

Bryce Bishop

From: Brian Hines <brianhines1@gmail.com>
Sent: Thursday, June 27, 2019 3:30 PM
To: Bryce Bishop
Subject: Fairview Woods

Mr. Bishop, my comments are in support of the Olsen Design and Development refinement plan for the Fairview Woods area. Along with my wife, we were members early on of Sustainable Fairview Associates (we owned shares in SFA for several years).

As SFA members, we took part in discussions of how the Fairview property should be developed in accord with sustainable principles. Since, there's been quite a bit of backsliding from those principles, with the notable exception of Pringle Creek Community.

Fairview Addition has been another bright spot. My wife and I were the first to put down a deposit on a Fairview Addition lot, but circumstances led us to remain in our current home for the time being.

Since, we've followed the progress of Fairview Addition, and noted the current plan for Fairview Woods. This is a special part of the Fairview property, sitting as it does at the crest of the hill and being heavily treed. It's great to see that Olsen Design and Development is utilizing many sustainable principles in the plan for Fairview Woods.

I've read the Fairview Woods plan and like it a lot. It certainly is in the spirit of the original vision for Sustainable Fairview, even though that vision has necessarily become diluted for a number of reasons. Hopefully the Fairview Woods plan will be approved by the City of Salem.

Sincerely,

Brian Hines
10371 Lake Drive SE
Salem, OR 97306

Brian Hines
Salem, Oregon USA
brianhines1@gmail.com
<https://www.facebook.com/OregonBrian>
<https://www.facebook.com/StrangeUpSalem>
<https://www.facebook.com/SalemPoliticalSnark/>
<http://twitter.com/oregonbrian>
www.hinesblog.com (blog)
www.churchofthechurchless.com (other blog)
www.salempoliticalsnark.com (other other blog)
www.brianhines.com (web site)
<http://brianhines.journoportfolio.com> (selection of my writings)

Bryce Bishop

From: Geoffrey James A.I.A. <gjamesarchitect@gmail.com>
Sent: Sunday, June 30, 2019 4:05 PM
To: Lisa Anderson-Ogilvie; Bryce Bishop
Cc: Schmidling, Pamela; alan tocchini MNA; Alan Meyer; Meyer, Muriel; Richard Reid; Sue Reid morn. side church/MNA; Trevor Phillips; Bob Krebs MNA; James, Geoffrey; Bennie Yows MNA
Subject: THE WOODS FRP-ADJ-SUB 19-01
Attachments: City of Salem re The Woods 07-01-2019.pdf

Attached is a letter (just from myself) regarding this proposed Subdivision of The Woods with a hearing scheduled for July 10.

Please add this to the hearing Record.

Unfortunately the developer did not contact MNA.

Unfortunately City Staff notified MNA Land Use after the June meeting and set a public hearing for the day before the July meeting.

The attached letter contains my position against removal of all these trees in The Woods Open Space and creating lots and home sites in a previously designated planned Open Space area.

This hearing should be delayed this until the neighborhood has met, so MNA can develop their recommendations for this matter.

Geoffrey James

Geoffrey James

Lisa Anderson-Ogilvie
Planning Administrator
City of Salem

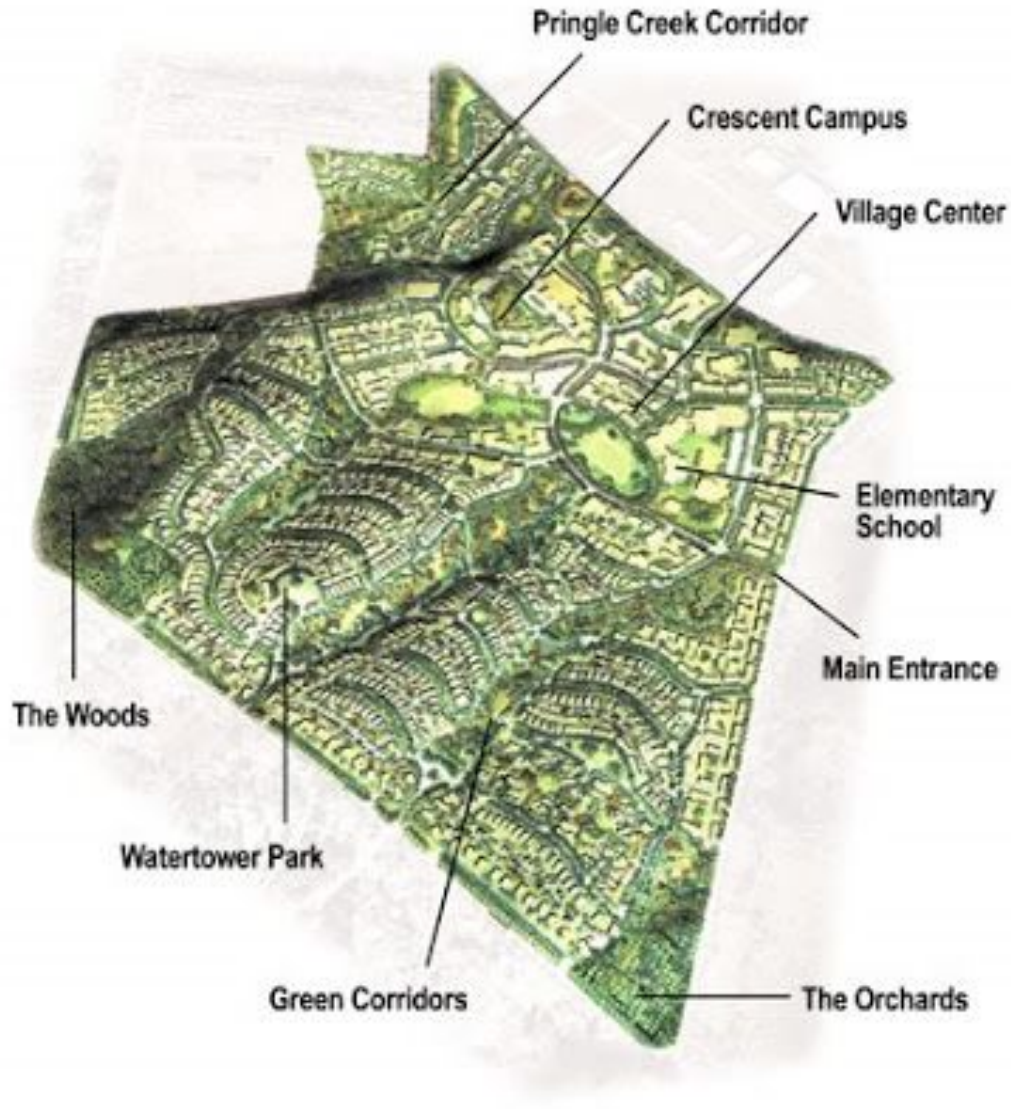
July 1, 2019

Fairview Master Plan: The Woods: Case: FRP-ADJ-SUB 19-01

Dear Ms. Anderson-Ogilvie:

I OBJECT to this proposal to subdivide The Woods open space into residential lots, for many reasons, explained on Page 4.

1. In approximately year 2000 the neighborhood participated in the design charette that produced the Fairview Master Plan for Sustainable Fairview's 275 acres.
2. The Master Plan was approved by Morningside Neighborhood Association.
3. The Master Plan was approved by Salem Planning Commission
4. The Master Plan was approved by The Salem City Council.
5. The Master Plan allows a Town Center, some high-density housing, and open space areas to compensate, e.g. The Woods, a protected wooded area off Battle Creek.
6. Over the next decade or two the Fairview area was sold off in partitioned acreages.
7. The Pringle Creek Community was the first, and it meets the standards and policies of the Fairview Plan.
8. There was a bankruptcy and the south part apparently changed hands twice. Apartments were planned, by 1 or two applicants, but Simpson Hills has never happened, and ugly gravel mountains remain, next to dangerous and narrow Reed Road, that none of these phases or tracts is planning to widen and improve, even though is a major access.
9. A neighborhood 5-acre park is in the Plan, but instead the City acquired more land for a future Community Park.
10. The Town Center and high-density housing, with that adjacent neighborhood park, was supposed to be in that east area, but that plan has deteriorated into conventional 3-story apartment blocks.



THE ADOPTED FAIRVIEW MASTER PLAN



FAIRVIEW ADDITION MASTER PLAN

11. Fairview Addition single family housing subdivision is being developed in several phases, off Battlecreek Road near Leslie Middle School and Pringle Creek Community. The presented plans (see above) showed two things. The subdivision would wrap around The Woods open Space. In addition, their plan showed an Oak Grove within the subdivision phase that would wrap around the Woods.

Geoffrey James

12. This current proposal violates that in two ways. (a) this month there is this subject plan that now wants to subdivide The Woods open space into residential lots. (b) in June the adjacent Subdivision area was clear cut of trees, so the "Oak Grove" suddenly disappeared overnight. Even the City staff was unaware this work was going on, that Battlecreek was closed (by flaggers) and that the trees were being removed and the ground contamination was scraped and removed. (A previous proposal was to bury the DDT contamination in trenches between the trees). MNA did not really like that idea.
13. The adopted Fairview Master Plan is therefore violated in that it, like any genuine Planned Development, ensured that there is compensating open space area, in return for allowing higher density development at the east end. The current strategy is to sell off tracts to developers, to produce a refinement plan for each tract, and now, actually even now propose that the approved Open Space be developed.
14. The excuse or mitigating strategy is that these are large lots, so effectively save the trees. They do not. Examination of the submitted (and fuzzy) Tree Preservation Plan shows many inaccuracies and deceptive practices. (a) Existing trees are shown as circles. However, then the applicant imposes rectangles on the map apparently representing future house sites or envelopes, so actually encompassing these trees. So, all those trees are doomed, and lost. We all know that utility lines, driveways, parking, etc. will remove many other trees in each proposed lot. (b) a 60 ft. tree preservation buffer is indicated at Battlecreek frontage. However, a third of this is labelled a utility easement. Therefor it is deceptive to imply that this area will save trees, when it to be trenched for utility lines.

