were beautiful, native trees that offered shade and added to the urban canopy. She understood not every tree could be saved, but the earth was at an inflection point and this had to be thought about. Sometimes that meant trees had to be chosen over development. If not, what was going to happen?

- She agreed with Mrs. Carlson that the SROZ did not look the same. A lot of it was dead and covered in blackberries. She asked the DRB to just please think about it.
- She also agreed with swapping Tract A and Lot 1, and then there would be an impervious walkway. The developer had said they did not want the open space shady where people

could lurk, but it was surrounded by homes on three sides, so a lurker would be noticed. Who didn't have motion detectors at the back of their property?

Helena Lulay stated her address was on file. She wanted the DRB to understand how appreciative neighbors were of the DRB's respect for the citizens' input. It was unbelievable that this had come to this. If not for the extension and the City meeting with the developer, there would be eight homes on that lot that would not meet Code, the density transfer. She also thanked the City for meeting and having the conversation as well.

- She believed there had to be a new Tree Plan. As she understood it, the old Tree Plan included four City trees, which were part of the 26 to be removed. Those four trees had been removed, and she wanted to know if that meant another four trees were removed. On pages 22 or 23 of the previous meeting minutes, Mr. Miller had stated a home could not be built on what was Lot 8, currently Lot 5, even with a 10-ft setback. The lot was now almost 2,000 sq ft larger, so she could not understand why all of the trees could not be protected. The street could be 38-ft wide and still get what the Applicant needed, while also protecting the trees.
- She was kind of insulted by the slides of the area in 1988 and 1997 that showed how the area compared to how it was now. The SROZ was a forest; now, it was just little sticks. There were questions that needed to be answered. She wanted to know about a real Tree Plan and what it looked like. She did not believe that neighbors would have the opportunity to see one or speak to it because tonight a decision would be made. It needed to move forward for all the right reasons and she appreciated that, but there other questions. She asked if that easement was ever researched and if anyone had an answer on the easement that was discussed at the last meeting. There were still unanswered questions that needed to be addressed. She believed the DRB had done a great job, and she appreciated it, but there were also questions about the property line. She asked if the arborvitae that ran down the center of the property line would be protected. No one knew.
- As a homeowner, she was afraid to wake up one morning to the sound of a chainsaw and those trees coming down in in her backyard. She asked the Board to do the due diligence it had already done; the neighbors really appreciated it. This process worked. The citizens' voices needed to be heard, and the citizens needed to understand who was accountable and where to follow through. She appreciated the DRB's time tonight and looked forward to some answers.

Greg Pelsner stated his address was on file and he was concerned about the new street. He understood the new street had gone from 24-ft to 26-ft. He was unable to find any Code requirements for street width and parking. Although he was happy that the revised Plan included street parking, he did not believe 6-ft was wide enough for parking. It was his understanding that public streets needed a minimum of 20-ft of clearance for emergency vehicles, which would only leave 6-ft here for parking. His own vehicle was more than 6-ft wide. The Code requirement for minimum parking width for compact cars was 8.5 ft, 2.5 ft more than the proposed street width. He requested that both the developer and Staff look at that again. He wanted to ensure there was 20-ft clear for emergency vehicles, as well as adequate street parking. Although he had seen no elevations, he was fairly certain that the curb on the north side of the street was too high to allow a parked car to open its door.

- His main purpose in testifying tonight was to thank everyone. He thanked Staff for their efforts and re-review of everything. He had been involved in local, state, and national code interpretations and wanted to remind everyone that codes were minimum standards for development and construction and asked that the DRB keep that in mind when allowing multiple variances. He thanked the DRB for listening to all of the testimony, especially late into the evening on April 12, 2021. They all very much appreciated what the DRB did. He thanked Shelley White and advised that she had been great to work with, and he thanked Bill Spring for his patience through this process.

Ms. White stated there were no more citizens who wished to testify.

Chair McKay stated that he and the DRB appreciated everyone's kind words, but the DRB could not take credit; it was truly citizen involvement that made the difference. He noted the citizens' involvement was unprecedented, at least during his time on the Board. He thanked everyone for their testimony last month as well as tonight. He called for any questions from the Board of the Staff, the Applicant, or any member of the public that had provided testimony.

Rachelle Barrett asked Staff for guidance or clarity regarding the placement of Lot 1.

Mr. Pauly replied Staff did not dictate every aspect of a project's design. Ultimately, the Applicant might be able to meet the Code even if not ideal. If putting Lot 1 to the north was the design preference and it met Code that might be acceptable. He noted the area was not an open wildlife area, but meant for active recreational use. It was called usable open space in the Code because of a requirement program usable open space. Access and topography were important. From an urban design standpoint, Staff loved to see open spaces as the focal point at the terminus of the street. It was commonly accepted and desirable to turn the vista at the end of the street into an open space. Visibility from the street was in the Code and was important from a public safety standpoint to allow patrol officers to see into the open area as well as residents from their homes. These things were supportable from a Staff standpoint regarding the proposed location of the open space.

