

# MEETING NOTICE FOR THE CITY OF HUBBARD

TUESDAY

FEBRUARY 21, 2023

PLANNING COMMISSION: HOLUM, KARTAL, MARNELL

This meeting will be an "ONLINE" meeting. Staff and the Planning Commission members will attend online utilizing Zoom. Members of the public may attend/view the meeting via telephone, electronic device, and YouTube. **Should you wish to speak during the public hearing portion of the meeting, you may sign up by completing the form on the City's webpage at: <https://www.cityofhubbard.org/bc/webform/sign-if-you-want-speak-meeting>, or calling City Hall 48 hours prior to the meeting.** Written comments may be provided in advance of the meeting by sending an email to [vnogle@cityofhubbard.org](mailto:vnogle@cityofhubbard.org) or mailing your written comments to the address provided below. If you desire to participate in the public hearing and are unable to provide written comments in of the meeting, and at least 48 hours in advance of the public hearing, please contact the Director of Administration/City Recorder, Hubbard City Hall, 3720 2nd St., Hubbard OR 97032 (Phone No. 503-981-9633) prior to the scheduled meeting time.

See the below choices to Join the Zoom Meeting:

<https://us02web.zoom.us/j/84704583889?pwd=WnNzY1RTL0dKUy9FNHpwSVhDRmw2UT09>

Meeting ID: 847 0458 3889 Passcode: 432677

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## \*\*\*\*\*ACCESSABILITY NOTICE\*\*\*\*\*

**Please contact the Director of Administration/City Recorder, Hubbard City Hall, 3720 2<sup>nd</sup> St., Hubbard OR 97032 (Phone No. 503-981-9633) prior to the scheduled meeting time if you need assistance accessing this electronic meeting. TCC users please call Oregon Telecommunications Relay Service at 1-800-735-2900.**

Agendas are posted at the Hubbard Post Office, City Hall, and the City website at [www.cityofhubbard.org](http://www.cityofhubbard.org). You may schedule Agenda items by contacting the Director of Administration/City Recorder Vickie Nogle at 503-981-9633. (TTY / Voice 1-800-735-2900)

SEE ATTACHED AGENDA

Posted 02/14/2022, 4:00 p.m.

Vickie L. Nogle, MMC

Director of Administration/City Recorder

**HUBBARD PLANNING COMMISSION MEETING AGENDA**  
**CITY HALL: (503)981-9633**

**FEBRUARY 21, 2023 – 6:30 PM**  
**LOCATION: ONLINE UTILIZING ZOOM.**  
**HUBBARD CITY HALL (3720 2<sup>ND</sup> STREET)**

**(MEMBERS OF THE PUBLIC MAY CALL OR LOG IN WITH AN ELECTRONIC  
DEVICE -Refer to Cover Sheet for details)**

This meeting is an “ONLINE” meeting: Staff and Planning Commission members will attend utilizing Zoom.

The public may attend via computer or phone. (Refer to the Cover Sheet for details).

**1) CALL TO ORDER.**

- a) Flag Salute.

**2) SWEARING IN OF PLANNING COMMISSION MEMBERS.**

**3) APPROVAL OF MINUTES.**

- a) September 20, 2022.  
b) November 15, 2022.  
c) January 17, 2023.

**4) PUBLIC HEARINGS.**

- a) CONTINUED PUBLIC HEARING FROM SEPTEMBER 20, 2022 – APPLICANT REQUEST TO CONTINUE TO APRIL 18, 2023. Planned Unit Development #PUD 2022-01 / 11984 Broadacres Road NE, Hubbard (Frank J Bronec QTIP Trust & Columbia Trust Company TRE) The 56.38 acres (54.42-acre Parcel 1 plus abutting rights-of-way) Bear Creek Planned Unit Development (PUD) Subdivision is a proposed residential development totaling 324 dwelling units on 204 lots.

**5) BRIEF PLANNING COMMISSION TRAINING SESSION.**

- 6) ADJOURNMENT. (Next regular scheduled Planning Commission meeting March 21, 2023, at 6:30 p.m.

**CITY OF HUBBARD  
PLANNING COMMISSION MINUTES  
SEPTEMBER 20, 2022**

**CALL TO ORDER.** The Hubbard Planning Commission meeting was called to order at 6:31 p.m. by Planning Commission Chair Scott Stierle.

**Planning Commission Present:** Planning Commissioner Glenn Holum, Planning Commission Chair Scott Stierle, Planning Commissioner Nik Kulikov, Planning Commissioner Fil Kartal,

**Staff Present:** Director of Administration/City Recorder Vickie Nogle, Administrative Assistant/Court Clerk Julie Hedden, Public Works Superintendent Mike Krebs, Public Works Administrative Manager Melinda Olinger, City Planner Holly Byram, MWVCOG, Police Chief Dave Rash, City Engineer Matt Wadlington PE, Civil West Engineering.

**Guests:** Steve Kay, Cascadia Planning and Development Services.

**FLAG SALUTE.** Planning Commission Chairman Scott Stierle led the group in the flag salute.

**APPROVAL OF PLANNING COMMISSION MINUTES**

- a) **July 19, 2022**
- b) **August 16, 2022**

MSA/Planning Commissioner Glenn Holum/ Planning Commissioner Nik Kulikov moved to approve the minutes from the July 19, 2022, and August 16, 2022 meeting. Planning Commission Chairman Scott Stierle, Planning Commissioner Glenn Holum, Planning Commissioner Fil Kartal, and Planning Commissioner Nik Kulikov were in favor. Motion passed unanimously.

**CONTINUED PUBLIC HEARING FROM AUGUST 16, 2022.**

- a) **Planned Unit Development #PUD 2022-01 / 11984 Broadacres Road NE, Hubbard (Icon Construction & Development, LLC. Attn: Harlan Borow; Frank J Bronec QTIP Trust & Columbia Trust Company TRE) The 56.38 acres (54.42-acre Parcel 1 plus abutting rights-of-way) Bear Creek Planned Unit Development (PUD) Subdivision is a proposed residential development totaling 324 dwelling units on 204 lots.**

Planning Commission Chairman Scott Stierle continued the Public Hearing at 6:33 p.m.

Planning Commission Chairman Scott Stierle read the legislative hearing statement.

City Planner Holly Byram, MWVCOG, read the criteria standard script.

Planning Commission Chairman Scott Stierle asked for any declarations of ex parte contact, bias, or conflict of interest.

Planning Commissioner Glenn Holum stated his property borders the property being discussed.

## **PAGE 2 – PLANNING COMMISSION MEETING MINUTES SEPTEMBER 20, 2022**

City Planner Holly Byram, MWVCOG, summarized the staff report, pages 1-55 with additional exhibits and explained her role as City Planner to the audience.

City Planner Holly Byram, MWVCOG, stated this is a Planned Unit Development Subdivision creating 204 lots and provides 324 dwelling units. She went on to say the tool of a Planned Unit Development (PUD) gives a lot of flexibility and it is not something we have used much here in Hubbard.

City Planner Holly Byram, MWVCOG, said this property was annexed into the city in 2020, and it is something the applicant has been working on for a while, and there have been several meetings with City Staff and the applicant's team to work through different issues to get to this point.

City Planner Holly Byram, MWVCOG, said the staff report provided to the Planning Commission is available to the public and included in some of the application materials. The application materials are very thick and do need to be read into the record by title, so they are part of the record should this be appealed.

City Planner Holly Byram, MWVCOG, stated the application materials are listed on page 2 of the staff report and include: the Application Narrative, Application Form, Property Deed and Title Report, Pre-Application Conference Notes, Preliminary Drawing Sets and Preliminary Civil Plans provided by Emerio, Architectural renderings of the single family homes/apartments and a Preliminary Stormwater report also provided by Emerio, Geotechnical Report provided by Geo Pacific, Traffic Impact Analysis provided by Lancaster Mobley, Wetland Report (not attached to the staff report but available for public review) and DSL Concurrence Letter provided by Shaw and Associates.

City Planner Holly Byram, MWVCOG, explained this Planned Unit Development is a Residential Planned Unit Development with several different housing types including multifamily units, attached single family dwellings, and single family detached houses, some with smaller sized lots and some with medium sized lots. She stated the applicant has requested the City approve two different phasing plans so they have a bit of flexibility to work with the housing market. The first phasing plan they provided showed the first few phases would occur down the South end of the property, with the construction of some of the townhouses and single family homes, and the apartments being the last phase at the North End. The only difference in the alternate phasing plan they have provided is the order of construction, the apartments would be the first phase in the alternate plan, with the center of the property being the last.

City Planner Holly Byram, MWVCOG, said there are three different zones on the property, R1 which is low density residential, R2 is medium density, and R3 is high density residential, and all three allow for a Planned Unit Development (PUD) Subdivision. She stated there are several different sets of criteria in the Development Code, Section 2.302 and she has included the purpose statement in the Staff Report because it is important for the Planning Commission to know a PUD is a pretty powerful tool because it provides flexibility to the developer they wouldn't get with a conventional subdivision, but only when it demonstrates there is sufficient community benefit in exchange for that flexibility.

### **PAGE 3 – PLANNING COMMISSION MEETING MINUTES SEPTEMBER 20, 2022**

City Planner Holly Byram, MWVCOG, briefly went through the different PUD criteria starting at the bottom of page 7 of the Staff Report.

City Planner Holly Byram, MWVCOG, said the first one is about site adaptation and if the developer is taking advantage of the natural features of the site, in which she said they are.

City Planner Holly Byram, MWVCOG, said the second criteria has to do with the lot arrangement, and states all lots shall be designed and arranged to have direct access to, or frontage on open space or recreations areas. She stated to have all the lots directly abutting the open space would not be an efficient use of the land so it would not be wise to enforce this.

City Planner Holly Byram, MWVCOG, said criteria three has to do with the Density of Development we need to acknowledge the Code is weak in this section, there are several typos, and it doesn't provide the correct methodology for the R3 zone. She stated in this case the maximum density for the entire site is somewhere between 490 and 543 units and the applicant is proposing 324 units.

City Planner Holly Byram, MWVCOG, said the next criteria is about the amount of open space and what the Code requires is at least 20% of gross areas site and the applicant is proposing two large open tracks that follow the creeks and the riparian areas. They comprise more than 30% of the site, so the applicant is proposing more than the 20%. Within those open space tracts there are creeks, wetlands, trails, benches, stormwater basins and a public park. The developer is proposing to transfer or dedicate those open space tracts to the City, so they become fully public, but the City at this point doesn't have the capacity to maintain them so the proposal is to wait until a certain percent of build out so there is a tax base to increase the City Public Works capacity to maintain those open space tracts.

City Planner Holly Byram, MWVCOG, stated there is criteria for setbacks and the applicant is requesting a couple variances to the standard setbacks of the residential zones for the property's interior to the site, not along the perimeter. Those variances are not impacted by this criterion.

City Planner Holly Byram, MWVCOG, said the next criteria has to do with circulation and the applicant is proposing one main street which is a collector level street to connect Broadacres on the north side to 3<sup>rd</sup> Street on the South and no houses will take access off that street. The purpose of that street is to move traffic between the other existing grid streets. The rest of the streets are local level streets where houses will take access and the applicant is also proposing several alleys called private streets which the HOA will maintain and not be made public.

City Planner Holly Byram, MWVCOG, stated included within the PUD will be pedestrian amenities and sidewalks to connect all parts of the neighborhood as well as connections to Broadacres and the open space tracts. She said it is important this new PUD provide a safe pedestrian connection to the rest of town. The applicant asked if SDC credits for those sidewalks and it is determined here are SDC credits available in the adopted SDC methodology that allow up to 74% of the cost.

## **PAGE 4 – PLANNING COMMISSION MEETING MINUTES SEPTEMBER 20, 2022**

City Planner Holly Byram, MWVCOG, said another criterion is off street parking, and according to the Hubbard Development Code, all dwelling units are required to provide two off street parking spaces, which is typically a garage and a driveway. The PUD proposes to meet the minimum requirements for the parking standards and is proposing a bank of overflow parking to serve the northern townhomes. Staff is recommending an additional bank of overflow parking to serve the southern townhomes. They are proposing 124 bicycle parking spaces which meets the minimum requirement.

City Planner Holly Byram, MWVCOG, stated both Hubbard Public Works and the City Engineer have reviewed the PUD and provided comments for the application the City could serve the PUD in terms of water and wastewater capacity. However, additional data is needed from pump station and force main that would serve the PUD. The applicant's engineering team is aware of this, and they have installed the instruments to measure this and are working with the City Engineer to provide and calibrate that data collected. The Fire Department has also reviewed this application and their comments are generally related to turn radiuses and access, which are found to meet their requirements.