Geoffrey James

15. LACK OF NOTIFICATION

Finally. This is a violation of the Ordinance requiring developers to contact the neighborhood, and in this case, to come to Morningside Neighborhood Association to present their plans. I checked with the Land Use Chair and the Transportation Chair and no application or correspondence has been received from the Applicant.

16. LACK OF NEIGHBORHOOD COORDINATION

This is also a violation of Neighborhood Involvement Process. Morningside Neighborhood Association meets at 6.30 on the 2nd. Wednesday of each month, at Painters Hall, in Pringle Creek Community, at Fairview, i.e. a short walking distance away. A few days after MNA's June meeting the City sent out a Notice of this proposed Subdivision of The Woods. Then they set a Public Hearing for July 9, knowing well that that would be 24 hrs. BEFORE the July MNA meeting on July 10. Deliberately avoiding the Neighborhood like this is a Violation, and I am sure that the City Council will be discussing this violation, by developer, and by City.

17. RECOMMENDATION:

DENY this proposal to subdivide the designated open space in the master plan into residential lots, that includes a defective and misleading Tree Plan that has too many errors, and that violates the Fairview Master Plan for open space.

DELAY any discussion or deliberation until the Neighborhood meeting and until Morningside can meet and discuss this proposal and provide Neighborhood recommendation for a Public Hearing.

Sincerely.



Geoffrey James

Bryce Bishop

From: Alan Tocchini <a.tocchini@comcast.net>
Sent: Sunday, June 30, 2019 5:44 PM
To: 'Geoffrey James A.I.A.'; Lisa Anderson-Ogilvie; Bryce Bishop
Cc: Schmidling, Pamela; 'Alan Meyer'; Meyer, Muriel; 'Richard Reid'; 'Sue Reid morn. side church/MNA'; 'Trevor Phillips'; 'Bob Krebs MNA'; 'James, Geoffrey'; 'Bennie Yows MNA'
Subject: RE: THE WOODS FRP-ADJ-SUB 19-01

I don't entirely agree. I think they should give special protection to the oak grove – eliminate the invading and over-topping D-firs – especially in the “park-preserve part.

AI T

From: Geoffrey James A.I.A. [mailto:gjamesarchitect@gmail.com]
Sent: Sunday, June 30, 2019 4:05 PM
To: Lisa Anderson-Ogilvie; Bryce Bishop
Cc: Schmidling, Pamela; alan tocchini MNA; Alan Meyer; Muriel Meyer; Richard Reid; Sue Reid morn. side church/MNA; Trevor Phillips; Bob Krebs MNA; James, Geoffrey; Bennie Yows MNA
Subject: THE WOODS FRP-ADJ-SUB 19-01

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This hearing should be delayed this until the neighborhood has met, so MNA can develop their recommendations for this matter.

Geoffrey James

Bryce Bishop

From: Jerry Mumper <jmumper@toast.net>
Sent: Friday, July 05, 2019 6:56 AM
To: Bryce Bishop
Subject: Hearing

Bryce.

I am asking that the July 9, 2019 public hearing on case no. FRP-ADJ-SUB 19-01 be postponed as the staff report was not available before the seven day minimum time as required by SRC 300.620.c.

Jerry Mumper

Bryce Bishop

From: NANCY HELEN DANIEL <ndchv@comcast.net>
Sent: Monday, July 08, 2019 2:35 PM
To: Bryce Bishop
Cc: Eric Olsen; geoffreyjames@comcast.net
Subject: THE WOODS Fairview Refinement Plan/Class 2 Adjustment / Subdivision Case No. FRP-ADJ-SUB 19-01
Attachments: to Planning Commission.docx

Mr. Bishop,

I live at 4101 Braden Lane SE in the Fairview Addition. Attached is my letter stating my objections the proposed Refinement Plan. Please include it in your deliberations and make it available to all decision makers and at the hearing, as regulations and procedures allow.

Nancy Daniel

To: City of Salem Planning Commission
From: Nancy H. Daniel, resident Fairview Addition
Subject: The Woods. Case No. FRP-ADJ-SUB19-01

July 8, 2019

I have read the Staff Report recommending approval of the proposed Fairview Woods Refinement Plan. The report has taken care to base its recommended approval contingent upon 15 significant changes in the plan.

I have read the developer's proposal. He has made his best effort to honor the principles and goals governing the redevelopment of the entire 275 acres of the old Fairview Training Center, as set forth more than a decade and a half ago in the Fairview Master Plan.

I read the governing Fairview Training Center Redevelopment Master Plan before making an earnest money payment on a lot in the Fairview Addition, a full year before just the infrastructure for phase 1 was completed. The principles of sustainable land use and ecological systems were major factors in my decision to build a home in the Fairview Addition.

If development were the only, or best use, option for this 14.07 acre parcel, both the planning agency and the builder have done their best to assure the proposed new subdivision be compatible with the overall aims of FTCT Master Plan.

However, it appears that the driving force for development of this parcel into a subdivision of million dollar single family residences on large lots is the desire of the owners to sell the property and maximize the return on their investment. To approve this subdivision to accommodate the owners' desire to sell the property is to violate the public trust in the original FTCT plan.

Development is NOT the best use for this land. There are very good reasons the FTCT master plan does not depict not developing this parcel as a housing subdivision. Goal #6 **Respect the Landscape**..Large existing forest blocks and wetlands are preserved and, will be expanded, over time." (my emphasis)

If this goal can so easily be abandoned, how many other goals will vanish, or be altered so as to be unrecognizable, for the sake of private interest?

Goal #10 Wide green corridors ? Goal #13 Walking every day?

First SAVE THE TREES.

The value of every mature tree as a carbon sink in this time of climate crisis cannot be overstated. Additional roofs and driveways as well as non-permeable asphalt for the main road will create more run-off water and reduce the amount of open land to absorb and filter water.

This Refinement plan may appear to be in compliance with the letter of the FTCT Master Plan, but falls short on the spirit of the plan. Salem Municipal Code SRC CHAPTER 530.*

The proposal identifies 115 trees to be removed, however it fails to directly acknowledge that additional trees will be removed to make space for the footprint of each house, for driveways and auxiliary buildings permitted. Is this the potential additional 156 trees to be removed, leaving only 64% of all existing trees? (p. 28 of proposal)

Zone 1, a perimeter represented as a buffer zone between existing homes in Fairview Addition West and the proposed new large lots, is to retain 90-95% of the existing trees. All of that land is included in the proposed lots. The trees are “protected” until final occupancy. Once each lot is sold, the trees are on private property. Even if deeds contain restrictive covenants, enforcement is likely to be complaint driven. There is a mindset among some people that they will do as they please and apologize later. A tree cannot be Un-cut.

Appendix E, of FTCR Exhibit 4, pp 8-9, “Native Plants Found on Site” lists some 50 native plant species existing in the woods and elsewhere on the FTC property. Many are sedges, herbs, rushes, shrubs and plants often called weeds, which would likely be destroyed on residential lots, degrading the rich diversity of this ecosystem.

The **second** and equally important reason is that The Woods is the perfect location for a wild space for children to explore and experience the joy of discovery. Unsupervised, outdoor play is vital for children to develop a connection to nature and encourages their natural curiosity.

The benefits of children playing together unsupervised in unstructured environments are countless: They learn creative thinking, how to fail and succeed; develop initiative, build resilience, how to negotiate and resolve conflict and regulate their own emotions. They develop a sense of self-control and self-confidence; how to share. In wild places they develop courage, are introduced to the skill of analyzing patterns, develop an ability to judge and manage risk and the ability to make decisions.

These are the seeds of the next generation of inventors, entrepreneurs, healers and leaders.

Children’s lives are driven by families’ busy schedules, an emphasis on structured team sports and specialized lessons, over-reliance on electronic media for entertainment, and often a “culture of fear,” in which parents are afraid to allow their children to go outside away from their view.

We need to provide environments in which children feel comfortable and parents feel confident to let them use on their own. The Woods can be that place: for hikes, fort building, overnight camp outs, hide and chase games, or just a place to be quiet alone to look and listen. The land should be minimally disturbed, and managed only to remove or change any condition, structure or plant that could cause permanent harm. It is (or will be) surrounded by homes (better than a fence) so parents can be assured it is safe and enclosed, not open to vagrants, as public parks or open woods are.

For these reasons I oppose the development of the subject parcel as a subdivision of homes. The city need not accommodate property owners by bending the letter of Section 530 ordinance and overlooking the spirit of the FPCR plan.

A quick internet search brought up a list of 27 environmental organizations that operate in Oregon, and it didn't even include the Nature Conservancy. I believe the property owners should be encouraged to find an organization willing to partner with the City of Salem to preserve this existing natural area as open space as specified in Section 530 if they are unable or unwilling to do so themselves.

Respectfully submitted,

Nancy H. Daniel,

4101 Braden Lane SE, Fairview Addition

503-581-7458 ndchv@comcast.net

*- FMU—Fairview Mixed-Use states, in part, (my emphasis):

Sec. 530.001. - Purpose.