Jean Svadlenka asked if the SROZ transfer was waived now, would it not be able to be utilized by the builders in the future.

Mr. Pauly replied that was not something that could be changed administratively. It was subject to the Board's review as part of the subdivision review tonight. Any change would have to return to the Board as it was the same process as used tonight.

Ms. Svadlenka asked if the new road design had been shown to Republic Services and Tualatin Valley Fire & Rescue (TVF&R) for them to assess the dimensions and accessibility. She understood the prior design had been shown to both services previously.

Khoi Le, Development Engineering Manager, replied Staff did not usually show public street designs to public services or delivery companies, but Staff did confirm the 26-ft-wide street was

wide enough for parking on one side according to the cross street section for a local street as interpreted from the Transportation System Plan (TSP). That also answered the earlier question during testimony about how wide the street would be and whether it would accommodate on-street parking on one side.

Mr. Bradford responded that Staff did not show the revised road design to Republic Services or TVF&R because it had become 2-ft wider and that fell within the standards and conditions the City already had from TVF&R for street width and parking on one side.

Ms. Svadlenka asked how a 2-ft increase in street width would be able to accommodate parked cars on one side and still allow emergency vehicle access.

Mr. Le replied that local streets with parking on one side were not expected to accommodate travel in both directions at the same time. Even with a car parked on one side, the 18-ft wide street could accommodate two cars traveling in opposite directions, but when a garbage truck or emergency vehicle came through, it was expected that other drivers would share the road.

Mr. Miller stated that if there was any concern with the on-street parking, the Applicant was more than willing to remove it. They had widened the street and added on-street parking in a good faith effort to respond to neighbor concerns raised at the last meeting. The current design met all City requirements, which TVF&R operated from as well. The Applicant was agreeable to either the original 24-ft-wide street with no on-street parking or the current design and would leave it up to the DRB to decide.

Mr. Pauly replied that there was a two-step approval process. TVF&R was involved in the development of the standards in the TSP, and signed off on an acceptable road width for parking on one side. For a subdivision application review, the primary concern of TVF&R was turn radius, the ability to get a hose to all homes, and if alternatives, such as sprinklers were present in the homes. They would not review the width of a particular street at this point in the process as those standards had already been agreed upon.

Ms. Svadlenka confirmed with the Applicant that the home on Lot 1 would still have fire sprinklers installed. She asked if Trees 6245, 6246, 6247, and 6248 would only be removed if absolutely necessary and Staff deemed it as such.

Mr. Miller stated those trees were along the common property line of the existing right-of-way and Lot 5. The trees were not on any one property, but right in the middle of the property line. The Applicant stood behind the Tree Removal, Grading & Mitigation Plan and anticipated those trees would need to be removed to accommodate the development. That was why the Applicant supported the conditions of approval. They were showing the trees they believed needed to be removed to develop the property.

Ms. Svadlenka noted the Staff report stated, "The Applicant shall submit a revised Tree Preservation & Removal Plan that shows the retention of those trees, including proper tree

protection fencing.” The Staff report also said that should those trees require removal in the future, then City approval would be required.

Mr. Miller responded then the Applicant would operate under that condition of approval. He confirmed they would be removed only if necessary and supported by an arborist.

Mr. Pauly clarified that at that point, if all evidence pointed to removal being necessary, the Applicant would have to obtain signatures from the proper City officials to remove them, just like any other neighbor.

Ms. Svadlenka asked if the trees were currently in the official Tree Removal Plan.

Mr. Bradford replied per that condition.

Mr. Pauly asked if the condition needed modified a bit. The intent was that those trees would operate similarly to the trees along the back property line which were intended for retention if at all possible, while recognizing the feasibility of retention was currently unknown until the exact location of the foundations were identified as well as the roots in those locations. If the Applicant showed the trees could not be retained, the City would sign off on those removals, similar to those along the south property line.

Chair McKay asked if the question was whether the 21 trees that had been identified included the trees that were not intended to be removed.

Ms. Svadlenka responded that as of now, the 21 trees to be removed did include those four. She wanted to get the numbers clear in terms of how many trees were definitely or might possibly be removed

Chair McKay confirmed it should state 17 trees.

Mr. Bradford stated Condition of Approval PDF8 was revised with additional language to clarify that if the trees should be removed in the future, City approval would be required and the Applicant would have to follow the steps outlined in Condition of Approval PDF9 to demonstrate the removal was necessary. Condition of Approval PDF9 discussed the arborist report and whether those trees needed to be removed, based on the house plans. If so, it would be verified with a second arborist. Although the preference was for the trees to remain on the site, he believed those trees should stay slated for removal because then the mitigation would remain consistent if they were indeed removed in the future.

Ms. Svadlenka stated that as she recalled from the last meeting, the eight trees on the southern border across Lots 2, 3, and 4 would be preserved if possible, but it was not likely based on where the house would have to go on those lots. She asked if it made sense to add those trees to the Tree Removal Plan to allow mitigation for them, since they would likely be removed.

Mr. Bradford replied the overall mitigation was such that no matter what happened, the 36 trees being planted would cover those eight trees if they were removed.