City Planner Holly Byram, MWVCOG, stated the applicant provided a storm drainage report, and proposed the PUD would drain into five different storm basins. The applicant also proposes to dedicate the storm basins to the City, however the City Engineer is recommending the stormwater basins remain in the HOA ownership and maintenance.

City Planner Holly Byram, MWVCOG, said a Homeowners Association (HOA) is required for PUD's, and the applicant does propose a HOA and they will retain private street alley tracts B, C, F, & G for property owners.

City Planner Holly Byram, MWVCOG, said on page 18 of the Staff report is the development standards for land divisions and the applicant has proposed several variances. The applicant is requesting variances on the minimum lot size, setbacks, lot coverage, lot-depth-to-width ratio, and townhouse lot private outdoor space. The table on page 18 shows the development standards for these, including minimum lot size, setbacks, and lot coverage for each zone according to standard, and the variances proposed by the applicant.

City Planner Holly Byram, MWVCOG, said most of the proposed lots meet the minimum access standard which is 25 ft., except for flag lots. The applicant is requesting down to 20 ft., or 12.5 ft., were two flag lots share a driveway.

City Planner Holly Byram, MWVCOG, said there are many through lots proposed due to the private streets/alleys in the rear of the townhomes, because we do not want access on the street that is a collector street. There are also criteria about lot lines, lot grading, utility easements, block length, and improvement requirements. She stated it is important to remember all the required improvements for a new development will be paid by the developer, which means all the new streets, water lines, sewer lines, storm lines, are built and paid for by the developer.

City Planner Holly Byram, MWVCOG, said on page 25 of the Staff Report is street standards. The applicant provided a Transportation Impact Analysis, provided by the engineering firm,

Lancaster, Mobley, that estimates the traffic that will result from this new neighborhood, and their conclusions are included in the staff report. She said it is important to note their conclusions were in summary. No left turn or traffic warrants were met based on the new dwellings and sightlines were deemed sufficient. Both Marion County and ODOT had an opportunity to review the TIA and provided comments. ODOT made notes about traffic impacts to an intersection that is outside of the city limits and out of the city's jurisdiction, so the city doesn't have the authority to require any improvements there. Marion County has an adopted TSP, with projects identified, and they have an instrument to collect proportional shares.

City Planner Holly Byram, MWVCOG, stated regarding rights-of-way, all streets created by or improved by this project are shown in compliance with the general right-of-way width.

City Planner Holly Byram, MWVCOG, said the applicant is requesting a modification to the private street standard for the alleyways. The standard in the code is that a private street serving more than four dwelling units would have a tract width of 30 ft. and a paved surface width of 28 ft. The applicant is proposing a tract width of 22 ft., with a paved surface width of 20 ft. Staff and the fire department discussed this and determined the reduced width could only be acceptable for traffic flow and emergency access if the alley was curb-striped and signed for no parking at any time, tow away zone. Because there is no parking provided in the alleys, staff is recommending additional overflow parking, to serve the southern townhouses.

City Planner Holly Byram, MWVCOG, said there are three sections of code about the natural resources on the property: Floodplain, riparian buffer, and wetlands. The development code is very strict about these, and it is required the applicant do a detailed delineation of the riparian area and the wetlands.

City Planner Holly Byram, MWVCOG, said there is a screenshot of the FEMA FIRM map on page 36, showing the flood hazard areas, but no residential development is proposed within the flood plain.

City Planner Holly Byram, MWVCOG, explained both Mill Creek and Little Bear Creek are required to have a 50 ft. buffer from the top of the bank, and the applicant has provided a PUD plan sheet which demonstrates a 50 ft. riparian from both creeks. It is not known whether the riparian buffer applied to the map was accurately measured, so it is a condition of approval the applicant show they applied the correct methodology. She stated there are certain activities that can only take place within that buffer with State or Federal permitting. The applicant is aware of this and they have provided their wetland delineation to the Department of State Lands. The applicant is also aware of the State permits that are required to develop a street over the creek corridor and as a condition of approval it is the applicant's obligation to acquire those permits. She also stated the removal of riparian vegetation in the buffer is prohibited, and the applicant understands this and does not plan to remove any outside of the project.

City Planner Holly Byram, MWVCOG, stated regarding the wetlands, they have been mapped and the Oregon Department of State Lands has concurred with the applicant's wetland delineation. City Planner Holly Byram, MWVCOG, said the last section of the Staff report is the site development review criteria and this applies specifically to the apartment lot known as lot 204.

The proposed apartment development includes five apartment buildings, office, clubhouse with a small gym, bicycle parking, picnic area, garbage enclosure and a parking lot. She said the minimum lot size in the R3 zone for multifamily housing is 3630 SF and if we went with that minimum lot size there would be 64 apartment units. The applicant wants to provide the community with more housing and are proposing to reduce the minimum lot size to 1900 SF which would change the number of units to 120 with half of them one-bedroom, and half two-bedroom, which is a 90% increase in the number of units.

City Planner Holly Byram, MWVCOG, stated the applicant meets the minimum parking required with 247 parking spaces, 6 of those being ADA spaces. However, Staff does have concerns that would not be sufficient because there may be more than 2 vehicles per household, and there may need to be visitor parking as well.

City Planner Holly Byram, MWVCOG, said the applicant has proposed a landscaping plan. The open space tracts provide buffering along the west and east sides of the site, so the applicant has requested a reduced landscaping percentage from the required 25% to 20% in consideration of those open space.

City Planner Holly Byram, MWVCOG, said Staff has concerns about the outdoor play area proposed by the applicant. The development code requires multifamily dwellings of five units or more, to provide a play area of a minimum of 500 square feet, plus 50 square feet for each bedroom. In this case that equates to 180 bedrooms which would mean 9500 square feet of play area is required. The applicant is proposing 1060 square feet outdoor picnic area with benches and grills, and to provide the remainder of the play area, the applicant is requesting the Planning Commission allow consideration of the nearby 8000 square foot public park developed with the larger PUD. This request does not meet the standard of “centrally located and visible from dwelling units”. Staff has encouraged the developer to provide recreation amenities that contribute to a desirable high-quality development that builds pride in its residents and meets a range of age groups and interests. She stated the rest of the PUD the City would not allow credit for a nearby public park to count as the play area for an apartment building. In this case there may be a partial credit, the considerations that the applicant is providing more than the minimum 20% of open space, but Staff really feels they need to develop more on-site play area, and it is up to the Planning Commission to determine what feels appropriate for the capacity of this site. The Planning Commission may ask the applicant to revise the site plan for Lot 204 and return to the Planning Commission with a modified site plan showing fewer dwelling units and increases internal play area amenities.

City Planner Holly Byram, MWVCOG, stated the conditions of approval start on page 49 of the Staff report. She said these are important because they are the rules the applicant must follow before they can get their subdivision platted before they can get building permits and final occupancy. M Byram said this is where the City has teeth in a new development, and it is important the City gets these conditions of approval right. She briefly summarized the conditions of approval found on pages 49 to 55 of the Staff report.

City Planner Holly Byram, MWVCOG, said Staff recommends the Planning Commission continue the public hearing, but only after the applicant’s presentation and public testimony is taken from all interested parties.



City Planning Commission Chairman Scott Stierle asked City Planner Holly Byram, MWVCOG, when you are talking about the combined structure and parking lots, there is 70% and 95%, how will that impact the landscaping.

City Planner Holly Byram, MWVCOG, explained the Chair is asking about the maximum lot coverage, which is the footprint of the house plus the footprint of the paving. She stated what the applicant is proposing for townhomes is to take the maximum lot coverage from 75% to 95%, which would reduce the amount of landscaping on each individual lot.

City Planning Commission Chairman Scott Stierle asked if there were any questions of staff from the Planning Commission before we continue and accept public testimony.

Planning Commission Chairman Scott Stierle asked if the applicant or their representative would like to speak.

Steve Kay, Cascadia Planning and Development Services, P.O. Box 1920, Silverton, OR 97381, representative for the applicant, presented a PowerPoint presentation on the proposed Bear Creek PUD.

Steve Kay, Cascadia Planning and Development Services, explained this site has a lot of history. Over the last 13 years the City of Hubbard has undertaken several land use planning processes for this site. In 2009 the City completed a housing needs analysis and it was determined that 75.4 acres needed to be added to the urban growth boundary, and six alternative sites were looked at around the perimeter of the city and after a long evaluation the area in the SE corner was added. 33.6 acres of the property was designated medium density residential, and another 20.93 acres was designated high density residential, which was designated on the Comprehensive Plan map. In 2020 the area was annexed and was zoned R2 and R3, and there was also another 1.55 acres that was already in the City limits and it was zoned R1, therefore, this proposed project helps address the City's identified housing needs.

Steve Kay, Cascadia Planning and Development Services, said included with the applicants Master Plan are the calculations that are used to identify how many dwellings are permitted for each zone. The maximum density for the entire site is 543 dwelling units, however, the applicant is proposing 324 units, so several hundred less than the calculations allow for. These calculations also show that of the 56-acre site, approximately 20 acres will be set aside in reserve for open space, public parks and associated recreation facilities.

Steve Kay, Cascadia Planning and Development Services, stated the City's PUD standards are meant to encourage innovative planning and projects which provide a community benefit. These projects should preserve existing natural features to the extent possible, while at the same time use land zoned for residential use to the extent possible as efficiently as possible. To achieve a balance between those various goals of a PUD, the applicant is requesting certain modifications to the City Development Code standards. In exchange for the proposed development, there are design features which provide significant benefits that are incorporated into the design of this project.

Steve Kay, Cascadia Planning and Development Services, said the project site has some challenging topography, which creates opportunities for incorporating unique natural features into the design. The applicant is proposing to preserve the natural areas of the site as open space, with two new public parks, public access to viewing areas of the natural features, and a 4000 ft. long public trail system.

Steve Kay, Cascadia Planning and Development Services, explained to meet the public need for diverse housing types, a mix of smaller and medium sized single-family lots, attached townhomes, and multi-family units are proposed.

Steve Kay, Cascadia Planning and Development Services, said public transportation needs are addressed by the development of a new collector street between Broadacres Road and 3<sup>rd</sup> Street, as well as the development of public sidewalk connections between the site and neighborhoods to the east. The northern portion of the applicant's Master Plan includes street widening, curbs, street trees and a sidewalk along the entire length of Broadacres Road. The applicant is also proposing several pathway connections from Broadacres Road to the two new public parks. The North End of the development includes townhomes which face the new collector street with alley loaded garages in the rear of the lots. Due to higher density in this portion of the site, the applicant is proposing to develop a 27-space parking lot for the townhomes in tract F, this parking area is provided in addition to 86 parking spaces on the townhome lots, and because there are no driveways on Broadacres Road, it will be widened, and parking will be allowed there and on the collector street. There are also another 123 spaces that are located on the street adjacent to the development.

Steve Kay, Cascadia Planning and Development Services, stated the applicant is requesting several Development Code modifications for the apartment complex, which is just one element of many components of this PUD, which includes an adjacent 13-acre park and trail system. He went on to say this plan includes a convenient pathway which will connect between the apartment complex and the park facilities, which includes a playfield with a children's play structure located within the park, and those public facilities are ADA accessible. In addition, multi-family units will have access to a community building, outdoor picnic area, and the trail system, therefore, the open space and recreation facilities exceed what is required, so the requested modification to the lot size and recreation area standards can be considered reasonable.

Steve Kay, Cascadia Planning and Development Services, said the southern portion of the Master Plan illustrates the proposed collector street will intersect with 3<sup>rd</sup> Street, which is consistent with the City's Transportation Plan. Proposed off-site improvements include the extension of 4<sup>th</sup> Street, and a sidewalk connection from Kooiman Estates to the Bear Creek project. He stated there is a significant amount of parking that is available on the collector street, because there are no driveway cuts and there is street parking on both sides, so as a result the 30 townhomes that are in the SE corner will have access to 74 on street parking spaces in addition to the 60 parking spaces available on those lots.

Steve Kay, Cascadia Planning and Development Services, explained the applicant is requesting approval of a phasing plan and an alternate phasing plan. The difference in the plans is the

sequence in which would be developed first, which would be dependent home buyer interest rates and other market conditions.