The purpose of the Fairview Mixed-Use (FMU) Zone is to implement the mixed-use designation of the Salem Area Comprehensive Plan . . through which allowed uses . . and development *standards* are *established* that:

(a) Encourage. . ***improved protection*** of open spaces and natural features (d) Support ***affordable housing*** options and mixed-income neighborhoods; (g) ***Preserve***, to the greatest extent possible, ***existing natural areas and open space*** that may not otherwise be protected through conventional development; (i) Encourage energy conservation and ***improved air and water quality***.

Sec. 530.065. - Natural resource guidelines (a) The presence of natural resources within the FMU zone . . . ***existing natural resources will be protected***. . through compliance with . . . SRC chapter 808 (Preservation of Trees and Vegetation); (b) The Fairview plan and any subsequent refinement plan shall consider all of the following: (2) The ***existence and use of native plant species***, . . (3) The ***integrity of mature stands of trees*** that are in good health; (4) The minimization of the amount of impervious surfaces near all waterways; and (5) Significant ***wildlife habitat***.

Bryce Bishop

From: Rajan Nair <rvlenair@gmail.com>
Sent: Monday, July 08, 2019 10:34 PM
To: Bryce Bishop; geoffreyjames@comcast.net
Subject: Fairview Refinement Plan Case No. FRP-ADJ-SUB19-01

To whom it may concern:

My wife and I are writing ***IN SUPPORT*** of the Refinement Plan noted above. We currently reside in Fairview Addition on Braden Lane. We have reviewed the documents associated with the refinement plan, and we feel that the proposal to develop the 14 acre parcel into 16 homesites averaging about 1 acre each, while preserving green spaces, the majority of the current trees, and allowing for pedestrian and bike paths, offers an excellent option for use of the land. As it is currently, the land appears abandoned and is littered with refuse.

I should note that my wife and I have a long history with Eric Olsen, as he built our previous custom home in West Salem almost 12 years ago. Given his vision both for homes and community (based on the other communities that he has developed in Monmouth and Salem), we were happy to downsize to our current residence in Fairview Addition. I'm convinced that Eric will bring his ethics of responsible stewardship of land and resources that he has brought to his other projects. I think the proposed Refinement Plan is in keeping with the spirit of the Fairview Master Plan.

If you have any questions for us, please feel free to contact us through this e-mail address.

Best,
Rajan ("Raj") and Lisa Nair
4115 Braden Lane SE
Salem, OR 97302

Bryce Bishop

From: K Daniel <katherinelouisedaniel@gmail.com>
Sent: Monday, July 08, 2019 11:41 PM
To: Bryce Bishop
Subject: Fairview Woods refinement plan comments
Attachments: Fairview Woods comment letter.docx

Dear Mr. Bishop,

I am unable to attend the hearing tomorrow evening, but I hope you will convey my written comments attached herewith to the Planning Commission before tomorrow's meeting.

Thank you.

Yours sincerely,
Katherine Daniel

July 8, 2019

To Whom It May Concern:

I am a resident of the Fairview Addition and am an AICP Planner by profession working currently with the Department of Land Conservation and Development. My former employment was as the Deputy Planning and Zoning Director for Westport, Connecticut. I was excited to accept a position in a state whose land use laws are known throughout the US for a focus on environmental quality and for an integrity that respects the public process that is the foundation of building great communities.

The proposed Fairview Woods Refinement Plan does not appear to reflect the apparent intent of Goal 6 of the Fairview Training Center Redevelopment Master Plan: Respect the Landscape, in that it does not work with the landscape, but proposes to diminish the wooded area so carefully described in the FTCT Master Plan (the Plan) Annex 4 Natural Resources Inventory.

The Plan does not contemplate the development of the "The Woods" as shown by the Illustrative Plan and photo of "Existing Mature Tree Canopy" shown on page 6 of the Plan. Other illustrations in the Plan show conceptual interconnected streets, sidewalks and paths (pages 9, 13 and 15), but none of them demonstrate an intent to develop the area called out in the Illustrative Plan as "The Woods". Under the heading Forested Habitat and Wildlife Corridors the Plan, on page 12, the Plan states *"Another mature grove of fir trees is located atop the northwester edge of the site. It also will be protected and enhanced as neighborhood park or community open space. Scrub oak and native plants at the southwestern edge of the property will be protected for their ability to serve as wildlife habitat and as an ecological buffer."* Further on in that section the Plan states that *"To the extent possible existing healthy trees will be preserved."* Annex 4 Natural Resources Inventory describes a number of stands of fir and oak in The Woods, but does not include a map of the location of these stands. The proposed Fairview Woods refinement plan should, at the very least seek to preserve those stands of particular diversity and integrity. Certainly the removal of Significant Oak Trees should be avoided in order to fulfill the objective of Respecting the Landscape.

If the The Fairview Woods refinement plan is allowed to be smaller than the required 40 acres due to its integration with the Fairview Addition refinement plan, then it should be phased along with the Fairview Addition.

ORC Section 530.030 lays out the criteria by which refinement plans are to be analyzed and the second of which is that they consist of 40 acres or more. The Woods consists of less than half that area. The reasoning accepted in the staff report as satisfying the criteria for allowing this reduced size stand alone refinement plan is *"Because the proposed Fairview Woods refinement plan is completely surrounded by the Fairview Addition West refinement plan and because both refinement plans are being developed by the same applicant, share the same underlying development principles and concepts, and are physically integrated in term of access and open space, the smaller 14.07 acre refinement plan size requested with this adjustment equally meets the underlying purpose of the minimum refinement plan size standard be ensuring that the planning and development of the Fairview site is done in a coordinated, rather than piecemeal, approach."* (Page 33). If the Planning Commission accepts this argument for allowing a refinement plan in an area of the Fairview Training Center site, then the phasing plan should consider the cited physical integration and require that the final phase of Fairview Addition West be completed before the

Fairview Woods is commenced. This is a matter of safety for the eventual residents of the The Fairview Woods, should it be constructed.

On the subject of phasing, has the phasing plan illustrated on page 39 of the Fairview Addition refinement plan been altered? The clearing of the land for the final phase of that project – along with the significant trees to be saved – when the preceding phases have yet to be built, raises concerns for me about the respect for the Fairview Addition West plan being demonstrated by the owner of the area for the final phase of that project. Will the dilapidated buildings in the Fairview Addition West remain while high income housing is built by removing 64% of the trees The Woods?

The Plan sets out the lofty ideals of a wide mix of land uses. Many homeowners were excited by the planning process and the promise of a community that encompassed a range of home types and would attract families and single person households with a range of incomes. The public amenities envisioned were also wide ranging from easy bike and pedestrian access throughout to pocket parks and community agriculture. To this point the single family residential home type has been the predominant development along with a linear urban farm and a small pocket park playground. The additional public amenities depicted in the Fairview Addition refinement plan such as an amphitheater and open space areas have not yet been constructed, neither have the new housing and connection from Fairview Addition to the Pringle Creek Community to be located where the eye sore buildings remain.

I do not support the current proposed refinement plan because it does not reflect the intent of Goal 6 of the Fairview Plan. I do not support the Class 2 Adjustment unless it is phased as the final phase to the of the Fairview Addition West refinement plan. The owner of the property might consider reducing the proposal by eliminating Lots 1-7, 14 and 15 in order to retain The Woods as a parcel for common use as walking paths and open space.

Thank you for the opportunity to comment and for your attention to these concerns.

Sincerely,

Katherine Daniel
4101 Braden Lane SE
Salem, OR

Bryce Bishop

From: Kelsey Oran <kelseyoran@gmail.com>
Sent: Tuesday, July 09, 2019 11:13 AM
To: Bryce Bishop
Subject: RE: The Woods FRP-ADJ-SUB19-01

To: Planning Commission

Case No.: FRP-ADJ-SUB19-01

For Meeting: July 9, Agenda: 5.3

RE: FAIRVIEW REFINEMENT PLAN, CLASS 2 ADJUSTMENT, AND SUBDIVISION CASE NO. FRP-ADJ-SUB-19-01; FOR PROPERTY LOCATED IN THE 4100 TO 4200 BLOCKS OF PRINGLE ROAD SE AND 4200 BLOCK OF BATTLE CREEK ROAD SE (AMANDA APPLICATION NO. 17-124220-ZO; 19-113933-ZO; 17-124217- LD)

My family lives in Fairview Addition and we were the fourth home to move into the development in 2016. Being nestled in the trees is the primary reason we chose our lot and we sincerely hope majority of them stay so our children can explore for years to come. Our opposition is not to development in general it is to *this* development plan specifically. The Woods would become private property and would in effect remove the natural resource the community loves.

Thank you,
Patrick & Kelsey Oran

Bryce Bishop

From: Mary Liepins <mliepins@willamette.edu>
Sent: Tuesday, July 09, 2019 3:58 PM
To: Bryce Bishop
Subject: In support of Fairview Refinement Plan

Date: 7-9-19

To: Bryce Bishop and the Planning Commission

From: Nick & Mary Liepins, 4056 Evesham Ln SE, Salem, OR

Subject: Subdivision case No. FRP-ADJ-SUB19-01

We are unable to attend the Planning Commission meeting this evening, but are writing in support of the Fairview Woods Refinement Plan. We feel that the proposal and design submitted by Olsen Design and Development is wise use of the woods adjacent to our subdivision. The large lots and narrow, private streets will allow them to preserve as many trees as possible. The porous pavement, bioswales, and green spaces in their plan certainly are in keeping with the spirit and intent of Sustainable Fairview. We hope that you will approve the proposal before you this evening.