Mr. Pauly added that prior to any tree removal, Staff issued an administrative permit that confirmed the mitigation. He believed that would be the case if the trees in question had to be removed. However, if mitigation was not called for, Staff would require it. There was no window for the Applicant to get out of mitigation.

Ms. Svadlenka stated approximately ten trees were slated for removal across the new design of Tract B and Lot 1. She asked if the trees could remain if Tract A and Lot 1 were reversed.

Mr. Miller responded that not all of the trees to the south would be able to remain. He reminded that currently, a storm line needed to come down through the southeast corner of Lot 1 to connect to the existing storm line in the subdivision to the south, and there were trees in that corner where the storm line would have to exit. It was preferable that storm lines maintained no more than a 45-degree angle, and to maintain that angle and connect the new storm line to the existing storm line, the pipe had to come out at a certain point on that property. Therefore, the trees in that corner would have to be removed to accommodate the storm line.

Ms. Svadlenka understood that according to the plan she had, only five trees had to be removed to accommodate the storm line, but the other five trees could potentially remain if Tract A and Lot 1 were reversed.

Mr. Miller confirmed Ms. Svadlenka was correct.

Chair McKay read from page 12 of the Staff report, "Removal of 21 trees outside the SROZ due to grading and site improvement, and one tree due to poor conditions," and asked if they were talking about 21 trees or 22 trees.

Mr. Bradford replied that one of the 21 trees was being removed due to poor condition.

Ben Yacob asked if there were other options for the storm line other than connecting to the existing storm line in the subdivision to the south, such as the creation of a dry well to allow the stormwater to permeate into the groundwater aquifer or redirecting stormwater into the creek.

Mr. Le replied that the City required the new stormwater line to connect to the existing manhole to convey the stormwater runoff generated by the development. City Code did not allow dry wells. Directly to the creek could be an option, but was not preferable. The requirement stated that it had to connect to an already established stormwater system. The City did not like to discharge into the creek because they did not want to disturb the natural area of the creek or cause erosion of the creekside into the creek.

Mr. Yacob stated that if the stormwater was fed into the creek, it could potentially provide more habitat and water for more trees and life, as opposed to having it directed into the stormwater pipe and erosion could be monitored on an annual basis.

Mr. Le agreed that it could be, but the Code requirement stated it had to be connected to an existing stormwater system. The City tried to minimize outflow to the creek and allow only natural flowing water, as opposed to water generated from developments.

Mr. Yacob thanked Mr. Le, adding he had lived in Wilsonville since 1984 and remembered when the creek was just a trickle. Now, when he walked along the Boeckman Creek Trail, he saw culverts that added water to Boeckman Creek. He understood directing stormwater into the creek was not preferred, but there were precedents where it had been done in the past.

Mr. Le stated he believed it had been done in the past when there was no restriction. As far as he understood, the requirement was to minimize outflow to a natural creek or river. Maintaining the outflow that pre-dated the regulation was very expensive and required a lot of manpower from Public Works. Staff was looking to update the Stormwater Master Plan to improve the outflow to ensure that it continued to function, as well as eliminate erosion to the creek bank. That work disturbed a lot of the natural area due to construction equipment going down there. Therefore, the City preferred not to have any additional outflow going into the river or creek.

Mr. Yacob noted that as part of the Master Plan, a bike lane would be added to the Boeckman Creek corridor that would connect Canyon Creek to Memorial Park, which would cause disturbance to the area.

Ms. Jacobson advised continuing the discussion after the City's Natural Resource Manager had joined the meeting.

Chair McKay stated that both Mr. Miller and Staff agreed there was an error in the plans where the setback on Lot 1 was listed at 7-ft as opposed to 10-ft. He asked if Staff would consider adding a condition that the Site Plan be updated to fully comply with the setback requirements to ensure that it was codified.

Ms. Jacobson replied she had heard the Applicant state he was agreeable to that, so it could be added as a condition and included in the resolution, if the DRB decided to approve the project.

Mr. Miller agreed with Ms. Jacobson and added that it could be as simple as stating that lots over 10,000 sq ft must meet the applicable setback requirements.

Mr. Bradford confirmed he would write up and read a condition into the record that the Board could add. Otherwise, it would be reviewed at the Building Permit process when setbacks were checked on the actual home site. Adding a condition would provide additional assurances.

Chair McKay believed adding a condition made sense. He asked if the arborvitae were on the property line and if they would be maintained.

Mr. Miller replied the arborvitae were either on the property line or south of the property line, which was why they were not shown for any type of removal.

Mr. Yacob stated that a new stormwater line would be ran through one of the proposed lots and connect to a manhole on the Vlahos Dr side. To achieve that, some trees had to be removed. He asked Mr. Rappold why that stormwater could not be funneled to the Boeckman Creek waterway along the corridor because he had seen culverts into the creek at the Boeckman Creek Trail and other locations along the corridor.