Steve Kay, Cascadia Planning and Development Services, stated the proposed design includes open space and recreational amenities which are consistent with the purpose and goals of a PUD and in addition the presented information demonstrates the amount of proposed parking for the project exceeds what is required by the Development Code. He said it is important to acknowledge that each modification request the applicant has made should not be reviewed independently, but in the context of the overall PUD concept. Furthermore, this project provides a net benefit to the larger community including addressing diverse housing needs, providing enhancements to the transportation system, and developing park amenities with an extensive trail system which will be available to all of Hubbard's residents.

Steve Kay, Cascadia Planning and Development Services, said as stated in the letter that was submitted by the applicant's attorney, there were a few of the recommended conditions of approval the applicant has issues with and will be unable to satisfy based on current market conditions. He stated the applicant requests these conditions either be removed or revised as described in the letter. In conclusion, the applicant is looking forward to continuing working with Staff on those issues and believes this proposed project will fulfill Hubbard's long-range plans for this property.

Planning Commissioner Fil Kartal, asked about the parking on Broadacres Road, essentially where on the road will the parking be, and how far away the parking will be from the apartment units.

Steve Kay, Cascadia Planning and Development Services, responded the road will be widened and the parking will be on the south side, and the parking will be directly adjacent to the apartment complex and the northern townhomes.

Planning Commissioner Fil Kartal, asked how many parking spaces will be on the north side.

Steve Kay, Cascadia Planning and Development Services, said there are 123 on street parking spaces on Broadacres Road, and on the northern half of the collector street. He stated to access the parking there are sidewalks on both sides of the road, with an ADA crossing at the intersection of Broadacres Road and Street A, as well as any other intersection in the development.

Planning Commissioner Fil Kartal asked how deep the parking spaces for the townhouses are going to be.

Steve Kay, Cascadia Planning and Development Services, replied they will be 20 ft. deep.

Planning Commissioner Fil Kartal asked what will be included in the play structure, swings, slides, etc.

Steve Kay, Cascadia Planning and Development Services, said he does not know yet, but it will be a large structure that has all sort of play activities and will be appropriate for 2–12-year-olds.

Planning Commission Chairman Scott Stierle asked if there was anyone who would like to speak in support.

Matt Kennedy, 3635 5<sup>th</sup> Street, Hubbard, OR., said he feels he is on the fence, knowing the property needs to be developed, and certain concerns need to be addressed. He said he has been on City Council and the Planning Commission before and the one thing that comes up in most land use decisions and that is the anti-growth sentiment, which he can understand, but he also hears a lot of input from the public that have children and grandchildren, and if you are creating people, they need a place to live. As a city we are by the state required to provide housing units for more people, so as long as we continue to grow population, we have to provide for that.

Matt Kennedy said he is excited to see the Bronec Property developed and is most excited to see the access use of the nature area. He said Frank Bronec used to come into his office and talk about a grand vision there as he realized it to be. This is a legacy property, meaning whoever built it out would leave an internal mark in our community, with the potential to build out one of the most significant parcels in the valley which is a huge opportunity and responsibility.

Matt Kennedy stated he grew up in Hubbard and moving back 24 years ago, no one appreciates this more, and he has spent a lot of time on the Planning Commission and City Council, investing a lot of time and money to make this a better place. Part of the time was spent planning how we grow, deciding what parcels get developed and added to the Urban Growth Boundary, where we place certain zoning densities, etc. To disregard the planning that our community has established is acting against the wishes of the taxpayers.

Matt Kennedy said when the seller of this parcel annexed to the city, I found the plan for the property be out of touch with Hubbard. The plan that was submitted seems to try and fit some density in what I feel will not be received well here, not only does it not fit into the zoning and density plans we have spent years developing, I see a challenge for the developer or builder selling some of the higher density home sites. He stated in Hubbard he sold the Kooiman Estates subdivision of 20 homes adjacent to this property and if you drive by and look at that neighborhood you will see we are a commuting community, and these areas with 5000 ft. lots, the parking is full, because people need vehicles even to get groceries.

Matt Kennedy explained when this area was added to the Urban Growth Boundary, it was known there were many acres that were unbuildable, and when you factor that into the plan to meet the 20-year projected coverage needs for housing, you can't count the unbuildable land. He stated this application seeks to reassign allowed housing units and lots that never existed from unbuildable land to buildable land. The unusable land is valued much differently, its lack of usability is already accounted for and not transferable. Some of the transferred density may have practical implications like the multi-family portion of that proposal which will have a very high unit count per acre, compared to single-family residential. M. Kennedy said single-family residential is well defined in Hubbard and the community has spent a lot of time, effort, and planning to shape our future, which must be taken into consideration. As a full-time real estate professional, he said he does not think the market will favor the higher density as proposed, and he hopes the project will enhance our community and that developer will leave a legacy of pride as well as profit, and building the community that suits its current and future residents would accomplish both.

Rocky Sherwood, 2622 Nina Place, Hubbard, OR., said as an independent he has been a Hubbard resident for five years, and three of those years he carried this community through a pandemic, created new events and opportunities to bring the community together. He went on to say he thinks this would be a great opportunity if done right but there is also risk involved with bringing new establishments, which could establish more crime. He said he also works in Gresham and sees all the new apartments that bring more police activity, car break ins, and damage. Furthermore, he fell through some steps at an apartment complex because they are not on top of their building, so if someone built this, he would like to see security around the complex to keep the residents safer, and the residents of Hubbard that are already here. Furthermore, he stated he realizes there are a lot of people that have been here for many years, and they are afraid of change, but he believes if this community development is done right, his Hubbard Community Events Planning team can serve more people and make them feel welcome. He also said he would like to talk to the developer about holding events on their property because it is considered private property and he would not have to get permits to hold his events there. He explained he is not against this project but does not want to see more unnecessary crime and more workloads for our police officers, because they are already pressed, and it would take away from our streets. He would like to see more officers and public works personnel hired so we don't overload our employees because they barely have enough time to do what they are doing now, and we must call Woodburn and Marion County to help. He concluded he believes we can make this happen, but it is going to take a team and a community, and he thinks everyone should have input and share some good information.

Planning Commission Chairman Scott Stierle asked if there was anyone who would like to speak in opposition of the application.

Randy Hegge, 3011 7<sup>th</sup> Street, Hubbard, OR., stated he is neither for nor against but had a couple of questions, the first one regarding the Americans with Disabilities Act and if we can give a variance for that and if the City's Attorney could write him a letter explaining if it is legal. He said his second question was in regard to the number of variances the applicant has requested, and he would like to state, "if you do it for them, will you do it for me". He stated he has been approached to build 16 homes on their property across the road from them, and now he wants to build 50 homes instead. Furthermore, he said we really need to look at this, and does everyone forget the rules, laws, and recommendations, and if they do not need to abide by them why should anyone else. He stated he has been permanently disabled since 1985 and really believes we should be looked at, and if you can't afford to put in a Disabled Americans trail, then don't put it in. He said he is also concerned the lots are not big enough being only 4000 SF, and they are acting like they are really doing us a favor, and it is not about what they want to do for the community, it is about making money, but maybe they can cut back a little on their profit and we can truly benefit. He stated he will probably contact an attorney because if he were to walk on that public land and injure himself because they didn't want to put the money out, it will be a suit. Lastly, he said he wanted to put up a new pole barn 7ft off the property line, but he couldn't because it had to be 20ft back even though it was in the middle of his property, and it is not fair that they can change theirs. He said he wants everyone to be treated fairly, not just people with money.

Brad Agnew, 11903 Broadacres Road, Hubbard, OR., stated he lives on the north side of Broadacres where Steve said there was no driveways, but he has a driveway on the Northside of

the road as well as his neighbors, which is directly across from where the Bronec's driveway is now. He said looking at the map it looks like Street A where it taps into Broadacres looks like it is going to be exactly where the driveway is at Bronec's right now, and just this weekend he walked from his house into Hubbard, and anybody who drives in and out of Hubbard on 7<sup>th</sup> Street on Broadacres knows how narrow that road is. He also said when he walked that road, it is already cracked, and on the right where it dips down, they are talking about making improvements to the road, but he does not know how far out they can go. He went on to say in the 20 years he has lived here he has seen multiple wrecks on those corners from people driving too fast, and it is a very busy road, he has four people living in his house and all four people drive, and his neighbors are the same way, everyone old enough drives a car. He explained his wife has been the Register at the High School for the last 5 years, and the school is already at full capacity, and every classroom has 30 kids in it, so with 340 units, that is about 1000 people, the population of Hubbard is 3527, this would be a 28% increase in population, and there was not one thing in the presentation on how this will affect our schools. Furthermore, he said the applicant is asking for all these adjustments to the lot size to make them smaller and that is just not something we should be doing around here. Brad Agnew said if they are adding parking spaces on Broadacres Road, he will be losing some property because he owns the property directly across between the cemetery and Hubbard. He also questioned the transportation impact analysis that was done that stated there was no left turn lane needed or traffic lights, and he finds that very hard to believe. Finally, he stated he heard there was not going to be a detrimental impact on the water supply for Hubbard, but both his neighbors have had serious drying issues with their wells, and a couple of people in the audience has told him the same thing.

Tammie Sweet, 3983 8<sup>th</sup> Street, Hubbard, OR., stated she has been here for about 6 years, and she is neither for nor against, but felt compelled to give a warning to look at other communities who have experienced the same kind of challenges with expected growth. She said she lived in Sherwood for about 16/17 years, and it was the size of Hubbard when she moved there, and now it is about 25,000 people, with zero road improvements. She went on to say there are two main roads in and out of the city, with Tualatin Sherwood Road being a six-mile stretch, and during rush hour traffic it takes about 2 hours in the morning, and an hour in the afternoon. Furthermore, she stated she did not hear anything about a traffic study on 99E and with this new development bringing approximately 640 additional cars on the road, she is concerned about the impact on Highway 99E, which is already incredibly busy, and about the parking on the street which does not seem reasonable on a country road. She concluded in saying the City of Sherwood went through a problem with water, they promised to lower the residence water prices, and instead they tripled, and added a 5% tax increase every year that did not sunset, so she cautioned the Commission about developers coming in and impacting the services here, and urged them to look at growth in a reasonable solid way, and added she did not hear how this new planned community benefits the whole community.

Becky Halbirt, 2654 4<sup>th</sup> Street, Hubbard, OR., said she has a question for law enforcement because she has heard about a possible increase in crime and asked if the Hubbard Police is going to need additional cars and additional officers, and if so where is the money for this going to come from, and if it is from a grant, grants run out and are only good for a certain amount of time. She also has concerns about the Fire Department, since we share response with other communities, are they equipped to handle the expansion of houses, which means the Fire Department would need to hire

more people and medics. She stated the growth she is hearing about is so much, her family has been here over 30 years, and this just takes your breath away. She said she is big on law enforcement having worked in law enforcement, and asked where we will put people accused of crimes, will they be housed in a holding facility here or transported to Woodburn.

Police Chief Dave Rash asked her if she had questions, or just making a statement.

Becky Halbirt, said both, she asked where the money will come from, where will multiple people be housed upon arrest.

Police Chief Dave Rash responded, the Police Department is funded by the General Fund, and with the housing coming in there will be more money going to that fund. He stated we have approximately 3500 residents and our ratio per citizen is about 1.7, and we have six officers now, but would think with more housing we would increase our manpower. Furthermore, he stated we do not lodge people accused of crimes here, we may interview them here, we utilize Woodburn Police Department for drunk drivers, etc., but by law the Sheriff regulates the jails. Police Chief Dave Rash concluded by saying he has not seen the crime rate go up in this town, we seem to be consistent, and obviously with more people there will probably be a little more crime, but that is hard to say if it will increase or not.

Janine Organiz, 17720 Boones Ferry Rd. NE, Hubbard, OR., said she has lived on a farm on the opposite side to the property for 9 years and in the last 8 years they have ran out of water three times, and are currently trying to get a new well, but have been told they live too close to Mill Creek to get any well, and what worries her is that she cannot get water but the new housing behind her will be getting a lot of water. She stated she was not planning on speaking tonight, but after listening to this, it is hard to hear the County telling us we can't have a well, because you are too close to the Creek, but then you see all these other people coming in and they all have the rights to water. Furthermore, she said she knows several of her neighbors have lost their water also, so there is a water problem.