Angela Williamson

From: Bryce Bishop
Sent: Thursday, July 18, 2019 11:29 AM
To: Angela Williamson
Cc: Lisa Anderson-Ogilvie
Subject: FW: FAIRVIEW "THE WOODS" PROPOSED SUBDIVISION
Attachments: FAIRVIEW WOODS SUBDIVISION- G JAMES COMMENTS 2.pdf

Angela,

Comments received from Geoff James for the record.

Thanks,
Bryce

From: Geoffrey James [mailto:geoffreyjames@comcast.net]
Sent: Thursday, July 18, 2019 11:10 AM
To: Bryce Bishop <BBishop@cityofsalem.net>
Subject: FAIRVIEW "THE WOODS" PROPOSED SUBDIVISION

Attached are my Recommendations and Testimony regarding this proposal.
For continued Public Hearing before Planning Commission July 23, 2019.
Please add to the public record.
(See attached report)



Geoffrey James
Geoffrey James A.I.A. Architect
503-931-4120
gjamesarchitect@gmail.com

via Newton Mail



RECOMMENDATIONS OF GEOFFREY JAMES

Regarding the proposal to re-designate designated common open space into private estates, thus excluding the community, from most of the 15 acres of woodland.

Preserve a larger common area space, and most of the trees, plus incorporate neighborhood access by pedestrian trails.

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Relevant Documents to evaluate:

FAIRVIEW MASTER PLAN

Adopted by Morningside Neighborhood Association, Salem Planning Commission, and Salem City Council in 2005.

UNIFIED DEVELOPMENT CODE

Chapter 530 FMU Fairview Mixed Use has more recent requirements in the zone code.

PROPOSAL TO SUBDIVIDE “THE WOODS” REQUIRED (20 ACRES) OPEN SPACE

The following is an analysis of the developer’s proposal.

MNA received testimony, reviewed the Plan policies that MNA helped create, reviewed testimony and concerns from 3 neighbors, who were opposed, met as a Board twice, including a Work Session. Morningside N.A. received testimony from the developer July 10, and AFTER the June 9 public hearing that occurred AFTER the June MNA meeting, regarding a proposal to develop what the adopted Fairview Plan shows as protected Open Space and protected woodland.

Two detailed letters have also been received, after the public hearing, from concerned neighbors, that itemize and detail multiple violations in the current proposal.

The Plan is quite clear that common areas, designated open space, treed areas, are protected. It is apparent that these designated areas (minimum of 20 acres) shall be for recreation, e.g. trails through protected woodland, maintained by that HOA, and open to the community.

If this developer, of this area of Fairview, wishes to violate or deviate from the Plan then the process of decision making should first be on the issue of removal (or not) of designated common area open space, and whether the land can or should be instead be locked up for ever as private deeded lots and yards, by creating a subdivision into private lots or estates, and therefore privatizing of common open space area, and denying access to the community, as required in the Plan. Examination of the maps show two intrusions already. A recent phase of Fairview Addition already intrudes into The Woods area shown on The Fairview Master Plan Map. In May 2019 heavy equipment came in, apparently with no permit, and bulldozed the eastern strip, apparently for future small Fairview Addition lots. All vegetation was bulldozed, leaving bare red dirt.

The developer instead proposes to create private lots (a violation) on this remaining 15 acres of The Woods designated Open Space, build roads (a violation) and only leave one (1 acre) small that allows public access to a remaining small open space, all in an area that is now currently designated community common open area, i.e. preserved trees, plus a recreation trail, that should be maintained by the HOA (i.e. noxious vegetation etc.) and be open to the neighbors and community, per the Plan.

So: the first question for the decision makers should be:

Should Designated Common Open Space be Subdivided, and the Public and Neighbors therefore excluded?

The Plan that MNA helped create in 2000 at the Design Charette was adopted by City Council in 2005.

“The Woods” is one of several Designated Open Space areas (not including city parks) that are required to be “a minimum of 20 acres.” A pedestrian walkway is shown on the plan, but no roads are

permitted, and the owner (i.e. the HOA) is required to maintain the open space as an amenity, with public access.

On page 13 of Exhibit 2, of the Fairview Plan, figure 3 shows the proposed site plan of the original 275-acre Fairview Training Center with all the proposed streets shown. See Page 1 of this MNA report.

There are no streets shown on The Woods site.

This is also the site described as (B) and (C) on page 18, Exhibit 1.

Site (B) is described on page 18 as *"Another mature grove of firs to be protected and enhanced as neighborhood park or community protected open space sits atop the northwestern most ridge of the site."*

Site (C) is described *"At the southwestern edge of the property is a considerable acreage of scrub oak and native species that will be protected for its ability to serve as wildlife habitat and provide an ecological buffer."*

It also states on page 11 of Exhibit 1, *"Another mature grove of fir trees is located atop the northwestern edge of the site. It also will be protected and enhanced as neighborhood park or community open space. Scrub oak and native plants at the southwest edge of the property will be protected for their ability to serve as wildlife habitat and as an ecological buffer."*

THE LAND USE ISSUES:

The land use issues are these:

- 1. Should Designated Open Space i.e. common area for the passive recreational use by the neighbors and the community, be locked up and converted into private estates, for the exclusive use of owners of those future lots, to the exclusion of the Morningside neighbors and the community?**
- 2. If conversion or redesignation of some Open Space make sense, and the public are to be suddenly excluded, then perhaps a modified design, that does not privatize most of the land, might be more acceptable. A couple acres of deeded common area open space, i.e. mini-park or picnic area, that is connected by a deeded system of improved pedestrian walks through The Woods and connected to Fairview Addition and to the south, with true connectivity, all might be an acceptable compromise.**



Aerial view from the southeast show the interconnected street system

“The Woods” is the wooded open space area at the left (west).

SO, WHAT ARE THE EXISTING RULES?

This is a definition in the **Fairview Plan** and Open Space is indeed protected.

- | | |
|------------|---|
| Open Space | 5. The preservation and connection of identified natural open space areas shall be protected through public acquisition and/or land use regulation. |
|------------|---|

The Plan policies cover the provision of open space and protection of trees.

The Fairview Plan is a master plan that establishes goals and policies to guide future development within the Fairview Mixed-Use zone, which applies to the 275-acre former Fairview Training Center Site in South Salem. The site is bordered by Reed, Pringle, Strong and Battlecreek roads. [Salem Revised Code Chapter 530]

The plan, which was approved in 2005, promotes redevelopment that fosters the following:

- Sustainability
- Mixed-use development
- Greater housing and transportation options
- Provision of open space
- Protection of natural features

The Plan requires Open Space areas be protected by the land use regulation.

- | | |
|------------|---|
| Open Space | 5. The preservation and connection of identified natural open space areas shall be protected through public acquisition and/or land use regulation. |
|------------|---|

SUSTAINABLE FAIRVIEW PRINCIPLES:

Principle 6, Appendix A, Sustainable Fairview Principles, of Exhibit 3, states "The Sustainable Fairview plan will work with, not against, the existing landscape. Large forest blocks and wetlands will be preserved and indeed expanded over time."

THE 13 PRINCIPLES

The 13 principles listed under the heading, Sustainable Land Use Principles of the Plan of Exhibit 1 show that the Refinement Plan is inconsistent with the Fairview Plan. Staff claim it is consistent. It is not.

Principle 6, states in part, "Large existing forest blocks and wetlands are preserved and will be expanded over time." "Preserve" is defined as to maintain in its original or existing state.