Kerry Rappold, Natural Resources Manager, responded that he did not have the drainage report with him, but there was a chance that there was a topographical break there. Some of the stormwater from the Renaissance subdivision ran off to the west, and the City did not like to see out-of-basin transfers as far as stormwater runoff, but preferred to see historic drainage patterns maintained. That was possibly the issue, but without the report in front of him, he did not know for sure. There were outfalls in the Boeckman Creek corridor that took runoff from other developments along Canyon Creek.

Mr. Yacob noted the City was going to build a bridge on Boeckman Rd, as well as a proposed bike path from Canyon Creek down to Memorial Park. He did not believe adding some stormwater would be significant, whereas building a stormwater pipe that went through backyards and took out trees could have some impact.

Mr. Rappold replied it was City policy to not redirect historic flows or drainage patterns. It could potentially be looked at, however, if the City had that direction.

Mr. Miller stated the Applicant was agreeable to either solution, but the City would have to decide that because the Applicant had designed to City Code. As he understood it, the DRB would need to direct the Applicant to do anything outside the Code.

Chair McKay recommended a condition be added whereby the City reviewed the potential to direct stormwater runoff directly into Boeckman Creek. If that was deemed not possible, then it would go as is. He understood the Applicant was amenable to changing where the stormwater runoff went, but the City had to indicate they wanted to do it that way.

Mr. Yacob replied that he would like to make that motion. He understood the City had defaults, but if this deviation from that default saved some trees and allowed the Applicant to move Lot 1 from the south to the north side of the site, it would alleviate a lot of concerns people had, including digging up their backyards to connect to a manhole on Vlahos Dr.

Mr. Pauly stated he did not know that they could make a decision but he did know that it was an alternative.

Mr. Jacob stated he wanted to make a motion to request City Staff to research the issue.

Chair McKay responded he had made note of that and would make sure it was raised during deliberations and worded in an acceptable way.

Mr. Miller noted that when the subdivision was designed originally, the pipe was daylighted because they were unaware of the existing manhole. When they daylighted the pipe down into the SROZ, it disturbed more trees, and those trees would have to come out to get that pipe to daylight. It was a tradeoff between removing the trees at the southeast corner of the site or the trees in the SROZ.

Mr. Jacob said he appreciated that, but there was also the issue of disturbing people's property.

Mr. Miller replied that he understood and was leaving the decision to the DRB. He simply wanted to make sure it was understood that either solution meant the loss of some trees.

Kathy Neil stated she understood the Applicant did not want to switch Lot 1 and Tract A because the elevation gain was not amenable to the community space. However, it looked to her like the elevation gain on Lot 1 and Tract A were similar. She asked if the storm drainage was corrected, would the elevation gain be an issue in switching the two lots.

Mr. Miller responded the Applicant was more than happy to swap Tract A with Lot 1 and confirmed they would do so in such a manner that all of the requirements were still met. Tract A would remain at its current proposed square footage and the remainder would go to Lot 1. He was also agreeable to either including or not including street parking, running the storm sewer line to the SROZ or down to the existing manhole, and to all the conditions of approval.

Chair McKay stated that Page 12 and Page 67 of the Staff report showed the original design with eight lots. He asked if that was intended to be deleted.

Mr. Bradford replied that was intentional. Although the Tree Plan had not changed, the lots did, but he had not provided a new one because it was unlikely the condition would change so it was not necessary to redo the overlay because it would not result in a very different site condition.

Ms. Jacobson added that when the resolution was made, Chair McKay could clarify that it was based on a 5-lot design.

Chair McKay stated that a concern had been raised by a neighbor that a prior builder had not followed through on their obligation for items such as setbacks and preservation. He noted that the report stated the City would conduct a review for the plat and/or sub-plat and the setbacks. He asked Mr. Miller if that was an actual City obligation or just something the City planned to

do. A question for the attorney would be, "Could the DRB obligate the City to do a review to enforce all the conditions for the builder."

Mr. Pauly replied that it was built into the process. Tonight was one step in the process. Then a plat review would be conducted, at which time any conditions were double-checked to ensure they were met. During the Building Permit phase, setbacks were tracked. Conditioning a review by the City would be moot. A better approach was to call out City Staff to the site during plat review or Building Permit review if any conditions were unclear or needed to be further highlighted. Reviewing the conditions of approval was a kind of checklist at both of those checkpoints. He confirmed City Code stated that permits could only be issued consistent with DRB approval.

Chair McKay appreciated that parking on one side of the proposed street had been added. He noted that on the drawing there was a bit of a road expansion where the public road met the private road and asked if that was large enough to allow a vehicle to turn around. He asked if in the alternative, a waiver to the open space requirement could be provided so there could be a cul-de-sac that would allow turnaround.

Mr. Miller stated it was not possible to have a cul-de-sac and an open space due to the size of a cul-de-sac. It was a stump street, but he was confident that eventually it would be a through street. Even if the open space was shifted to the south, a hard surface would still be needed, especially if they connected the storm line to the manhole to facilitate access to the manhole. A hard path would also be necessary for pedestrian access into the open space area. One option would be installing a bollard for vehicles to pull into and back out of to turn around, but a cul-de-sac was not an option.