Public Works Superintendent Mike Krebs addressed Janine Organiz water concerns. He stated the City has four very deep municipal wells that are well over 300 ft. deep, and at this point we have water rights for about 1.5 million gallons throughout those four wells. During the summer peak, production runs about 550,000 gallons a day which gives us approximately 35% of what we have allocated for the City. He went on to say the only problem that we see during the summer months is the drawdown, which is the amount of water produced in a well and how often it comes back into recharge, it drops about 10 or 15% from what we see during the winter months. Furthermore, we do not have a problem with water for the City, because we already have the water rights, and the wells drilled, it is just a matter of getting it out to the subdivision, so water in Hubbard will not be a problem for this many people.

Maureen Elden, 2835 Beaver Court, Hubbard, OR., said Kooiman Estates runs right next to her backyard and so she wanted to share her experience with that, because it is the same build as this new subdivision. She said the workers were very pleasant, and helped them out a bit, but other than that, they put curbs in that were made of the cheapest material, so now there are weeds and blackberry bushes growing through them because they did not use a higher quality material to fill

them in. She explained they also created a safety hazard because 4<sup>th</sup> Street where they extended it all the way down to the dead end because a race strip, and they have had to call the police almost daily to inform them of what was going on. She also said they have a chain link fence along their backyard with a beautiful forest behind it, and now all the neighbors are coming in and gawking into it all the time, so she lost her privacy, and did not get any compensation to build a new back fence so her backyard could remain private. Furthermore, she said it was the worst experience she has had as far as somebody building something and it did impact her greatly, so she would like to know if they are going to build all these houses, what is going to be done to protect the people that are currently living here and are going to be affected on a day-to-day basis. She also explained she was told all of the houses on 4<sup>th</sup> Street would be single story houses because it would make it more conducive with the current neighborhood, but instead every single one of those houses on 4<sup>th</sup> Street are 2-story homes, so they said they were going to do things to make it conducive for the current people living around there, but none of it happened. In conclusion she said to please think about what you are going to do for these people that live in our community whose lives are going to be affected and uprooted because of this development, and the developer should have to be responsible for some of this as well.

Rick Halbirt, 2654 4<sup>th</sup> Street, Hubbard, OR., said his concern was that 4<sup>th</sup> Street will go through and all that is going to do is create a racetrack for every FedEx, UPS, and Amazon truck to go down through there, and to avoid that speed bumps should be installed. He went on to say the other thing he is concerned with is all the new park area, because it seems like a lot of maintenance for the City for that much area.

Mike Elden, 2835 Beaver Court, Hubbard, OR., asked if the houses being built would be two-story houses. He also said he noticed going out Boones Ferry toward Woodburn there is a big clearing where it looks like they are putting in a big subdivision, so that is probably going to impact traffic, causing more traffic. He said he does not agree with expanding 4<sup>th</sup> Street either, because it is already a racetrack. Furthermore, he stated he does understand growth, and knows we need more housing for people, and he said he works for a door company and would like to get the contract to build the doors, which would be a good thing for him. He concluded by saying he moved here from Tigard to be in a smaller community, and as soon as he moved here, 28 houses went in right behind him, and even though the contractors were very polite, it just seems like too much for a small town.

Fred King, 2488 S. Lydia Loop, Hubbard, OR., said he knows how difficult it is for a small community to start hitting growth, and he took advantage of that stating he loves it here and it was a real blessing to be able to move to community. He stated he is not against growth, but he does want to re-emphasize it is important to review the impact, and the 99E impact is an important part, the number of cars and what is going to happen in relationship to Broadacres, because he has seen what can happen with the type of growth, and at the same time it is going to happen. He stated very intelligent things have been brought up and they need to be reviewed, such as the apartments, the possibility of more crime, the continuation of 4<sup>th</sup> Street. In conclusion he thanked City Planner Holly Byram, MWVCOG, for providing him with all the information he requested.

Renee Hegge, 3011 7<sup>th</sup> Street, Hubbard, OR., asked what type of parking was going to be allowed on Broadacres, if it would be parallel parking or head in parking, because her concern was people



drive fast on that road and she feels allowing parking on it is a death waiting to happen because it is a very dangerous road, and she said that is the biggest obstacle of this whole project. She stated her other concern was the trees that will get cut down and all the wildlife that lives in the trees will be displaced. She said God only made so much land and that piece of property is gorgeous, and she doesn't mind homes being built, but wanted to know how many trees will be left and said it sounds like there will not be any room for landscaping. Furthermore, she stated this development would be getting rid of trees that oxygenate, add beauty, and will displace wildlife such as deer, cougar, and coyotes, because the trees are their home.

Alice Engleman, 11714 Broadacres Road NE, Hubbard, OR., stated that Mill Creek is her property line and she asked if the walkway they are planning to have come down there will become a place for homeless camps because there are trees on both sides of Broadacres Rd., and is worried no one will go back and check on it, and she does not want a bunch of tents on her property. She said her other concern is there is already a lot of speeding traffic on Broadacres Rd.

Crystal Rostocil, 3427 4<sup>th</sup> Street, Hubbard OR., said she is neither for nor against and has lived here 40 years and has seen growth come through the City of Hubbard and we can grow if we're wise about it, but she did have some concerns. She said working in the medical field she was very concerned with the narrowing of the streets, minutes matter in the medical field so when you narrow the streets, the fire department and ambulances must have alternative routes and that can cost people their lives. She stated her other concern was the talk about the HOA, because she said there are currently no successful HOA's in Hubbard, in several areas they have been dissolved and she is extremely concerned the landscaping maintenance will fall back on the City and cost the citizens additional funds unless there is a contract where the builder is going to be responsible. She also stressed the importance of sidewalks and making sure the builder does not cut corners and does both the sidewalks, recently there was a death on 99E due to sidewalk issues, and now is the time to really put a precedence on the importance of them. C. Rostocil explained another concern is the traffic on the corner with Broadacres and she was wondering about the possibility of a round-about to slow traffic down because that has been a problem for a long time, and with apartments going in that means school children will be getting on the bus at that corner. Also, because people speed on Broadacres, she does not see how it is feasibly safe to have parking there. She stated she also disagrees with the approval to change the 204 apartments to 120, she thinks there needs to be a negotiation there, down to 80 or 90, and there definitely needs to be a play area because it has been medically proven that outside play areas are crucial for development, as well as social and emotional learning. C. Rostocil said she believes there will not be enough parking in the residential area, we must commute everywhere because there is no opportunity for transit, which means every working person and high school students will be driving. She explained she is concerned that traffic wasn't addressed on 99E and Boones Ferry, because currently there is a truck route through there and there has been no discussion of changing that, and that is part of the reason we have issues on 3<sup>rd</sup> Street, so it is not safe to add additional traffic there. C. Rostocil stated she is concerned about the traffic impact on 99E because currently the traffic backup is long with people commuting out in the morning and back in during the evening hours, so is one stop light in town going to be enough. She concluded by saying she would like these issues to be looked at before any approval of a plan.

City Planner Holly Byram, MWVCOG, stated there were no online comments, but there are several written testimonies that should be introduced into the record as well.

Director of Administration/City Recorder Vickie Nogle said she had a couple people online that said they wanted to speak.

Dan Marple was online, there was an echo, so he did not speak.

There was another person online with a phone number but did not give a name.

The other person online was Garrett Stephenson, the attorney for the applicant, who had given written testimony to introduce into the record.

City Planner Holly Byram, MWVCOG said attached to the Staff Report is Exhibit C, which was received ahead of the public hearing and contained a couple of neighbor comments, and it was signed Walnut Court Residents, there were no other names or addresses, and it was addressed to the Hubbard Planning Commission. She stated the bullet points on the letter are like what we have already heard, traffic on 99E, school capacity, potential for crime, police and fire response, and city water capacity.

City Planner Holly Byram, MWVCOG said the next written testament received was from neighbors, the Kooimans, and they had a question about the proposed improvements on 4<sup>th</sup> Street, and specifically about a retaining wall, which is something that the developer did respond to, and was going to reach out to them directly.

City Planner Holly Byram, MWVCOG stated the next correspondence was from Fred King, who we heard from this evening, and his comments mostly pertained to riparian areas and wetlands.

City Planner Holly Byram, MWVCOG had Director of Administration/City Recorder Vickie Nogle hand out to the Planning Commission a letter the City received today from the applicant's legal counsel, Garrett Stephenson from Schwabe, Williamson, & Wyatt. The letter was written on behalf of the applicants, and it is addressed to the Planning Commission Chair and the Planning Commissioners. She said in this letter they identify several recommended conditions of approval they have concerns with and they believe the applicant would be unable to comply with for various reasons. She went on to say staff has not had enough time to gather the response because some of these are County jurisdiction issues, and some are City issues. We do not yet have a formal written response to this letter and that is the reason for the suggestion to continue this Public Hearing, so we can work with the applicant to find some solutions. Furthermore, Staff's goal is to work through these issues as much as possible up front so that it is ready for a decision, but we are not quite there. She concluded by saying this is all the written testimony that has been received.

Planning Commission Chairman Scott Stierle asked if there was anyone else who would like to speak.

John Nash, 2714 Beaver Court, Hubbard, OR., said the new Amazon warehouse that is being built along the freeway is going to be possibly employing 3000 people, but yet we have development

coming into our town which is going to cause more traffic congestion to their places of work, even though there are similar properties adjacent to Amazon, and something could have been worked out there. He said he sees Hubbard is not an equal source for the new housing per the adjacent employment because Hubbard isn't an employer town, we all must go somewhere, and this is just going to add to an already existing problem. He also stated he is concerned with 4<sup>th</sup> Street becoming a through street and does not understand why it needs to relate to this new development, because 3<sup>rd</sup> Street could easily be extended to Front Street right there, so what is the point of connecting it into town through the Lydia and Beaver Court developments. Furthermore, the new development can easily be shifted onto Front Street/3<sup>rd</sup> Street which is more designed for two-way traffic, and no kids playing on it. His other concern was with the property values, stating in general property values decrease once adjacent multifamily dwellings are built next to single family homes. He then asked about the ownership of the new dwellings, if most of them are going to be owner occupied or are they going to be rented where people aren't going to care for their immediate neighborhoods because they are only using it as a pit stop between work and going to sleep. J. Nash said he does not understand why the development must include multifamily dwellings other than some of the politically correct comments he has heard about the State needing the cities to include multifamily dwellings, even though it increases traffic, and besides the contractors, real estate industry, and government, who in the residential district benefits from this. He concluded by saying the state of the economy is going to get worse, there has already been talk about raising the crime rate and what is that going to do towards the new housing industry ability to sell houses, and when you don't have the occupancy that you planned you have to rent, and he said he is not trying to generalize, because there are good renters, but you are also introducing bad renters.

Evan LaFountain, 2822 Walnut Court, Hubbard, OR., said his backyard will touch one of the parks and was wondering if the trail would be on the north side or the south side of the Creek.

Renne Hegge, 3011 7<sup>th</sup> Street, Hubbard, OR., asked with the added traffic, can we petition the railroad to open up the crossing at J Street, which she said would be more feasible for trucks rather than having them go through the residential areas at the 3<sup>rd</sup> Street or 7<sup>th</sup> Street crossings.

Public Works Superintendent Mike Krebs said according to the railroad it is not a matter of population density, it's a matter of more crossings which cause more accidents, and because of this, many years ago the City was told they could only have 3 crossings, so we could open J Street, but we would have to close a street crossing.

Renne Hegge responded that J Street is a straight shot to 99, so it would make more sense to visit that at a Council meeting to see if it can be done.

Renne Hegge, 3011 7<sup>th</sup> Street, Hubbard, OR., asked the applicant's representative where the widening of Broadacres Road start would, and what would be done with Bear Creek, would there be a bridge or a culvert put in.

Planning Commission Chairman Scott Stierle asked if the Planning Commission would like the applicant to address any of the testimony.

Planning Commissioner Fil Kartal said he would like for the applicant to address all the testimony.

Steve Kay, Cascadia Planning and Development Services, started by saying he appreciates the thoughtful comments, and he was glad to hear the feedback, with some good points brought up.

Steve Kay, Cascadia Planning and Development Services, said regarding the density of the site, this is not something the applicant established, the City went through their own planning process, they designated this site for high density and medium density residential and when those designations occurred, they did not place an open space designation for the wetlands or the area along the creeks. He went on to say they were trying to meet the land needs that were identified by the City, and the City can speak to that. He said he wanted to clarify that issue, that it is not something the applicant came up with to designate this site for high density use, which is multifamily units.

Steve Kay, Cascadia Planning and Development Services, said regarding the security of the apartment complex, the City has a standard for how the design should occur on the site for making sure there are viewing corridors for open space areas, spaces where people park, and that they are accessible so people can see all portions of the site correctly so there won't be additional crime related to this development. Furthermore, the applicant intends to fully comply with any standard that the City has.