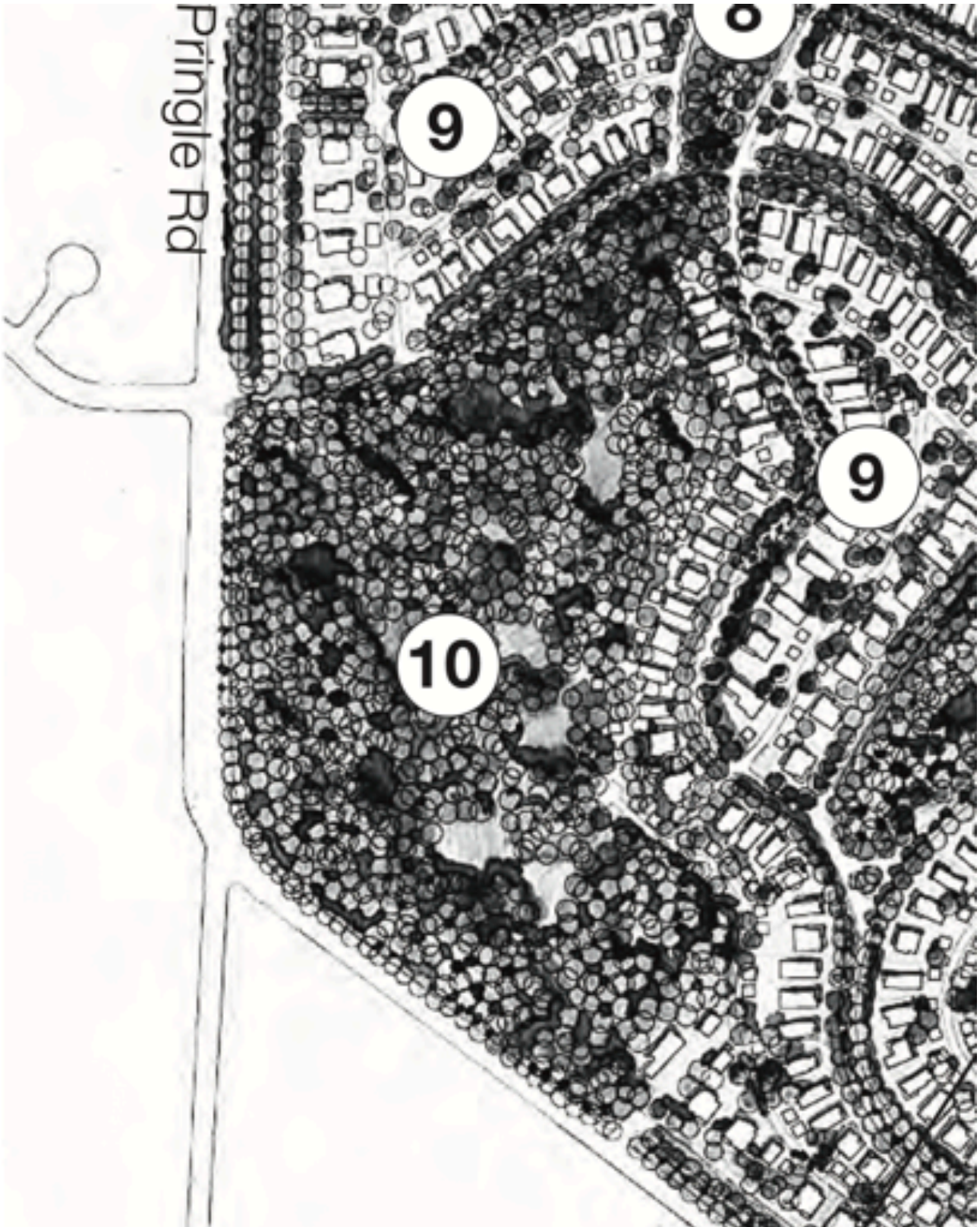
The staff report states "The proposed refinement plan respects the landscape consistent with this identified Fairview Plan principle and will protect the natural, ecological, habitat and recreational benefits and opportunities afforded by the two existing identified tree groves by allowing reasonable economic use of the property while at the same time preserving it's natural character, habitat, and trees by providing large lots served by sensitively narrow private streets, trails and open space areas that provide benefit to not only the residents within the proposed refinement plan but the Fairview

Training Center as a whole." These large existing forest blocks cannot maintain their original or existing state if "large lots served by sensitively narrow private streets..." are allowed.

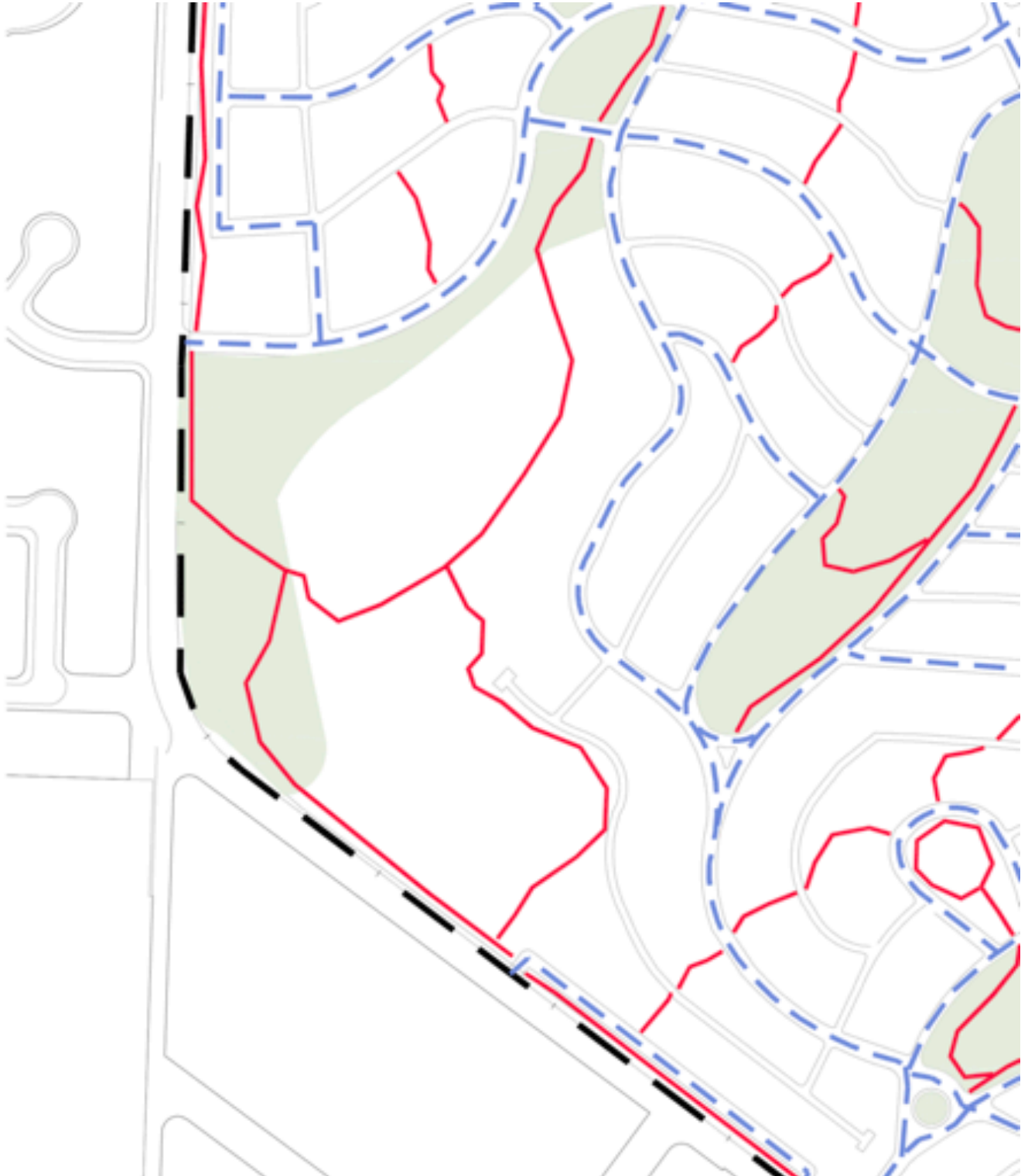
Principle 13. Walk Every Day states "*The design promotes walking at all levels, from walkways on both sides of all streets...*" On page 1 Exhibit 3, of the Fairview Plan, Principle 13 states, Fairview will be a walkable community in all respects. Sidewalks will line both sides of each street." Page 5 of Exhibit 3 states, "*Sidewalks are required on all streets except the alleys*". Page 8 of Exhibit 3 states, "*Sidewalks on both sides ensure that pedestrian orientation of the project is maintained.*" Principle 13 of Appendix A Sustainable Fairview Principles, Exhibit 3 states "*sidewalks will line both sides of each street.*" Sidewalks should be required on all streets.

MINIMUM SIZE FOR A REFINEMENT PLAN

SRC 530.030(b) states "Minimum refinement plan area. The area subject to a refinement plan shall contain no less than 40 acres." This application for this land use request is for 14.2 acres or 36% of the required 40 acre minimum, much less than required. An Adjustment might reduce this somewhat but not to the degree proposed.