Chair McKay asked Mr. Miller if he was amenable to adding something that allowed for some kind of vehicle turnaround.

Mr. Miller replied they could work with Staff to come up with different ideas but cautioned against a hard surface that was open to the open space if Lot 1 were located on the north side. A bollard was an option because vehicles would only be allowed to go approximately 20-ft in and then turn around.

Chair McKay stated he assumed that if Lot 1 and Tract A were swapped, the plans would be drawn up a little bit differently. He believed there would be less hard surface and the 16-ft-wide private drive that went all the way through would be turned into a path or something else.

Mr. Miller replied that was correct. Ultimately, the final design would depend on whether the stormwater was discharged through the existing manhole or into Boeckman Creek. Other manholes would have to be added to the storm line route that would also need to be accessible for cleaning. He could not answer the question specifically, but advised some hard surfaces would be needed. The width might be 20-ft where it met the public street to accommodate the turnaround pocket and then taper down to 5- or 6-ft for a sidewalk into the open space.

Chair McKay asked Staff how a motion would be made to make an amendment to the conditions. It was obvious there would be a modification of Tract B, so he asked Staff how a modification that was consistent with their intent would be made if the DRB did not want to hear that.

Mr. Pauly replied the intent of the motion should be very clear so the design team and Staff had clear direction. He asked Mr. Bradford if any other Code considerations should be considered, such as regarding public safety and line of sight for the open space.

Mr. Bradford replied that a few things just discussed had raised a few Code concerns that he wanted to address. First, regarding comments about possibly waiving the open space requirements, he cited Section 4.118.B, "The following shall not be waived by the Board unless there is substantial evidence in the record to support a finding that the intent and purposes of the standards will be met in alternative ways" and noted first item that shall not be waived was the open space requirements in residential areas.

- Swapping the lots would also result in difficulty meeting the Site Design Review standards. Tucking the open space behind houses would limit line of sight and make it difficult to meet the public safety and crime prevention standards. Open spaces were designed to be usable, and by nature. Tucking it back in an area where it could not be seen would defeat the purpose of the open space. Residents had to know it was there in order to use it.
- Including a turnaround could be detrimental to designing the open space and be problematic when the open space criteria were considered during the Site Design Review. A turnaround feature would take up space from a beneficial feature for the community that was listed as an amenity that should be provided within open spaces.
- Currently, the open space was shown in a very visible location, seen immediately upon turning the corner. It would have fewer shadows cast upon it because it would not be blocked by any houses. The current layout was the most Code compliant arrangement, so he encouraged the DRB to consider what sort of design swapping those lots would result in and how that would benefit the community when it returned before the DRB fleshed out by a landscape architect.

Mr. Le stated the DRB could ask the Applicant to demonstrate how the private drive could be used as a vehicle turnaround, as he believed it would be sufficient for a turnaround as opposed to tacking more room on the open space for a turnaround.

Ms. Svadlenka understood that although the open space would be accessible to the general public, it was intended for use by the five homeowners as they would be responsible for its maintenance through an HOA.

Mr. Bradford confirmed the open space was not a public park. It would not be fenced and be open to anyone. Even though the open space would be controlled by the HOA and meant for those residents, there would not be a barrier, so anyone could use the open space.

Ms. Svadlenka stated that the previous plan that had Tract A across the road featured a fence around Tract A. She believed having it behind Lot 1 would remove the need for a fence because it would be semi-protected for use by the residents of the five homes. She noted Ms. Lulay had mentioned an easement during her public testimony and asked what that was about.

Chair McKay recalled there being an easement on the street on a past map, but the current site design omitted it, and the Board had sought clarification on it.

Mr. Pauly stated if it existed, it could stop the development but the City was not party to that easement, so the DRB should operate under the assumption that it had been resolved. It was a private easement of some sort, potentially. The owner of the easement would have to be the one to enforce it. No agency existed that owned or took responsibility for the easement at this point. It was beyond the DRB's scope tonight to resolve that private item.

Ms. Svadlenka asked who the public would contact to report illegal parking.

Mr. Pauly replied the police or the Traffic & Parking Concern Team. The City had a Code compliance specialist. Citizens could use the City's website to file a complaint and it would get assigned to the right place for resolution.

Mr. Yacob stated that in the previous plan, Tract A was next to a house behind the Sundial Apartments, which resulted in some shadowing. He asked why shadowing was not a concern then, but was a concern now that Tract A was being moved to the east of the property.

Mr. Bradford responded the context was very different. In the previous plan, the parking lot of the apartment complex was adjacent to Tract A, and no structure would have cast shadows or blocked it. The unimproved right-of-way provided sight lines into the open space. The adjacent house was one-story, and the public sidewalk would go right along the access point to the open space, providing a visual cue that there was something there. Whereas on the new site plan, the open space could be walked passed and completely missed or assumed to be private property rather than a residential open space. Staff had concerns about the original Tract A, so an herb garden was included in the design to push the active use space more within the public view shed. With that, he felt more comfortable writing Code findings that stated the open space met the site design review, public safety, and crime prevention standards. He did not know how he would write findings to support an open space where the current Tract A and Lot 1 were swapped. He confirmed that the upkeep for Tract A would be funded through HOA for the 5-lot subdivision and not the City.