Steve Kay, Cascadia Planning and Development Services, answered the question about property taxes and how services would be funded. He explained it is not a criterion of this application, but he thinks people should know with new development, additional property taxes are collected and go into the General Fund, which pays for additional services such as police, fire, and parks, so growth does pay for additional services that need to be provided for the new development.

Steve Kay, Cascadia Planning and Development Services, stated there was a comment made about the applicant asking for variances to ADA standards and he said that was not accurate. He said they are not asking for any variances to ADA standards and will meet all ADA standards that are required within the park, apartment complex, and all the sidewalks, everything that is going to be constructed. S. Kay stated the ADA standards do not apply to all the paths, you need to provide accessibility for recreational facilities and there are ways they can accommodate ADA use of the pathways, looking at the SW corner of the plan there is a cul-de-sac there with gentle grades to the pathway, so there are locations where access to the pathways can be provided to meet ADA needs.

Steve Kay, Cascadia Planning and Development Services, clarified the design of Broadacres Road is not something the applicant came up with on their own, it is a City standard and they are required to build according to what the City requires for that type of roadway. He stated the City is going to require the applicant to widen it, provide a bicycle lane and a parking lane along the roadway, but if the City decides they don't want to do that, the applicant would be fine with that because it is just additional cost in paving. He did add when you do have parked vehicles next to a travel lane, as a driver you deliberately slow down, so in this case he said he feels people would generally slow down quicker when they are coming into town when there are vehicles parked alongside of the road.

Steve Kay, Cascadia Planning and Development Services, clarified they are proposing with their project not to provide driveways along Broadacres Road on the south side of the road where it fronts their project, they are not taking away anybody's driveways on the other side or proposing that.

Planning Commissioner Glenn Holum, asked if the working plan currently is to take that all the way to the property line so a lot of that is going to be park area from where the grade begins to go down into the Canyon area.

Steve Kay, Cascadia Planning and Development Services, said it would be the entire frontage of that northern boundary of the site that would be improved, which they are required to do.

Steve Kay, Cascadia Planning and Development Services, said the School District did provide comments that are included in the packet, and they stated they are not opposed to the project; however, they do like the fact that it is a phased project which allows them to address the increase of students over time.

Steve Kay, Cascadia Planning and Development Services, stated the question about the water supply issue was addressed earlier by Public Works.

Steve Kay, Cascadia Planning and Development Services, explained he was not directly involved in the traffic study, but when a traffic study is done the project transportation engineer is required to coordinate with City Staff, Marion County, and ODOT, to get concurrence of how this study should be scoped, and ODOT required that 99E was studied as part of this project.

Steve Kay, Cascadia Planning and Development Services, responded to the question about what the public benefits are of the project. He said it is addressing identified City housing needs, expanding the public park system, and it is making improvements to the transportation system. The park system plan and the transportation system plan have been adopted by the City, the housing needs analysis was done and the applicant/developer has to follow the finding of those studies when they are putting together a development proposal.

Steve Kay, Cascadia Planning and Development Services, said this project is not going to be constructed by the same developer who did Kooiman Estates and confirmed by text because the applicant cannot be here tonight. He also said the applicant has not done any projects previously in Hubbard and added that Icon Construction is very proud of the projects they have done in other locations and are not intending to do things subpar.

Planning Commissioner Glenn Holum asked for the applicant's representative to speak to the applicant's position on the HOA's.

Steve Kay, Cascadia Planning and Development Services, said the applicant has established HOA's for other projects for commonly maintained facilities like private driveways or private streets, and the HOA would have rules such as the upkeep of yards, where you cannot park, among other things, and this will include the apartment complex. He went on to say the applicant intends

to see the single-family lots, but continue to own and manage the apartment complex, which is the long-term plan.

Steve Kay, Cascadia Planning and Development Services, said regarding the sunset provision of the catch basin and maintenance of the storm water facility that are sited within the public park, there needs to be additional discussions with Staff, but he thinks there could be some sort of agreement worked out on the maintenance and when the ownership should be transferred to the city.

Steve Kay, Cascadia Planning and Development Services, said there were questions about why 4<sup>th</sup> Street should be extended, and he said the City requested it. He stated the applicant would not have a problem with not making that connection if that were permitted, but it is required according to the transportation system plan and that is what Staff and the applicant need to follow.

Steve Kay, Cascadia Planning and Development Services, stated the applicant is willing to provide park maintenance for a period so that enough revenue can be generated by the general fund to pay for additional employees to take care of those facilities in the future.

Steve Kay, Cascadia Planning and Development Services, said regarding the trees on the site, the applicant proposing to preserve extensive areas of the site as natural areas, in its current state where trees will not be removed. He said along those riparian corridors within the parks, those are amenities that will benefit the residents in this community and in the broader community, so there is no reason to remove all the trees on the site.

Steve Kay, Cascadia Planning and Development Services, responded to the question of potential homeless camps. He said that is probably a question the Police Chief would need to answer on how those are looked at by the City, but these will be public parks and whatever the City's rules are for camping, not camping, or how they are managed are up to the City. He stated the pathways with people traveling through these areas on a regular basis for recreation purposes means there is going to be surveillance by the public, and if anything is going on, those issues can be reported to the police.

Steve Kay, Cascadia Planning and Development Services, said they are not proposing to narrow any streets in this development, they are meeting all the City standards for public streets. The alleys, which are serving as driveways to get to the townhomes in the rear site, is being reduced, but those lots don't just front the alley, those lots front a full collector street with parking on both sides, no driveways, and a significant amount of parking is available on that street.

Steve Kay, Cascadia Planning and Development Services, addressed the question regarding property values and change. He said the apartment complex was sited where it is so that it does not have a direct conflict with existing development in the community. He said they have parks on the perimeter of the site to help buffer this new community from impacting its neighbors to the best extent possible.

Steve Kay, Cascadia Planning and Development Services, said in regard to the question asking if the trail was going to be on the south side of the creek or go in a loop around the creek, he said

because of the wetlands, and the impact a path would have on them if it went across the creek, they are not proposing it to go all the way around.

An unknown person in the audience asked why 4<sup>th</sup> Street must be included as a through street.

Steve Kay, Cascadia Planning and Development Services, said he addressed that earlier, but it is because the City is requiring that connection. He stated again the applicant is ok with not making that connection if the City and Planning Commission agreed to.

An unknown person in the audience asked where the widening of road begins.

Steve Kay, Cascadia Planning and Development Services, said the widening of the road begins at the far west end and will continue all the way into town along the front edge of the property to meet the City standards that are required. He stated on to say the City is also talking about also requiring that sidewalk connection to 7<sup>th</sup> Street from their site, but nothing on the north side of the road, all the widening will be on the south side.

Rocky Sherwood, 2622 Nina Place, Hubbard, OR, asked if there will be lights on the sidewalks so people will not get ran over.

Steve Kay, Cascadia Planning and Development Services, said there will be lighting on all the streets.

Crystal Rostocil, 3427 4<sup>th</sup> Street, Hubbard, OR asked for clarification on where the connecting street is if it is before or after 7<sup>th</sup> Street.

Steve Kay, Cascadia Planning and Development Services, said it would be towards the cemetery, on the west side of the dip.

Crystal Rostocil also asked if they were planning on putting a sidewalk across Broadacres Road.

Steve Kay, Cascadia Planning and Development Services, there are not proposing putting a sidewalk crossing Broadacres Road.

An unknown member of the audience asked if there was going to be a reduction of the speed limit on Boones Ferry to 25 mph.

Police Chief Dave Rash said his understating is Marion County owns J Street.

The unknown member of the audience then asked if the Urban Growth Boundary has expanded how is that still going to be a County Road.

Steve Kay, Cascadia Planning and Development Services, said often when new developments come in on the periphery of a town, the city will petition to reduce the speed limit.

Police Chief Dave Rash responded that we really do not have control over it.

Steve Kay, Cascadia Planning and Development Services, stated whenever new development comes in there is a City Transportation System Plan that needs to be followed and even though another County might have jurisdiction on a roadway, they defer to the City's Transportation System Plan design standards for any improvements that are done in that community, so the County does need to coordinate with the City on how that is designed.

Rocky Sherwood, 2622 Nina Place, Hubbard, OR asked if the applicant can build a skateboard park in the public park they are building.

Steve Kay, Cascadia Planning and Development Services, responded the park will be dedicated to the City, and he said he used to work in Silverton and they had to petition really hard, and spent many years raising money for it to be able to get one.

Rocky Sherwood, said building a skateboard park would help the applicant get the support from the community, because everyone in the community wants a skateboard park, and that would help their case towards a public park.

Planning Commissioner Glenn Holum called for a Point of Order.

An unknown member of the audience said there will be 3 properties that could be affected by lower property values because of the apartments being close to them, and they are used to looking at the trees, so he was wondering if there would be any compensation to those property owners.

Steve Kay, Cascadia Planning and Development Services, said that is not criteria for the PUD to evaluate that, and the City would have to speak to that issue.

An unknown member of the audience asked if there would be any complaints from the residents in the new development about dust caused from the farmers working their fields.

Steve Kay, Cascadia Planning and Development Services, said the park on the west side will help buffer that, and on the north side it is buffered by Broadacres Road.

Rocky Sherwood, 2622 Nina Place, Hubbard, questioned the point of order that was called for to stay on topic, he said it is his right as a taxpayer to ask questions about the parks, and that is his right as a citizen.

An unknown audience member asked about the S curves on J Street with is dangerous already and was wondering if there were any inclusions in the plan to improve it and make it safer.

Steve Kay, Cascadia Planning and Development Services, said that issue was not brought up by Marion County who scoped the Traffic Study, and does not think that issue was specifically looked at, and Marion County should give input as to what the design is.

Planning Commissioner Fil Kartal asked for more explanation on how they can develop and ask for the lot sizes to be smaller, and why others can't, how is this development unique.



Steve Kay, Cascadia Planning and Development Services, said as staff indicated at the beginning this is a Planned Unit Development which means the developer gives far and above what is required for open space and parks, and provides public benefits. Through that process of having a PUD, you can ask for modifications to your standards so that you can compensate for these additional things that are provided, that is how a PUD works in all jurisdictions and the City of Hubbard has specific provisions for that in their Development Code. S. Kay stated the amount of dwelling units that are permitted on the site is much less than what is allowed, an apartment complex could be done on pretty much the entire site, but that is not what is proposed. What was originally proposed to the City was just a single family development, but the City recognizes they have requirements to provide diverse types of housing in the community, that is why it was zoned high and medium density residential.

Planning Commissioner Fil Kartal said he understands the apartments but has a problem with the lots sized for the single-family homes being smaller than everyone else in town.

Steve Kay, Cascadia Planning and Development Services, said the lot sizes are smaller because they are proposing to keep the natural areas pristine which means making the lots smaller.

Planning Commission Chairman Scott Stierle said before he closed or continued the public hearing if there are any additional questions from the Planning Commissioners of staff or anyone. He went on to say as a reminder that once he closed the hearing only Commissioners or staff may speak.

Planning Commission Chairman Scott Sterile said he will entertain discussion on the application and/or a motion.

MSA/Planning Commissioner Glen Holum /Planning Commissioner Nik Kulikov motioned to continue the public hearing for the Bear Creek PUD, file #PUD 2022-01, to the Tuesday, October 18, 2022, Hubbard Planning Commission meeting. Planning Commission Chairman Scott Stierle, Planning Commissioner Glenn Holum, Planning Commissioner Nik Kulikov, Planning Commissioner Fil Kartal were in favor. Motion passed unanimously.

**ADJOURNMENT. (The next scheduled Planning Commission Meeting will be October 19, 2022 at 6:30 p.m.)** MSA/Planning Commissioner Glenn Holum /Planning Commissioner Nik Kulikov moved to adjourn at Planning Commission Chairman Scott Stierle, Planning Commissioner Glenn Holum, Planning Commissioner Nik Kulikov, Planning Commissioner Fil Kartal were in favor. Motion passed unanimously. Meeting was adjourned at 9:45 p.m.

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Glenn Holum  
Planning Commission Chairman

**ATTEST:**

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Vickie L. Nogle, MMC  
Director of Administration/City Recorder  
Recording

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Julie Hedden  
Administrative Assistant/Court Clerk  
Transcribing

**CITY OF HUBBARD  
PLANNING COMMISSION MINUTES  
NOVEMBER 15, 2022**

**CALL TO ORDER.** The Hubbard Planning Commission meeting was called to order at 6:31p.m. by Planning Commission Vice Chair Glenn Holum via Zoom.