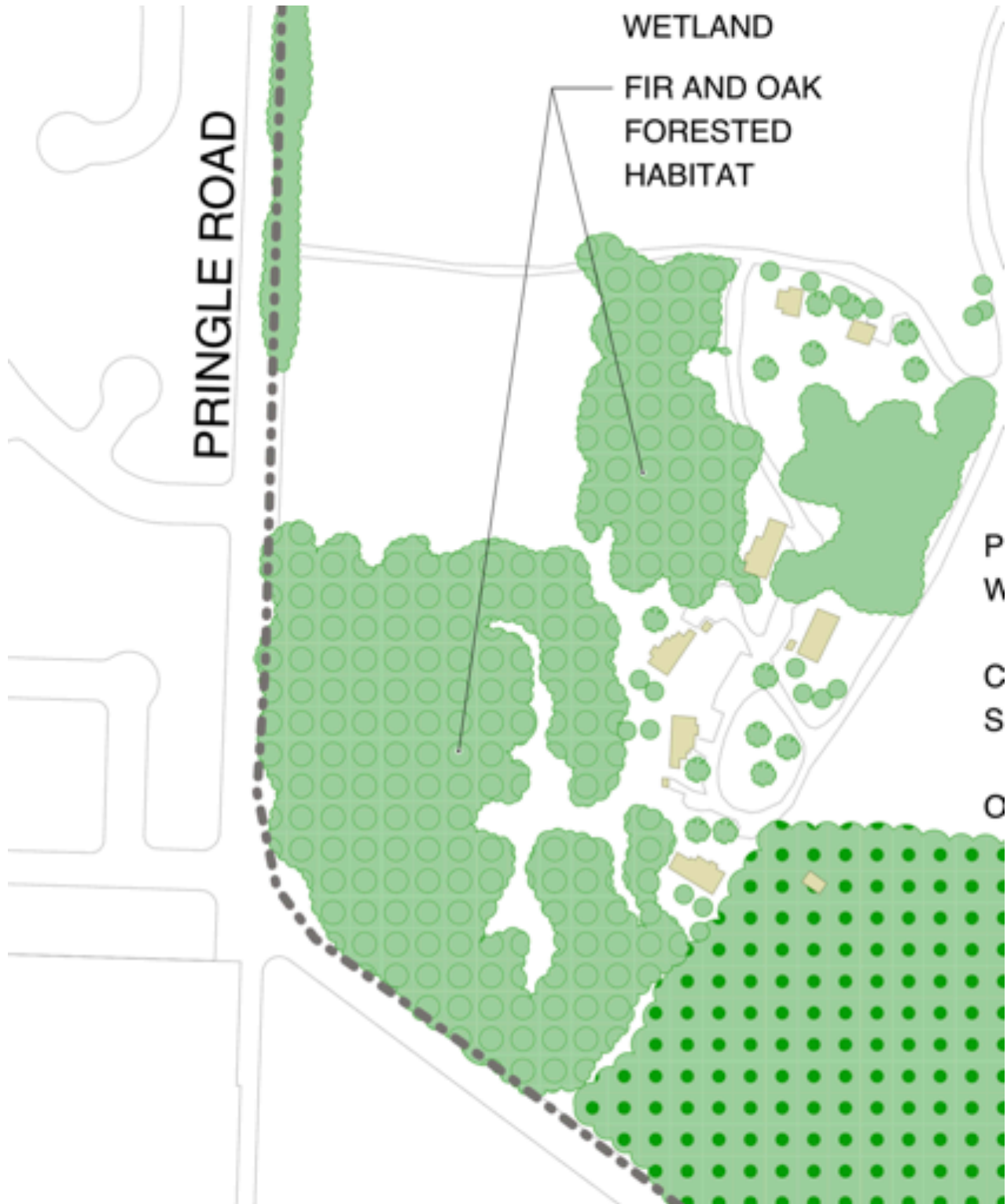


A detail from the Fairview Plan showing “The Woods” designated open space area, with trails.



OPEN SPACE

ABOVE: A detail from the Fairview Plan OPEN SPACE map showing “The Woods” designated open space area, with trails.



NATURAL RESOURCES

ABOVE: A detail from the NATURAL RESOURCES map in the Fairview Plan showing “The Woods” designated open space area, and wooded area.



AERIAL MAP

ABOVE: A detail from a Google Maps aerial photo, showing “The Woods” designated open space area. Fairview Addition is already intruding The Woods at the west and at the east.

TREE PRESERVATION

PROTECTED TREES

At the southwestern edge of the property is a considerable acreage of scrub oak and native species that will be protected for its ability to serve as wildlife habitat and provide an ecological buffer. (C)

Above: this is what the Plan says about The Woods.

(2) An open space plan for the entire FMU zone identifying an integrated network of open spaces for the purpose of preserving and enhancing identified natural drainage patterns, significant trees and vegetation, and wetlands; responding to significant topographical features; and providing opportunities for active and passive recreation.

PROTECTION OF OPEN SPACES:

- (d) *Criteria.* The fairview plan shall be approved if all of the following criteria are met:
 - (1) The plan conforms to the applicable provisions of the Salem Area Comprehensive Plan.
 - (2) The plan is compatible with adjoining land uses.
 - (3) The plan is physically feasible, given consideration of existing or proposed infrastructure and public services.
 - (4) The plan conforms to the following goals:
 - (A) Encourage mixed-use development, improved protection of open spaces and natural features, and greater housing and transportation options;

IMPROVED PROTECTION OF OPEN SPACES

- (D) The proposed amendment conforms to the following goals:
 - (i) Encourage mixed-use development, improved protection of open spaces and natural features, and greater housing and transportation options;

PERPETUAL MAINTENANCE OF OPEN SPACES

- (12) Proposed method for the perpetual maintenance of any common open space and common facilities;

A MINIMUM SIZE OF 20 ACRES

- (b) *Open space.* A minimum of 20 acres of land within the FMU zone shall be reserved as natural open space.

PRESERVATION OF MATURE STANDS OF TREES

- (b) The fairview plan and any subsequent refinement plan shall consider all of the following:
 - (1) The preservation of the natural drainage patterns of the site;
 - (2) The existence and use of native plant species, where appropriate;
 - (3) The integrity of mature stands of trees that are in good health;
 - (4) The minimization of the amount of impervious surfaces near all waterways; and
 - (5) Significant wildlife habitat.

CONFORMANCE WITH THE PLAN IS REQUIRED

The proposed Fairview Woods Refinement Plan states on Page 5 "The Fairview Woods Refinement Plan (referred to in this plan as The Woods) was developed to be consistent with the principles in the Fairview Master Plan.", on page 6, "The Woods Refinement Plan is based on the goals of the Fairview Master Plan.", on page 36, "Development of the Woods will be in compliance with standards and regulations set by the Fairview Master Plan and the Fairview Mixed- use Zone." and on Page 36, "The design is ultimately intended to follow the regulations and guidelines outlined in the Fairview Master Plan."

Four of the in-Plan maps show that The Woods would remain undeveloped.

1.
The **FAIRVIEW MASTER PLAN** is an aerial schematic of proposed development and it shows The Woods as an open area.

2.
The **OFF-STREET PATHWAY AND OPEN SPACE PLAN** shows The Woods as open area with pathways through it. 3.

The **MOBILITY PLAN**, again show The Woods as open area with pathways through it.

4.
The **STREET NETWORK PLAN** shows The Woods as open area. Besides the comments and maps that I have referenced, there are other smaller maps that show this area should remain open, and not be developed.

SUMMARY OF ANALYSIS AND OF NON-CONFORMANCE WITH THE ADOPTED FAIRVIEW MASTER PLAN

PROBABLE VIOLATIONS OR ISSUES:

VIOLATION 1

Designated Common Open Space is protected, but here all 15 acres is proposed to be Subdivided and the Public and Neighbors therefore excluded. This proposal apparently violates all those requirements.

VIOLATION 2

Open Space shall, according to the adopted Plan, be roadless, and accessible, by path or trail, to the neighbors, and not divided up into private houses, yards, and lots. This proposal apparently violates all those requirements.

VIOLATION 3

Mature Trees are to be protected.

This proposal removes hundreds of trees, for roads, for utilities, four house sites, for residential yards, for driveways and parking. The trees are supposed to be protected. No roads are permitted in the Plan. This proposal apparently violates all those requirements.

RECOMMENDATIONS:

OPTION 1: DENY THE PROPOSAL BECAUSE OF THE LISTED VIOLATIONS.

Three major land-use violated are documented above, referencing the adopted Plan.

OPTION 2: POSSIBLE MITIGATION OR MODIFIED PROPOSAL THAT MIGHT BE MORE ACCEPTABLE

Re-design the privatization proposal so as to retain a larger Open Space amenity accessible by the community.

Retain the Woods area as a mostly wooded parcel that provides the amenity envisaged in The Plan as common area use with walking paths through the trees and open space i.e. community recreation trails, that are lightly maintained by the HOA for the Fairview Addition that surrounds this amenity. Remove some proposed lots so as to enlarge the common open space recreational area that is promised by The Plan.

Triple the size of the proposed common area at the top of the hill as a mini-park or picnic area.

Ensure that the Westech subdivision plan is corrected to show the pedestrian path shown correctly on the developer's proposed Refinement Plan, e.g. Paths & Trails Map.

Note:

Morningside NA was originally involved in the creation of the Plan and the designated open space, but this compromise, or modified proposal, listed above as Option 2, might be more acceptable to most neighbors, whereas Option 1 reflects the fierce opposition, i.e. neighbors who are demanding Denial of the proposal, because of the violations or deviations from the Fairview Plan.

Current Morningside board members however (except one) are not familiar with the adopted Fairview Master Plan, have not read it, and members say they do not know where to view it. Actually, it is on the City of Salem web site.

<https://www.cityofsalem.net/CityDocuments/fairview-master-plan-exhibit-1-fairview-training-center-redevelopment-master-plan.pdf>

CORRECT THE CIVIL ENGINEERING SUBDIVISION MAPS

Ensure that the Westech subdivision plan, and other civil engineering plans are corrected to show the pedestrian path shown on the developer's proposed Refinement Plan, e.g. Paths & Trails Map. The purple paths and pedestrian easements or rights of way are missing from the set of engineering plans. The danger is that the City will simply go by the incorrect engineer's plans and not the proposed map that shows the paths required by The Plan. See Below.