Mr. Yacob noted if the homeowners were paying for the upkeep of Tract A, they would know where it was located.

Chair McKay asked if the Applicant had any rebuttal.

Mr. Miller replied no, adding that he believed a lot of ground had been covered tonight and he appreciated the conversation. The major concerns had been addressed. He reiterated that there had been concern with the original Site Design and the Tract A open space around line of sight into the area, which was why the Applicant had suggested no fence in the front and either a lower fence or a chainlike fence on the property to the north. There had been quite a bit of discussion about that as Staff had tremendous concerns about safety. The Applicant had responded by moving the usable open space to the front. He reminded that the Applicant was agreeable to swapping Tract A and Lot 1, if the DRB wanted, but Mr. Bradford had raised some good concerns about Tract A being located to the south of the site because there would be an access easement over the new Lot 1 to the north in order to access the open space. The intent of the open space was for use by residents of the subdivision. Others would likely be discouraged from using it if they had to walk down to access it.

- He noted public comments regarding the building heights and assured the Applicant was building to City Code and asked that the Applicant be afforded the same right as any other builder in the city to build to the Code standards for a structure
- He reiterated that the trees were planted by the property owner. There could be native species, but they were not native in terms of having grown from a fallen pinecone. They were actually planted as screening for his property from the neighboring subdivision to the south. He was now asking that the property be developed, and to do that, the trees needed to be removed, and new trees would be planted for mitigation. He believed this was simply the natural progression of development within the city limits; nothing too crazy. A city had to use the developable land within its city limits and make efficient use of it so the city limits did not sprawl out into the county. He did not think some chickens would be problematic because roosters were not permitted within city limits.
- The street was a designed stub street. Regardless of how people believed it would function, that was the intent. The Code required streets be stubbed out to developable property to provide that opportunity. He understood the street exceeded 200 ft, but the Applicant had demonstrated that there was space for fire trucks to back out, and delivery and garbage trucks could turn around.
- Everything was to City standards and the Code requirements were met. He understood people said the Code was a minimum, but that was where their designs started. If there was the ability to add something to a project or provide a unique feature, developers were not opposed to doing that, but developers had to start somewhere, and that was with the Code. That was the Wilsonville standard, what people expected projects to be built to, and the Applicant had presented a project that complied with all applicable criteria. The street design, tree mitigation plan, tree removal plan, future home sites, and lot sizes all satisfied the criteria, and no waivers were being requested.
- During the Building Permit Review process setbacks would be checked to make sure they were being met. All the checks and balances were in place to approve the project as proposed with the conditions of approval recommended by Staff. The Applicant was happy to change the open space or eliminate the on-street parking if the DRB so desired. He believed the Applicant had gone above and beyond. Not many developers would reduce an already small project by three lots, and he believed it was commendable that the developer had done that, realizing he needed to play along with everybody and did so. They now had

a project that not only met the criteria, but was more suitable for the neighbors that lived in the immediate area, specifically the four along the southern boundary and the one to the north, who were the most impacted. He believed this project responded to their concerns. He thanked everyone for their time.

Mr. Pauly asked what location Mr. Miller preferred for the Tract A open space and why.

Mr. Miller replied that based on neighborhood comments, the Applicant was agreeable to swap the Lot 1 and Tract A open space. They had proposed the Tract A open space in its current location to meet Staff's comments and the City's concerns and preferences for neighborhood safety concerns and line of sight. He reiterated they were happy to move it if that made the neighbors happy, but the current location met City Code.

Chair McKay understood that although Tract A was meant to be an open space maintained by the HOA, it would be open to the public in that anyone could walk into the property.

Mr. Pauly replied open spaces typically had public access. Nothing in the Code required that it have public access. Currently, it was designed to be open, and typically, it made sense to provide public access even though nearby residents would be the primary users of the space. Over the years of allowing public access to neighborhood parks such as this one, he had not heard of any concerns from HOAs about public usage of parks.

Ms. Barrett stated she was curious what the Codes were for open spaces.

Mr. Pauly understood there was one more comment to clarify the road access or road as a lot of numbers were discussed about the width of the road.

Mr. Le stated he had been asked why the Applicant was not required to provide the minimum 28-ft wide street curb-to-curb. He explained the developer was required to provide half-street improvements, enough to be 12-ft of the street, but in order for the street to function correctly, it needed to accommodate two-way traffic. Initially, a 24-ft wide street was proposed and with the parking issues, another 2-ft was provided, making the street 26-ft-wide, which was beyond what the developer was required to provide. Therefore, the developer had met the street improvement requirements for the subdivision.

Mr. Pauly understood there were still some questions regarding open space requirements.

Mr. Jacob stated when he accessed the Boones Ferry Trail, he had to go through a shared driveway between two homes that had a wall and no line of sight until he arrived at the water treatment park. He noted there were open spaces in Wilsonville that were out of the line of sight.