**Planning Commission Present:** Planning Commissioner Glenn Holum, Planning Commissioner Fil Kartal (joined at 6:37 p.m.), Planning Commissioner Nik Kulikov, Planning Commissioner Patrick Marnell.

**Excused:** Planning Commission Chair Scott Stierle.

**Staff Present:** Director of Administration/City Recorder Vickie Nogle, City Planner Holly Byram, MWVCOG, Public Works Superintendent Michael Krebs, Administrative Assistant/Court Clerk Julie Hedden, Interim Fire Chief Michael Kahrmann.

**Guests:** Jennifer Arnold, Liam Sullivan

**FLAG SALUTE.** Planning Commission Vice Chair Glenn Holum called the meeting to order at 6:31 p.m. and led the group in the flag salute.

**APPROVAL OF THE OCTOBER 18, 2022 PLANNING COMMISSION MEETING MINUTES.** MSA/Planning Commissioner Patrick Marnell/ Planning Commissioner Nik Kulikov moved to approve the minutes. Planning Commissioner Glenn Holum, Planning Commissioner Nik Kulikov, Planning Commissioner Patrick Marnell were in favor. Motion passed unanimously.

**PUBLIC HEARING.**

- a) **Land Use File# DR 2022-02 for 2347 & 2363 Industrial Avenue, Hubbard (04W33DD 1300 & 1500), applicant Emerio Design, LLC. – Site Development Review approval for two abutting properties. Address 2363 is developed with an existing 15,000 SF office/warehouse building, a 12,600 SF warehouse building, parking, landscaping, and outdoor storage area. Address 2347 is vacant undeveloped. Applicant proposes to develop a fenced gravel yard on 2347 for outdoor storage of electrical materials and equipment, in support of an electrical supply distribution company occupying both lots, with stormwater control and riparian setback.**

Planning Commission Vice Chair Glenn Holum opened the Public Hearing at 6:33 p.m.

Planning Commission Vice Chair Glenn Holum read the legislative hearing statement.

City Planner Holly Byram, MWVCOG, read the criteria standard script.

Planning Commission Vice Chair Glenn Holum asked for any declarations of ex parte contact, bias, or conflict of interest. There was none.

## **PAGE 2 – PLANNING COMMISSION MEETING MINUTES NOVEMBER 15, 2022**

City Planner Holly Byram, MWVCOG, summarized the staff report, pages 1 through 15, with additional exhibits.

City Planner Holly Byram, MWVCOG, stated this Public Hearing is for a Site Development Review, File 2022-02 and the applicant is Emerio Design. She went on to say his is 2 properties that are abutting and they are located in the Hubbard Industrial Park with one of the properties fully developed with a front office, 2 warehouse buildings, paved parking, landscaping, etc., and the other property is vacant. This application regards both of the properties used together in 1 development and the proposed land use is an electrical supply warehousing and distribution company which would occupy both of the lots.

City Planner Holly Byram, MWVCOG, said a Site Development Review is a Type II Action in which the Planning Commission will make the final decision this evening unless there is a continuation request.

City Planner Holly Byram, MWVCOG, pointed out that on page 2 of the Staff Report there is a Vicinity & Zone Map, but there is a typo, the Zone Map is current but the Key is older, so the zoning is not correct on the Key. The Hubbard Industrial Park is zoned Industrial and this portion of 99E is zoned Industrial/Commercial.

City Planner Holly Byram, MWVCOG, said these properties are both in common ownership and they would both be used to support the same company. She went on to say no changes are proposed for the developed property, and what is proposed for the undeveloped property is to develop a fenced gravel yard for outdoor storage of electrical materials and equipment, in support of an electrical supply distribution company occupying both lots. Furthermore, there would be access from the abutting property and a new 25-foot wide driveway from Industrial Avenue. On the frontage they would pave a new sidewalk to connect on both sides to abutting sidewalks, frontage landscaping, a fully fenced yard, and a storm water swell running along the west side of the property. There is a drainage ditch on the corner of Industrial and 99E that is included on the City's Natural Resource Inventory, and because it is assigned as a stream corridor the applicant is required to keep a 50 ft. buffer from it.

City Planner Holly Byram, MWVCOG, said the development criteria that the Planning Commission needs to consider starts on the top of page 4 of the Staff Report and the criteria comes from the Site Development Review section of the Hubbard Development Code.

City Planner Holly Byram, MWVCOG, explained the property is zoned Industrial and it is generally consistent with the Industrial District and the abutting properties. The applicant's proposal is to meet the minimum 10% landscaping standard, have a chain-link fence around the full perimeter of the gravel yard with privacy slats along the front. Staff is recommending additional screening as a condition of approval.

City Planner Holly Byram, MWVCOG, stated the graveling of the yard requires storm water retention and the City Engineer has reviewed the applicant's preliminary drainage report and has included comments, and has no concerns.

### **PAGE 3 – PLANNING COMMISSION MEETING MINUTES NOVEMBER 15, 2022**

City Planner Holly Byram, MWVCOG, said the developed lot has 2 existing driveways and the proposed gravel yard is to have one new 25 ft. wide driveway. The applicant is proposing to concrete the driveway apron only on the gravel yard, and staff's recommended condition of approval is they pave 30 to 40 ft. the driveway. She stated if the gravel storage yard were to be sold off, the new owner would need to come into the City for additional land use review, because the only reason the storage yard is allowed to continue to be in gravel is because it is abutting the paved lot on the existing developed property. Furthermore, regarding parking, 4 bicycle parking spaces are proposed but 6 are required, so they will need to add a couple more bike parking spaces, in which half of those will need to be covered.

City Planner Holly Byram, MWVCOG, stated in regards to screening and buffering, a recommended condition of approval is the applicant put privacy slats in the new chain link fence along the western boundary and potentially the northern boundary of the developed lot because there is a non-conforming residence there, in addition to the privacy slats in the front.

City Planner Holly Byram, MWVCOG, said there was no safe pedestrian connection to the front of the building, so Staff has recommended a pedestrian sidewalk that will connect to the front of the building.

City Planner Holly Byram, MWVCOG, stated most of the conditions of approval staff is recommending are fairly standard. She went on to say Item D, has to do with the Riparian Permits, and that is the applicant's obligation to coordinate with DSL (Department of State Lands) and others that might need to be consulted on this.

City Planner Holly Byram, MWVCOG, said Staff recommends approval of the requested Site Development Review and Conditional Use Permit, with the recommended conditions of approval included in the Staff report.

City Planning Commission Vice Chair Glenn Holum asked if there were any questions of staff from the Planning Commission before we continue and accept public testimony. There were none.

Planning Commission Vice Chair Glenn Holum asked if the applicant or their representative would like to speak.

Jennifer Arnold with Emerio Design LLC., stated they had no objections to the recommended conditions of approval as given in the Staff report, and were open to additional landscaping if it was reasonable.

Planning Commission Vice Chair Glenn Holum asked for clarification on the plan for the west side and northern boundaries of the property.

Jennifer Arnold with Emerio Design LLC., said Arborvitae is the main plant screening, and are sticking with chain-link fencing with slats in it for an additional layer of screening from adjacent users.

**PAGE 4 – PLANNING COMMISSION MEETING MINUTES NOVEMBER 15, 2022**

Planning Commission Vice Chair Glenn Holum asked if there was anyone who would like to speak in support. There were none.

Planning Commission Vice Chair Glenn Holum asked if there was anyone to who would like to speak in opposition of the application, and if there was anyone who would like to speak neither for nor against the application. There were no opponents.

Planning Commission Vice Chair Glenn Holum asked if the Planning Commission would like the applicant to address any of the testimony. There was no comment.

Planning Commission Vice Chair Glenn Holum said before he closed or continued the public hearing if there are any additional questions from the Planning Commissioners of staff or anyone. He went on to say as a reminder that once he closed the hearing only Commissioners or staff may speak.

Interim Fire Chief Michael Kahrmann stated he had no questions or concerns regarding this project.

Public Works Superintendent Mike Krebs stated he had no comments.

City Planner Holly Byram, MWVCOG asked Interim Fire Chief Michael Kahrmann if there was a need for a Knox box in case there is an incident within a locked storage yard.

Interim Fire Chief Michael Kahrmann said because the current existing facility has a Knox already installed on site, they could put keys for the yard in that Knox box and he can make a note of it on their pre-incident plan. He went on to say if a new company came in and took over the lot, then at that time they would require the new business to put a Knox box on the gate.

The applicant, Liam Sullivan, said he will add a key for the yard to the existing Knox box.

Planning Commission Vice Chair Glenn Holum closed the Public Hearing at 7:00 p.m. and said he will entertain discussion on the application and/or a motion.

MSA/Planning Commissioner Fil Kartal /Planning Commissioner Patrick Marnell made a motion to approve Site Development Review file #DR 2022-02, as submitted and adopt the findings and recommended conditions of approval contained in the Staff Report. Planning Commissioner Glenn Holum, Planning Commissioner Fil Kartal, Planning Commissioner Nik Kulikov, Planning Commissioner Patrick Marnell were in favor. Motion passed unanimously.

**ADJOURNMENT. (December 20, 2022 – Cancelled. Next scheduled Planning Commission Meeting will be January 17, 2023, at 6:30 p.m.)** MSA/Planning Commissioner Nik Kulikov/Planning Commissioner Patrick Marnell moved to adjourn. Planning Commissioner Glenn Holum, Planning Commissioner Fil Kartal, Planning Commissioner Nik Kulikov, Planning Commissioner Patrick Marnell were in favor. Motion passed unanimously. Meeting was adjourned at 7:03 p.m.

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Glenn Holum  
Planning Commission Chair

**ATTEST:**

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Vickie L. Nogle, MMC  
Director of Administration/City Recorder  
Recording

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Julie Hedden  
Administrative Assistant/Court Clerk  
Transcribing

**CITY OF HUBBARD  
PLANNING COMMISSION MINUTES  
JANUARY 17, 2023**

**CALL TO ORDER.** The Hubbard Planning Commission meeting was called to order at 6:35p.m. by Planning Commission Immediate Past Vice Chair Glenn Holum, via Zoom.

**Planning Commission Present:** Planning Commissioner Glenn Holum, Planning Commissioner Patrick Marnell, and Planning Commissioner Fil Kartal, (entered meeting at 6:41 p.m.)

**Staff Present:** Director of Administration/City Recorder Vickie Nogle, City Planner Holly Byram, MWVCOG, Public Works Superintendent Michael Krebs, Administrative Assistant/Court Clerk Julie Hedden, Interim Fire District Chief Michael Kahrman.

**Guests:** Bob Pardee, Gallant Construction.

**FLAG SALUTE.** Planning Commission Immediate Past Vice Chair Glenn Holum led the group in the flag salute.

**APPOINT CHAIR.** MSA/Planning Commissioner Patrick Marnell/Planning Commission Immediate Past Vice Chair Glenn Holum moved to appoint Planning Commissioner Glen Holum to Chair. Planning Commissioner Glenn Holum, Planning Commissioner Patrick Marnell, were in favor. Motion passed unanimously.

**APPOINT VICE-CHAIR.** MSA/Planning Commissioner Glen Holum/Planning Commissioner moved to appoint Planning Commissioner Patrick Marnell to Vice-Chair. Planning Commissioner Glenn Holum, Planning Commissioner Patrick Marnell were in favor. Motion passed unanimously.

**PUBLIC HEARING.**

- a) **CONTINUED PUBLIC HEARING FROM SEPTEMBER 20, 2022 – APPLICANT REQUEST TO CONTINUE TO FEBRUARY 21, 2023– Planned Unit Development #PUD 2022-01 / 11984 Broadacres Road N.E., Hubbard (Frank J Bronec QTIP Trust & Columbia Trust Company TRE). The 56.38 (54.42 – acre Parcel 1 plus abutting rights-of-way), Bear Creek Planned Unit Development (PUD) Subdivision is a proposed residential development totaling 324 dwelling units on 204 lots.**

Planning Commission Chair Glenn Holum opened the continued Public Hearing at 6:39 p.m.

City Planner Holly Byram, MWVCOG, said back in September, the City Planning Commission held a public hearing for the Bear Creek PUD. The Planning Commission opened the Public Hearing and accepted Public testimony, and we heard from quite a few neighbors. She stated since that time, the developer who was on board stepped away from the project, and the property owner has decided to continue as the sole applicant on this file. The applicant is revising the site plan

## PAGE 2 – PLANNING COMMISSION MEETING MINUTES JANUARY 17, 2023

after hearing testimony at the September 2022 meeting and now needs time to get the new plan to engineering to ensure the revised plan will be feasible.