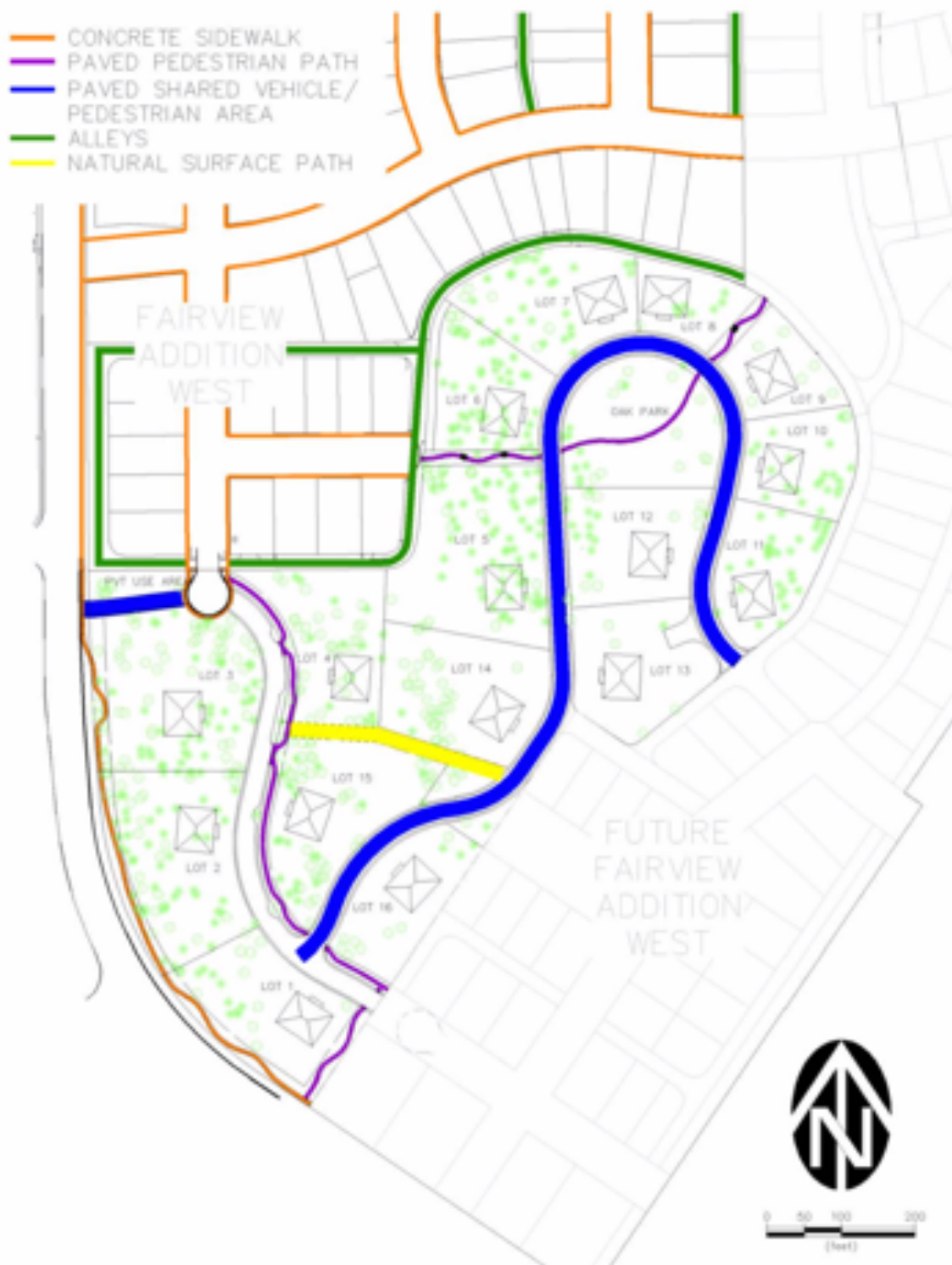


Figure 10: Pedestrian Pathways and Alleys

RECEIVED

Jerry Mumper
1454 Grantham Lane SE
Salem, Oregon 97302

JUL 17 2019

COMMUNITY DEVELOPMENT

Lisa Anderson-Ogilvie
Planning Administrator
City of Salem

July 17, 2019

Re: Case no. FRP-ADJ-SUB 19-01

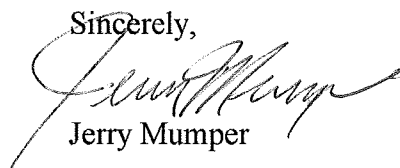
Dear Ms. Anderson-Ogilvie:

The staff report on page 8, states, "Pursuant to SRC.030(d), refinement plans are required to contain the following elements:

- (12) Proposed method for the perpetual maintenance of any common open space and common facilities;"

The refinement plan does not contain the proposed method for the perpetual maintenance of any common open space and common facility, and thus is not a complete application of the refinement plan. Therefore a decision should not be made until the refinement plan is complete, the public has been notified and had a chance to comment.

Sincerely,



Jerry Mumper

cc: Bryce Bishop, Planner II
City of Salem

Angela Williamson

To: Bryce Bishop
Cc: Lisa Anderson-Ogilvie
Subject: RE: Fairview Refinement Plan / Class 2 Adjustment / Subdivision Case No. FRPADJ-SUB19-01

From: Alan Meyer [<mailto:Alan.Meyer@comcast.net>]
Sent: Saturday, July 20, 2019 3:14 PM
To: Bryce Bishop <BBishop@cityofsalem.net>
Cc: Meyer, Muriel <murielmeyer@comcast.net>
Subject: Fairview Refinement Plan / Class 2 Adjustment / Subdivision Case No. FRPADJ- SUB19-01

Greetings,

We reside in Fairview Addition West and, therefore, have a direct interest in the proposed Fairview Woods Subdivision. In fact, there is only an alley separating our home from the area proposed for this development.

We SUPPORT the current proposal as we believe it is the best opportunity to have this vacant, privately-owned land developed in the spirit of the overall Fairview Master Plan.

We conducted an E-mail survey of current Fairview Addition West residents and found that, of those who responded, 11 supported the plan, 2 were neutral regarding the plan, and 2 opposed the plan. As these are the folks who will be most directly affected by the development (or lack of development), We believe their opinions should weigh heavily in the decision process.

*Alan & Muriel Meyer
1476 Strong Road SE
Salem, OR 97302*

Angela Williamson

Subject: Comments for 7/23 Planning Commission meeting re Fairview Woods proposed refinement plan

From: K Daniel [<mailto:katherinelouisedaniel@gmail.com>]

Sent: Tuesday, July 23, 2019 9:16 AM

To: Bryce Bishop <BBishop@cityofsalem.net>

Cc: Mom <ndchv@comcast.net>

Subject: Comments for 7/23 Planning Commission meeting re Fairview Woods proposed refinement plan

Katherine Daniel, AICP, CFM
4101 Braden Lane SE
Salem, OR 97302

July 23, 2019

To Whom It May Concern:

I appreciate the opportunity to comment further on the proposed Fairview Woods Refinement Plan. Despite the responses provide by Mr. Bishop to my concerns and those of others, and despite the apparent minority position we hold, the responses do not assuage my concerns that the proposal is inconsistent with the guidance provided by the Fairview Training Center Master Plan (the Plan).

As an AICP Planner with more than 15 years of experience in local planning, I recognize the need to allow for reasonable economic use of the property to avoid legal claims of a taking by the property should the Planning Commission deny this application. Furthermore, I understand that the Planning Commission must walk the tightrope stretched between the rights of the property owner and the interests of the public as illustrated by the Plan to escape an appeal of your decision.

There do appear to be alternatives that the both retain the integrity of The Woods as shown in the illustrative Fairview Training Center Master Plan and provides reasonable economic use of the property for the owner.

One alternative is to reduce the proposed number of lots and remove the woonerf road proposed to extend from Braden Lane into The Woods. This alternative would allow retention of the four Significant Oak trees proposed to be removed from tree Stand #5 among other trees and understory plants described in the Natural Resource Inventory of the Fairview Training Center Master Plan (the Plan). It would allow the development of seven large lots.

The other alternative is to follow the apparent intent of the Fairview Training Center Master Plan as shown by Mr. Bishop's overlay of the shape of the 14+ acre Woods parcel on top of the illustrative plan. This overlay of a set of lot lines that defines the 14+ acre parcel on top of an illustrative plan attempts to substantiate the claim that some residential development on the eastern side of The Woods was intended by the framers of the Plan. If one accepts this analysis, then the alternative for residential development on smaller lots clustered in this area of

wooded land would also allow the retention of the majority of Stand #5 described in the Plan as *"The largest tree stand on site. Trees up to 48 in. dbh. Diverse native understory of black hawthorn, serviceberry, Nootka rose, Indian plum, snowberry, Oregon grape."*

The remainder of the descriptive notes on Stand #5 notes that poison oak vines and a significant invasion by Himalayan blackberry and English ivy is also found here. My final point is that the integrity of The Woods is also threatened by failure to control the invasive plants and to keep the property clean.

The State of Oregon, for which I currently work, takes the state planning Goals quite seriously and compels cities and counties within the State to abide by them when reviewing Comprehensive Plans and regulatory changes. I encourage the Salem Planning Commission to do the same by considering alternatives to the proposed Fairview Woods Refinement plan that can accomplish both the right of the property owner to reasonable economic use of the property and the intent of the Fairview Training Center Master Plan as approved by the Planning Commission itself.

Sincerely,

Katherine Daniel

Sean T. Malone

Attorney at Law

259 E. Fifth Ave.,
Suite 200-C
Eugene, OR 97401

Tel. (303) 859-0403
Fax (650) 471-7366
seanmalone8@hotmail.com

July 23, 2019

Email

Bryce Bishop, Planner II
City of Salem Planning Division
555 Liberty Street, SE Rm 305
Salem OR 97301
503-540-2399
bbishop@cityofsalem.net
lmanderson@cityofsalem.net

Re: Mumper testimony re Application Nos 17-124220-ZO, 19-113933-ZO, and 17-124217-LD – FRP-ADJ-SUB 19-01

On behalf of Jerry Mumper, please accept the following testimony on the proposed Fairview refinement plan, the proposed class 2 zoning adjustment, and proposed subdivision. For the reasons set forth below, the application must be denied.

The Salem City Council adopted amendments to the comprehensive plan and code establishing a “mixed use” comprehensive plan designation and a “Fairview Mixed Use” (FMU) zone district. The amendments apply to the former Fairview training site in order to promote the sustainable and mixed-use development of the 275-acre property. A Fairview master plan was adopted that establishes the overall goals and policies to guide future development of the property. Refinement plans are then prepared that set forth detailed regulatory plans for areas not less than 40 acres in size. Here, the applicant is seeking approval of a proposed refinement plan, an adjustment of to the basic requirements of a refinement plan, and a subdivision of the area contained within the proposed refinement plan.