Mr. Pauly stated that was correct, but that was not the preferred design.

Mr. Bradford understood that trails did not go through the same Code criteria.

Mr. Pauly confirmed that was correct because they were on a right-of-way.

Chair McKay called for Board members to discuss any proposal to add, remove, or modify conditions of approval after which the Applicant would have the opportunity to respond.

Chair McKay stated that quite a few exhibits recommended swapping Lot 1 with Tract A and he wondered if that was a condition the Board should add. Last month, the Board had also received a couple pieces of written testimony that mentioned the Canyon Creek neighborhood was also lacking usable open space. As currently designed, the proposed development's usable open space could also be utilized by neighbors from Canyon Creek. He added that now was the time for the Board to add that condition if so desired.

Ms. Barrett stated she was having a difficult time weighing the open space. She lived near an open space in Hazelwood that was behind houses, and the only people who knew it was there were those that lived near it. All of the nearby children played back there and it was safe, although it was different than the proposed setup as there was a path with lighting and an easement for the school.

Ms. Svadlenka said taking into consideration Staff's recommendations as well as the Tree Removal Plan, the proposed community would be small enough that the neighbors on the southern border, as opposed to the northern border, would know the open space was there. She was in favor of swapping Tract A and Lot 1.

Mr. Yacob agreed, noting the added benefit of swapping Tract A and Lot 1 was mitigating encroachment on neighbors' properties as well for added privacy for existing neighbors and the eventual new homeowners.

Kathy Neil disagreed and believed the homeowners on that street would prefer a visual green space. It would make the street look nicer and be more inviting instead of just all homes. The developer had accommodated the current neighbors' requests with the addition of street parking and the reduction in the number of new homes. The needs and desires of the future residents had to be considered as well. Personally, she would feel awkward going by someone's home to access a green space. Additionally, there were areas in the back where the safety was questionable, and any children playing back there would not be visible.

Chair McKay summarized the conditions and amendments that the Board had discussed so far as follows:

- Add a condition to update the Site Plan to fully comply with the City setback requirements to address the one noted as 7-ft that should be 10-ft.
- Add a condition that the City review with the Applicant the feasibility, environmental impact, and impact to adjacent properties of having the stormwater exit to the creek. If

feasible, the Applicant would modify their plans to divert stormwater to the creek and minimize disruption to adjacent properties.

- Add a condition to swap Tract A with Lot 1 while maintaining open space requirements.
- Add a condition that the Applicant demonstrate the private drive could be used for vehicle turnaround to provide for vehicle safety.

Ms. Barrett asked if an updated Tree plan would be needed.

Mr. Pauly said he believed the Tree Plan was where it needed to be for Staff to execute it; substantially compliant with the DRB approval. The correct amount of lots did not need to be shown. If certain trees were in question, any conditions needed to be fairly specific with clear directions to Staff in the conditions.

- He noted the record was clear that the 7-ft setback was a typo and should read 10-ft. Adding a Code requirement in as a condition was a moot point since the Code requirement was already there and no waiver was requested.

Ms. Svadlenka asked if Tract A and Lot 1 were swapped should the five trees that would no longer need to be removed be specified in the conditions.

Mr. Miller responded those five trees could only be saved if the stormwater sewer was relocated to the creek. If the storm line had to connect to the existing manhole, those five trees in the southeast corner would still have to be removed.

Ms. Svadlenka stated she understood the five trees in the southeast were still slated for removal and were not the same five trees.

Chair McKay suggested adding a separate condition to update the Tree Plan's number of trees to be removed following the final decision regarding the two new proposed conditions.

Mr. Pauly recommended the phrase "preserve any additional trees possible in the new open space tract pending the feasibility from a health standpoint."

Ms. Svadlenka clarified that the five trees she was referring to were all in good condition.

Ms. Barrett suggested the Board make a decision and then that language would not have to be added.

Chair McKay replied it would be up to the decision made at the end. He mentioned it in case it was required after the Board deliberated, and if it was not mentioned, he would ask to amend any motion made.

Mr. Pauly advised making a motion on the bigger item and then making any amendments or adding conditions, if necessary, that related to that item.

Chair McKay confirmed there was no additional discussion. He closed the public hearing at 9:08 pm.

Chair McKay thanked Staff, the Applicant and the members of the public for their work on the proposed development that resulted in changes that were positive for everybody.

Ms. Jacobson advised that if the DRB wanted to approve the resolution, but swap the locations of Tract A and Lot 1, which would be the first motion to make. If the DRB wanted to approve the resolution without swapping those tracts, the motion should be made as is with smaller items addressed after the motion was made and discussed. She confirmed the motions could be made one by one.

Chair McKay moved to add a new condition of approval to update the plans to swap Tract A with Lot 1, maintaining the open space requirements. Jean Svadlenka seconded the motion.

Chair McKay acknowledged this was a tough one; everyone had valid points. He invited Ms. Neil to restate her position if she wanted, noting that Ms. Barrett and Ms. Svadlenka had also commented.