City Planner Holly Byram, MWVCOG, recommended to continue the public hearing to February 21, 2023. She stated this will more than likely be continued again to either March or April, but she does not have any official word on that yet.

Planning Commission Chair Glenn Holum asked for a motion to continue the public hearing.

MSA/Planning Commissioner Patrick Marnell /Planning Commissioner Fil Kartal made a motion to continue the Public Hearing to February 21, 2023. Planning Commissioner Glenn Holum, Planning Commissioner Patrick Marnell, and Planning Commissioner Fil Kartal were in favor. Motion passed unanimously.

- b) Land Use File #DR 2022-03 for 2400 Industrial Avenue, Hubbard (04W33DD1001), applicant Gallant Construction, Inc. – Site Development Review approval for the development of a marble and granite manufacturing/production and wholesale business. Proposed development includes a new 45,000 SF industrial building plus 15,000 SF covered open-air storage area, paved parking, landscaping, stormwater, frontage improvements, etc.**

Planning Commission Chair Glenn Holum opened the Public Hearing at 6:42 p.m.

Planning Commission Chair Glenn Holum read the legislative hearing statement.

City Planner Holly Byram, MWVCOG, read the criteria standard script.

Planning Commission Chair Glenn Holum asked if any member of the audience have any objections to the notice that was published. There were none.

Planning Commission Chair Glenn Holum asked if any member of the audience wish to challenge the jurisdiction of the Planning Commission to hear this matter. There were none.

Planning commission Chair Glenn Holum ask members of the Planning Commission to report any site visits or ex-parte contact. There were none.

Planning Commission Chair Glenn Holum asked if any member of the audience with to challenge the impartiality or ex-parte disclosures of any member of the Planning Commission. There were none.

City Planner Holly Byram, MWVCOG, summarized the staff report, pages 1 through 16, with additional exhibits. She stated this is a Site Development Review for the development of a marble and granite manufacturing/production and wholesale business. The applicant is Gallant Construction and they have participated in a pre-application meeting, so they understand the adopted code language.



### **PAGE 3 – PLANNING COMMISSION MEETING MINUTES JANUARY 17, 2023**

City Planner Holly Byram, MWVCOG, stated this Public Hearing is for a Site Development Review, File 2022-03 and the applicant is Gallant Construction, and the owner/business is Pacific Northwest Marble and Granite.

City Planner Holly Byram, MWVCOG, said the site is 3.21 acres that is currently vacant and undeveloped. The proposed development includes a 45,000 SF Industrial building which is where they would do their manufacturing, production, and wholesale, a 15,000 SF covered storage area, gravel outdoor storage area, paved parking landscaping, stormwater, frontage improvements, etc.

City Planner Holly Byram, MWVCOG, said on page 3 of the staff report is a google street view map showing the undeveloped property, and at the bottom of the page is a proposed site plan showing access off of Hill Lane.

City Planner Holly Byram, MWVCOG, stated the applicant has proposed a perimeter fence as well as landscaping. There is also a storm basin proposed for the upper Northeast corner, and as a condition of approval they will need to submit a storm drain plan that shows calculations and a utility plan that shows water and sewer connections to city standards.

City Planner Holly Byram, MWVCOG, said Industrial Avenue is a local street with a 60 ft. right-of-way, so there is no other additional right-of-way needed, but they will need to build a sidewalk along the frontage.

City Planner Holly Byram, MWVCOG stated a total of 84 parking spaces are required, with at least 2 striped loading zones that are paved. She said the outdoor storage area proposed is gravel to the east of the covered storage area, and the Development Code does allow for this as long as it is adjacent to existing paved parking. Bicycle parking is proposed in front of the building, but additional details are required, showing how many are provided and how many are covered.

City Planner Holly Byram, MWVCOG, said there will need to be screening for the garbage enclosure, the outdoor storage, and the parking area.

City Planner Holly Byram, MWVCOG, said the submitted site plan shows a pathway from the front sidewalk through the fencing to the front of the building.

City Planner Holly Byram, MWVCOG, stated one of the conditions of approval is if Hill Lane is to be used as the access point for this project, there will need to be clear vision on Hill Lane off of Industrial Avenue.

City Planner Holly Byram, MWVCOG, said Staff recommends approval of the application, subject to the recommended conditions of approval.

City Planning Commission Chair Glenn Holum asked if there were any questions of staff from the Planning Commission before we continue and accept public testimony.

Planning Commissioner Fil Kartal asked if the access from the back road gravel or is it paved.

## **PAGE 4 – PLANNING COMMISSION MEETING MINUTES JANUARY 17, 2023**

City Planner Holly Byram, MWVCOG, said it is a paved driveway.

Public Works Superintendent Mike Krebs stated he had no comments and was good with the plan as stated.

Interim Fire District Chief Michael Kahrmann had no additional comments, good to proceed as is.

Planning Commission Chair Glenn Holum asked if the applicant or their representative would like to speak.

Bob Pardee, Project Manager, Gallant Construction, thanked City Planner Holly Byram, MWVCOG, and Director of Administration/City Recorder Vickie Nogle for their help and professionalism. He stated he had no additional comments, and the findings are appropriate and the conditions very fitting. He said there is a high likelihood they may revert back to their original access point off of Industrial Lane, as they are working through the details of the traffic patterns on the property. Furthermore, the biggest thing they want to get through first is the Storm Water Management Plan, because that will drive how much space will need to be dedicated and some adjustments may need to be made for parking and traffic flow.

Planning Commission Chair Glenn Holum asked if there was anyone who would like to speak in support of the application. There were none.

Planning Commission Chair Glenn Holum asked if there was anyone to speak in who would like to speak in opposition of the application. There were none.

Planning Commission Chair Glenn Holum asked if there was anyone who would like to speak neither for nor against the application. There were none.

Planning commission Chair Glenn Holum asked if the Planning Commission would like the applicant to address any of the testimony. There were none.

Planning Commission Chair Glenn Holum said before he closed or continued the public hearing if there are any additional questions from the Planning Commissioners of staff or anyone. He went on to say as a reminder that once he closed the hearing only Commissioners or staff may speak.

Planning Commission Chair Glenn Holum closed the Public Hearing at: 6:59 p.m. and said he will entertain discussion on the application and/or a motion.

MSA/Planning Commissioner Patrick Marnell /Planning Commissioner Fil Kartal made a motion to approve Site Development Review file #DR 2022-03, as submitted and adopt the findings and recommended conditions of approval contained in the Staff Report. Planning Commissioner Glenn Holum, Planning Commissioner Fil Kartal, Planning Commissioner Patrick Marnell were in favor. Motion passed unanimously

**PAGE 5 – PLANNING COMMISSION MEETING MINUTES JANUARY 17, 2023**

Planning Commissioner Chair Glenn Holum asked if we have Plan Review coming up this year. Director of Administration/City Recorder Vickie Nogle said she is in discussion with MWVCOG regarding assistance with that project. She also stated City Council has given a directive to move forward with the Comprehensive Plan and she is working with the MWVCOG to get it coordinated.

City Planner Holly Byram, MWVCOG, thanked the Planning Commissioners for their time, service, and volunteerism they have given to this Commission. She also reiterated how important the work that they do is, and that there are 2 opening on the Planning Commission and hopefully we can get those filled.

Director of Administration/City Recorder Vickie Nogle said we have received 3 or 4 applications, so we will have a full board after the City Council appoints 2 members in February.

Planning Commission Chair Glenn Holum welcomed the applicant to Hubbard and wished him success.

**ADJOURNMENT. Next scheduled Planning Commission Meeting will be February 21, 2023 at 6:30 p.m.)** MSA/Planning Commissioner Patrick Marnell/Planning Commissioner Fil Kartal moved to adjourn. Planning Commissioner Glenn Holum, Planning Commissioner Fil Kartal, Planning Commissioner Patrick Marnell were in favor. Motion passed unanimously. Meeting was adjourned at 7:03 p.m.

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Glenn Holum  
Planning Commission Chair

**ATTEST:**

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Vickie L. Nogle, MMC  
Director of Administration/City Recorder

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Julie Hedden  
Administrative Assistant/Court Clerk  
Recording & Transcribing



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DATE: February 13, 2023  
TO: Hubbard Planning Commission  
FROM: Holly Byram, City Planner, MWVCOG  
RE: Bear Creek Planned Unit Development, file #PUD 2022-01

#### SUMMARY:

During the regular meeting of September 20, 2022, the Hubbard Planning Commission reopened the public hearing for the proposed Bear Creek PUD located on Broadacres Road NE. Following a staff presentation, public testimony, and applicant rebuttal, the Planning Commission continued by motion the public hearing to the date and time certain of the next regular meeting Tuesday, October 18, 2022 at 6:30pm at the Hubbard City Hall. On October 18, 2022, the Planning Commission, by motion, continued the public hearing to the January 17, 2023 meeting. On January 17, 2023, the Planning Commission, by motion, continued the public hearing to the February 21, 2023 meeting. These continuations were at the request of the applicant.

**Since that time, the applicant has submitted to City staff a revised PUD plan which demonstrates that the applicant heard concerns expressed by staff and the public during the September public hearing, as well as associated recommended conditions of approval. Staff has reviewed the revised plan and supports the proposed changes. The revised PUD plan is now in the project engineer's hands to ensure the revised plan is still consistent with the planned storm water facilities. The applicant is requesting one final public hearing continuation, to the regular meeting date of April 18, 2023. Staff supports this request to allow the applicant sufficient time to respond to and resolve related PUD design issues.**

In Oregon, land use applications must be decided at the local level within 120 days of a complete application. There are provisions for an applicant to sign a waiver to the 120-day rule, extending the deadline. The property owner has signed the waiver, as all continuations of this file to date have been at the request of the applicant. An additional extension waiver is underway for this final extension.

#### RECOMMENDED MOTION:

**Motion to continue the public hearing for the Bear Creek PUD, City file #PUD 2022-01, to the date and time certain of 6:30pm on Tuesday, April 18, 2023, and direct staff to mail a courtesy public notice to neighbors with the continued time and date, as well as any notable changes to the PUD plan proposed by the applicant.**

# **Mid-Willamette Valley Council of Governments**

## **Planning Commissioner Training**

### **City of Donald**

### **February 23, 2012**

#### EX-PARTE CONTACT

Ex-parte contact occurs when a decision maker who is a member of an impartial tribunal (the Planning Commission) and is acting within a “quasi-judicial” process receives information outside a public hearing. For example, the Planning Commission is scheduled to conduct a public hearing the following week on an application for a Variance. A Planning Commissioner sees a friend at the grocery store and the friend starts talking about how good, or bad, the application is. Any information the Commissioner receives about the case should be received at the public hearing. Other methods of ex-parte contact are site visits, emails, phone conversations, newspaper articles, radio and TV broadcasts and the internet.

Contact with City staff or the City’s contract staff (City Engineer, Planner, etc.) outside the public hearing is not ex-parte contact. A decisionmaker can talk to city staff at any time.

Ex-parte contact occurs within the quasi-judicial process, but not within the legislative process. “There is no legal requirement that decision makers disclose the substance of their site observations and provide an opportunity for rebuttal where the decision is legislative.” (LUBA Headnotes, 25.7, Valerio v. Union County, 33 Or LUBA 604 (1997)) The legislative process is less restrictive because it involves the adoption of laws and the decisionmakers are not sitting as an impartial tribunal.

For a quasi-judicial process involving a public hearing (for example, zone changes, subdivisions, planned unit developments, conditional uses, variances, etc.), once the Chairperson opens the public hearing, the parties present their information. The information is typically in the form of the application materials, staff report, other reports on traffic and wetlands, and written and oral testimony of parties at the public hearing. It is not uncommon for written and oral testimony to be opinions, or statements the testifier believes are true, but may not be true. All the information is entered into the record at the public hearing so that all the parties can know what it is and have an opportunity to comment on it.

The reason the impartial decisionmaker cannot listen to or read or gather information outside the public hearing is, “due process.” The U.S. Constitution and the Oregon Constitution require government processes to be fair and equitable for all the parties. If one party is able to provide information to one or more Commissioners without the other parties’ knowledge, the process is not fair and equitable. In the 1973 landmark case

Fasano v. Washington County the Oregon Supreme Court set forth the basic rules of land use decision making and made it clear that even though a land use decision maker is not deciding criminal cases or civil lawsuits, the land use decision making process must be fair and equitable for all the parties. Actually, the Oregon Supreme Court was merely reiterating the “due process” clause of the U.S. Constitution.

Information received outside the public hearing is in a Commissioner’s mind and becomes part of the reason the Commissioner votes yes or no. If that information is not true and no other party knows what it is, then the process is not fair because untrue information goes unchallenged and a bad decision can result.

### RESOLVING AN EX-PARTE CONTACT

To resolve an ex-parte contact, after the public hearing has been opened and before the testimony starts, the Chairperson will ask if any Commissioner has any ex-parte contacts to disclose. If a Commissioner has an ex-parte contact, the Commissioner will state an ex-parte contact occurred and generally state what information was obtained. Depending on what the information is, it may be appropriate to specifically state what information was obtained. The announcement takes care of the ex-parte contact and all the parties present are aware of it and can address it in their testimony. The disclosure should occur after the hearing is opened so it is part of the hearing record and before any staff reports or testimony is received.

If a Commissioner forgets about the contact and during the testimony remembers it, at the first appropriate opportunity, such as between testifiers, the Commissioner can ask the Chairperson to be recognized and state the contact. If a Commissioner doesn’t remember the contact until the hearing is closed and the Commission is deliberating, the Commissioner can ask the Chairperson to be recognized and state the contact during the deliberation. That raises the issue of re-opening the hearing to afford the parties the opportunity to comment. The next step could be to re-open the hearing, or for the Chairperson to ask the audience if anyone wants to comment on the disclosure and if someone wants to comment, then the hearing should be re-opened.

A Commissioner may stop at the subject property. Although there is disagreement whether such a visit is an ex-parte contact or not, it is recommended it be considered an ex-parte contact. After the hearing is opened the Commissioner would state they stopped at the subject property and what information they learned so any of the parties can address it. A worst case scenario would be a Commissioner visiting the wrong property and having erroneous information in mind.

In some cases the subject property is on a busy road and the Commissioners go by it daily. In that case once the Chairperson has opened the hearing and has asked if there are any ex-parte contacts to disclose, each Commissioner can indicate they go by the property daily and generally mention what they noticed. Alternatively, the Chairperson could comment for all the Commissioners saying they all go by it daily, but that may not adequately indicate what each Commissioner sees when they go by it daily. For example,

one Commissioner may always focus on a large old tree near the edge of the property while another focuses on the driveway or the buildings.

If you receive a phone call or someone comes-up to you at a store, you can explain the discussion is inappropriate because you have a responsibility to the public to be an objective decisionmaker and any information you receive must be through the public hearing process to ensure fairness and equity for all the parties. You could explain that if it was their application being considered, they would want each Commissioner to not be influenced outside the public hearing.

Overall, it is the responsibility of the applicant and others participating in the process to gather all the pertinent information and present it in the application materials and at the public hearing. When a Commissioner is involved in ex-parte contact, parties on one side or the other can become concerned about the integrity of the process and of the Commissioner involved, whether the concern is warranted or not.

#### OREGON REVISED STATUTE (ORS) 227

ORS 227.180(3) explains how to resolve ex-parte contacts (see bolded italics below):

**227.180 Review of action on permit application; fees.**

(1) Not shown.

(2) Not shown.

***(3) No decision or action of a planning commission or city governing body shall be invalid due to ex parte contact or bias resulting from ex parte contact with a member of the decision-making body, if the member of the decision-making body receiving the contact:***

***(a) Places on the record the substance of any written or oral ex parte communications concerning the decision or action; and***

***(b) Has a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication made at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.***

(4) A communication between city staff and the planning commission or governing body shall not be considered an ex parte contact for the purposes of subsection (3) of this section.

(5) Subsection (3) of this section does not apply to ex parte contact with a hearings officer.

# **Mid-Willamette Valley Council of Governments**

## **Planning Commissioner Training**

### **City of Donald**

### **February 23, 2012**

#### BIAS.

An inherent role of a Planning Commissioner is to vote on motions resulting in decisions by the Planning Commission. In the process of making decisions the possibility of a public official having bias arises.

“Personal bias” is different from “conflict of interest.” Conflict of interest relates to financial benefit or avoiding financial detriment.

Personal bias is related to a person being prejudiced for or against a party or an issue to the extent that they cannot make a fair decision based on the merits of the case.

For example, as a Planning Commissioner you’re sitting as a member of an impartial tribunal regarding a conditional use application and you feel very very strongly about the applicant or the use at that location. You may be so biased in favor or in opposition to the applicant or application that you are not capable of making a fair, impartial judgment. Commissioners who have a bias that stands in the way of a fair and impartial judgment should not participate in the decision. They should recuse themselves.

“Actual bias” means prejudice or prejudgment of the facts to such a degree that a Planning Commissioner is incapable of rendering an objective decision on the merits of the case. If you have an actual bias, you should step down and not participate as a Commissioner. You may participate as a citizen and sit in the audience and testify and submit factual information.

You need not recuse yourself merely because you have knowledge of the facts or know one or more of the applicants or opponents, or even if you have a leaning to one side or the other. It is understood that everyone has biases. A Planning Commissioner is not bound by the same “squeaky-clean” standards as a Judge in a court of law, but a Commissioner should step down if the Commissioner believes they cannot make a fair decision based on the merits of the application.

As with any land use issue, one of the parties may have a different opinion as to whether a Commissioner is too biased to make a fair decision. If a party that is on the losing side of a decision believes a Commissioner is too biased, that party may appeal the decision to the appeal authority (generally the City Council for Planning Commission decisions). Once all local appeals have been exhausted a party may appeal to the Oregon Land Use Board of Appeals based on bias.



Bias and its infinite gradations are not easy to nail down. As an example, the following is a link to the Land Use Board of Appeals (LUBA) website and a bias case involving City Councilors. <http://www.oregon.gov/LUBA/2007Opinions.shtml>. Scroll to the month of May in 2007 and see case number 2006-055, 056 and 057, Woodward v. City of Cottage Grove.

#### OREGON REVISED STATUTE (ORS) 227

ORS 227.180(3) explains how to resolve a bias issue resulting from ex-parte contacts (see bolded italics below):

**227.180 Review of action on permit application; fees.**

(1) Not shown.

(2) Not shown.

*(3) No decision or action of a planning commission or city governing body shall be invalid due to ex parte contact or bias resulting from ex parte contact with a member of the decision-making body, if the member of the decision-making body receiving the contact:* (emphasis added)

*(a) Places on the record the substance of any written or oral ex parte communications concerning the decision or action; and*

*(b) Has a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication made at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.*

(4) A communication between city staff and the planning commission or governing body shall not be considered an ex parte contact for the purposes of subsection (3) of this section.

(5) Subsection (3) of this section does not apply to ex parte contact with a hearings officer.

End.

# Mid-Willamette Valley Council of Governments

## Planning Commissioner Training

### City of Donald

### February 23, 2012

#### CONFLICT OF INTEREST.

An inherent role of a Planning Commissioner is to vote on motions resulting in decisions by the Planning Commission. In the process of making decisions the possibility of a public official financially benefiting from a decision arises. Also, the possibility of a public official receiving relief from a loss arises. The term that describes these situations is “conflict of interest.”

The Oregon Government Ethics Commission administers the State’s ethics laws and can be contacted if you have questions. (503) 378- 5105 or [ogec.mail@state.or.us](mailto:ogec.mail@state.or.us). Their website address is [http://www.oregon.gov/OGEC/contact\\_us.shtml](http://www.oregon.gov/OGEC/contact_us.shtml).

“Conflict of interest” is divided into two terms which are defined in Oregon Revised Statutes (ORS) 244.020.

#### **244.020 Definitions.**

(1) “Actual conflict of interest” means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which **would be** to the private pecuniary benefit or detriment of the person or the person’s relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (11) of this section. (emphasis added)

(11) “Potential conflict of interest” means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which **could be** to the private pecuniary benefit or detriment of the person or the person’s relative, or a business with which the person or the person’s relative is associated, unless the pecuniary benefit or detriment arises out of the following: (emphasis added)

(a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.

(b) Any action in the person’s official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person’s relative or business with which the person or the person’s relative is associated, is a member or is engaged.

(c) Membership in or membership on the board of directors of a nonprofit corporation

that is tax-exempt under section 501(c) of the Internal Revenue Code.

ORS 244.020 goes on to define some terms used in the above definitions.

(2) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain but excluding any income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code with which a public official or a relative of the public official is associated only as a member or board director or in a nonremunerative capacity.

(3) "Business with which the person is associated" means:

(a) Any private business or closely held corporation of which the person or the person's relative is a director, officer, owner or employee, or agent or any private business or closely held corporation in which the person or the person's relative owns or has owned stock, another form of equity interest, stock options or debt instruments worth \$1,000 or more at any point in the preceding calendar year;

(b) Any publicly held corporation in which the person or the person's relative owns or has owned \$100,000 or more in stock or another form of equity interest, stock options or debt instruments at any point in the preceding calendar year;

(c) Any publicly held corporation of which the person or the person's relative is a director or officer; or

(d) For public officials required to file a statement of economic interest under ORS 244.050, any business listed as a source of income as required under ORS 244.060 (3).

(13) "Public official" means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body as defined in ORS 174.109 as an elected official, appointed official, employee, agent or otherwise, irrespective of whether the person is compensated for the services.

(14) "Relative" means:

(a) The spouse of the public official;

(b) The domestic partner of the public official;

(c) Any children of the public official or of the public official's spouse;

(d) Siblings, spouses of siblings or parents of the public official or of the public official's spouse;

(e) Any individual for whom the public official has a legal support obligation; or

(f) Any individual for whom the public official provides benefits arising from the public official's public employment or from whom the public official receives benefits arising from that individual's employment.

ORS 244 provides a method to handle conflicts. See 244.135, page 4 below, for Planning Commissioners. The following 244.120 is included to show the breadth of Oregon's efforts to ensure trustworthy government exists at all levels.

**244.120 Methods of handling conflicts; Legislative Assembly; judges; appointed officials; other elected officials or members of boards.**

(1) Except as provided in subsection (2) of this section, when met with an actual or potential conflict of interest, a public official shall:

(a) If the public official is a member of the Legislative Assembly, announce publicly, pursuant to rules of the house of which the public official is a member, the nature of the conflict before taking any action thereon in the capacity of a public official.

(b) If the public official is a judge, remove the judge from the case giving rise to the conflict or advise the parties of the nature of the conflict.

(c) If the public official is any other appointed official subject to this chapter, notify in writing the person who appointed the public official to office of the nature of the conflict, and request that the appointing authority dispose of the matter giving rise to the conflict. Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.

(2) An elected public official, other than a member of the Legislative Assembly, or an appointed public official serving on a board or commission, shall:

(a) When met with a potential conflict of interest, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official; or

(b) When met with an actual conflict of interest, announce publicly the nature of the actual conflict and:

(A) Except as provided in subparagraph (B) of this paragraph, refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue.

(B) If any public official's vote is necessary to meet a requirement of a minimum number of votes to take official action, be eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which the actual conflict arises.

(3) Nothing in subsection (1) or (2) of this section requires any public official to announce a conflict of interest more than once on the occasion which the matter out of which the conflict arises is discussed or debated.

(4) Nothing in this section authorizes a public official to vote if the official is otherwise prohibited from doing so.

#### **244.130 Recording of notice of conflict; effect of failure to disclose conflict.**

(1) When a public official gives notice of an actual or potential conflict of interest, the public body as defined in ORS 174.109 that the public official serves shall record the actual or potential conflict in the official records of the public body. In addition, a notice of the actual or potential conflict and how it was disposed of may in the discretion of the public body be provided to the Oregon Government Ethics Commission within a reasonable period of time. (emphasis added)

(2) A decision or action of any public official or any board or commission on which the public official serves or agency by which the public official is employed may not be voided by any court solely by reason of the failure of the public official to disclose an actual or potential conflict of interest.

#### **244.135 Method of handling conflicts by planning commission members.**

(1) **A member of a city or county planning commission shall not participate in any commission proceeding or action in which any of the following has a direct or substantial financial interest.**(emphasis added)

(a) The member or the spouse, brother, sister, child, parent, father-in-law, mother-in-law of the member;

(b) Any business in which the member is then serving or has served within the previous two years; or

(c) Any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.

(2) Any actual or potential interest shall be disclosed at the meeting of the commission where the action is being taken. (emphasis added)

End.

2/2011