Mr. Yacob stated he believed it was beneficial for neighbors to not have to look into each other's' yards through their windows. It was also beneficial not to have an green space directly at the end of a street due to many different scenarios regarding vehicles.

Ms. Barrett stated that as a homeowner, she was more in favor of the swap because she would prefer her house on the street, rather than down the flag lot and extra road that would need to be built.

Chair McKay stated he was on the fence. He appreciated all the comments surrounding this potential condition. He believed a line of sight to the open space would be nice for the other neighbors, but he also understood the homeowners would all know it was there.

The motion carried 3 to 2 with Kathy Neil and Chair McKay opposed.

Chair McKay confirmed he was fine with the City's justification as to why a condition for the setbacks was not needed.

Mr. Yacob confirmed he was satisfied with Chair McKay's earlier wording regarding the stormwater line. The intent was to connect the storm line to Boeckman Creek, not the existing manhole in Vlahos Dr, thereby avoiding the disturbance of private property and removing the requirement to cut down the trees from the southeast portion of the subdivision.

Mr. Pauly suggested making daylighting to Boeckman Creek the preferred alternative. He suggested the following language for the new condition, "City Staff will assess the Applicant's proposal of designing and installing a new outfall on Boeckman Creek in an effort to reduce site

and slope disturbance and tree removal. However, the preferred approach is to minimize the number of new outfalls to avoid impacts to Boeckman Creek. City Staff shall ensure any changes that revise lot layout or stormwater facilities for the proposed subdivision meet all adopted City standards and Code criteria.”

Chair McKay moved to add a condition of approval regarding the storm line proposed on the southeast side of the development as read into the record by Mr. Pauly.

- **The new condition stated, “City Staff will assess the Applicant’s proposal of designing and installing a new outfall on Boeckman Creek in an effort to reduce site and slope disturbance and tree removal. However, the preferred approach is to minimize the number of new outfalls to avoid impacts to Boeckman Creek. City Staff shall ensure that any changes that revise lot layout or stormwater facilities for the proposed subdivision meet all adopted City standards and Code criteria.”**

Ben Jacob seconded the motion, which passed unanimously.

Chair McKay moved to add a new condition of approval requiring the preservation of any additional trees possible in the open space as a result of the two newly added conditions of approval. The motion was seconded by Rachelle Barrett and passed unanimously.

Chair McKay moved to add a new condition of approval requiring the Applicant to demonstrate that the private drive could be used as a vehicle turnaround to provide for vehicular safety. Rachelle Barrett seconded the motion, which passed unanimously.

Mr. Pauly said Staff also suggested a condition that mandated a deadline for the delivery of the revised plans to Staff and recommended May 21st. He was not sure if that date was feasible but he did not want to leave it indefinite. Three to four weeks should be sufficient to write up a new report for Staff with all the changes. No construction permits would be issued until that was done. He suggested a date be set and it could be extended into the future as agreed upon in writing between the City and the Applicant, as the stormwater changes could take longer to design.

Mr. Miller stated he questioned the legality of such a condition, adding it was odd to require something to be delivered.

Mr. Pauly responded he understood Mr. Miller's viewpoint. There was a concern but nothing would be approved to be built until Staff had building plans to review.

Chair McKay asked if Staff was requesting a deadline be added as a condition.

Mr. Pauly stated it was not necessary. Staff had discussed it and the City Attorney concurred it was not necessary at this point. The Applicant also did not have time to challenge that condition.

Chair McKay confirmed the Board had no further motions or modifications to conditions to discuss.

Chair McKay moved to add all of the exhibits to the record, which included any presentations as well as testimony received and not included in the Staff report. **Rachelle Barrett** seconded the motion, which passed unanimously.

Staff advised calling out the specific exhibits by number that were being added to the record.

Chair McKay moved to adopt the Staff report as amended, which included the four (4) new conditions of approval and adding Exhibit A3, Staff's PowerPoint; Exhibits D33 through D40, additional written testimony submitted; and Exhibit B11, all emails received from the Applicant after 4 pm, including the Applicant's plan set presented during the hearing. **Kathy Neil** seconded the motion, which passed unanimously.

Chair McKay moved to adopt Resolution No. 388 along with the amended Staff report. **Ben Yacob** seconded the motion, which passed unanimously.

Chair McKay read the rules of appeal into the record.

VII. Board Member Communications

A. Recent City Council Action Minutes

Dan Pauly, Planning Manager, noted the Boeckman Creek Bridge and the Diversity, Equity & Inclusion Committee were big actions.

Chair McKay thanked everyone still present. This had been quite the experience for him with very thoughtful questions and a lot of citizen involvement. He understood some Board members were new and advised them that while the last meeting was difficult, it was not the norm and they should not expect that going forward. He thanked them for volunteering. He thanked Staff for their work with the Applicant, adding he was pleasantly surprised to see the revised application.

VIII. Staff Communications

There were none.

IX. Adjournment

The meeting adjourned at 9:38 p.m.

Respectfully submitted,

Paula Pinyerd, ABC Transcription Services, LLC. for
Shelley White, Planning Administrative Assistant