Under SRC 530.030(e), a refinement plan shall be approved if “[t]he refinement plan is consistent with the Fairview plan.” Here, the refinement plan is fundamentally at odds with the basic requirements of the Fairview plan. The Fairview master plan contains both general and specific provisions regarding open space. For example, the “SFA [i.e., Sustainable Fairview Associates] shares its neighbors’ interest in maintaining

significant open spaces and preserving the natural environment. FTCCR [i.e., Fairview Training Center Redevelopment] will maximize common open spaces, parks, and nature preserves. Natural areas will be linked together throughout the development. Existing steep slopes, wetlands, and watersheds will be protected and enhanced.” The area slated for development is also repeatedly illustrated as undeveloped open space, referred to as “The Woods.” Under “Respect the Landscape,” the master plan provides following framework:

“FTCCR plan works with, not against, the existing landscape. The natural slopes on the site are preserved for recreational use, for habitat, and for storm water flow. These slopes lead to the Village Green which is both the ecological and social heart of the community. *Large existing forest blocks and wetlands are preserved, and, will be expanded over time.*”

Emphasis added. Adding to the master plan’s goal of preserving large existing forest blocks and open space for the community’s benefit is another passage :

“Forested Habitat and Wildlife Corridors

A mature grove of fir trees along Pringle Creek creates a park-like environment that will be protected and enhanced as either neighborhood park or community open space. Another mature grove of fir trees is located atop the northwestern edge of the site. It also will be protected and enhanced as neighborhood park or community open space. *Scrub oak and native plants at the southwestern edge of the property will be protected for their ability to serve as wildlife habitat and as an ecological buffer.* A small mature oak grove on the eastern edge of the property will frame the ‘front door’ entrances to FTCCR from the south.”

(emphasis added). Under the heading, Natural Resources, the master plan specifically identifies the area at issue as “B” and “C.” The master plan then reinforces the above language by calling for the areas’ preservation *and enhancement as a neighborhood park or community open space or wildlife habitat/ecological buffer:*

“Another mature grove of firs to be protected and enhanced as neighborhood park or community protected open space sits atop the northwestern most ridge of the site. (B).

At the southwestern edge of the property is a considerable acreage of scrub oak and native species that will be protected for its ability to serve as wildlife habitat and provide an ecological buffer. (C)”¹

¹ “Open space” is defined as “land designated to preserve community livability, significant plant materials, and natural resources.”

Taken together and on their own, the provisions of the Fairview master plan expressly contemplate protecting the area known as The Woods for community open space, neighborhood park, and wildlife habitat/ecological buffer. Each of these are inconsistent with the proposed use. Also of note is the general development standard that “[a] minimum of 20 acres of land within the FMU zone shall be reserved as natural open space.” SRC 530.045(b). Because The Woods is the area proposed as natural open space, the proposed development is contrary to this basic standard, absent some showing that a 20 acres of the proposed area contained within the master plan will contain open space.

Attempting to distance itself from the plain requirement that the subject area be preserved for as a park or community open space and alleging consistency with the recommendation to “encourage the innovative integration of park and school uses,” the staff report alleges that “[a] park is also not needed within the proposed refinement plan due to the City’s purchase of land on the eastern portion of Fairview site on Old Strong Road SE for a community park. Because neither land for a new school or a public park is needed with the proposed refinement plan, the goal of encouraging innovative integration of park and school uses in [*sic*] not applicable in this case.” This runs contrary to the plain language of the master plan, and the staff report cannot erase the language contained in the master plan. The City cannot legislate through interpretation. Rather if the applicant finds some portion of the master plan disagreeable, then the appropriate means of moving forward is to amend the master plan, which the applicant has not proposed here. SRC 530.025 contains provisions related to the amendment of the Fairview plan. The types of amendments to the Fairview plan include several provisions that are applicable here, but the applicant is not seeking to amend the Fairview plan.

Indeed, amendment of the Fairview plan is a necessary precondition to what is being proposed here, given the degree of deviation from the master plan. For example, an amendment is necessary if it is proposed to change “designated buffers, perimeter landscaping, or significant natural resource areas delineated in the Fairview plan that were established to adapt the FMU zone to specific site characteristics or mitigate development impacts on the site and surrounding area.” SRC 530.025(b)(2). This would be considered a “major amendment” and would have to be processed as a Type IV decision. *See* SRC 530.025(c). Various criteria must also be satisfied to approve a master plan amendment. The existence of the master plan amendment procedures indicate unequivocally that the City cannot interpret its way out of the master plan when an applicant finds the requirements of the master plan to be inconsistent with the proposed development.

A further indication that the master plan must first be amended is evident in the densities proposed by the refinement plan. A major plan amendment is required to “increase[] or decrease[] the number of proposed residential units per acre by more than 20 percent or exceeds the maximum number of dwelling units permitted within the FMU zone.” SRC 530.025(b)(2)(B). Here, the FMU zone densities are changing in the low intensity overlay from 5 to 8 du/acre to 0.5 to 2 du/acre and in mixed intensity from 7 to 35 du/acre to 1 to 3 du/acre. Clearly, the proposed change is more than a 20 percent change in density. *See* Table 1, Proposed Refinement Plan. Moreover, the proposed refinement plan represents, cumulatively, a significant change in the purpose, scope, main concepts, goals, policies, or general development guidelines of the Fairview plan,” SRC 530.025(b)(2)(F), because the applicant is attempting to develop areas set aside for park use, community open space use, and wildlife habitat/ecological buffer. Indeed, the notion of an “ecological buffer” is completely lost if the area is developed. Again, it should be clear that an amendment to the plan is necessary, and, therefore, the application cannot be approved, as proposed.

The proposed refinement plan is not compatible with adjoining land uses because the community open space, park, wildlife habitat, and ecological buffer were contemplated in the master plan to provide for these uses to offset more dense development elsewhere. SRC 530.030(e)(3). The contemplated uses of the Woods contained within the master plan create the compatibility necessary to support areas of greater density elsewhere in the master plan, as well as through other refinement plans.

The City cannot approve the class 2 adjustment because it does not comply with the relevant approval criteria. The purpose of the 40-acre requirement is to ensure development occurs in a coordinated fashion involving land areas large enough to discourage a piecemeal approach. That is exactly what is occurring if the minimum area for a refinement plan can be dramatically reduced. The staff report alleges that the only way for this area to be part of a refinement plan is by lowering the acreage of the plan. This argument proves too much, as there is no requirement that a refinement plan cover only contiguous areas within the master plan area. Moreover, the notion that this area is isolated is a product of the applicant’s own creation. The applicant – the same applicant as for the Fairview Addition West – isolated this property by not including it in the refinement plan for the Fairview Addition West. The proposed refinement plan also identifies an adjacent area as “Future Fairview Addition West.” This just perpetuates the small-sale, piecemeal development that is proposed here, and which was warned against in creating the requirement for a 40-acre refinement plan minimum standard. The purpose underlying the development standard at issue is clearly applicable to the proposed development and the 14-acre refinement plan is no better than one that is 40 acres. Indeed, a smaller acreage will likely result in additional refinement areas being less than 40 acres.

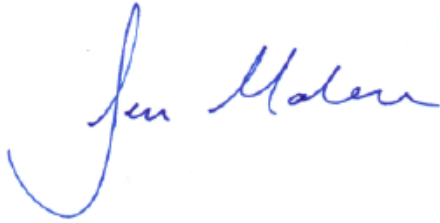
It should also be noted that the Fairview master plan street network plan does not contemplate any such streets in the area proposed for the development. Indeed, there are no main streets, collector streets, local streets, residential couplets, frontage roads, alleys, or otherwise. This lack of transportation facilities is consistent with the overall guidance that the area be protected for park uses, community open space, and wildlife habitat/ecological buffer. The Woods also appears to contain some of the steeper slopes on the site, and the master plan assumes that these slopes will be protected, instead of developed. Again, the proposed refinement plan is inconsistent with the basic requirements of the master plan. The proposed refinement plan is reducing the livability of the area covered by the master plan because it is removing community open space and park uses, all of which promote better living for the residents within the master plan.

The proposed adjustment will detract from the livability or appearance of the residential area. The reduced acreage for the refinement plan creates development in an area the master plan recognizes is devoted to park use, open space use, wildlife habitat, and as an ecological buffer. Clearly, development within an area previously designated for these uses will affect the 14-acre property's appearance. Again, the applicant alleges that this refinement plan is an extension of the Fairview Addition West refinement plan, which just means that the applicant should have created a single refinement plan for both areas, instead of developing in a piecemeal fashion. Moreover, if the applicant wishes to amend the refinement plan, then the applicant may avail itself of that under SRC 530.035, but the applicant cannot seek an adjustment for something that is specifically prohibited. Furthermore, the proposed adjustment is prohibited, pursuant to SRC 250.005(2), because the proposed adjustment modifies the applicability of a requirement under the UDC, modifies the definition of a refinement plan, and changes the status of an activity under the UDC.

Because this is the first evidentiary hearing, I respectfully request that the record remain open for seven days to address additional testimony and evidence submitted at the hearing.

For the foregoing reasons, the application is deficient in numerous respects and must be denied at this time as inconsistent with the Fairview master plan and other provisions of the Salem Revised Code.

Sincerely,

A handwritten signature in blue ink, reading "Sean T. Malone". The signature is fluid and cursive, with the first name "Sean" being more prominent than the last name "Malone".

Sean T. Malone
Attorney for Jerry Mumper

Cc:
Client

RECEIVED

JUL 23 2019

COMMUNITY DEVELOPMENT

Jerry and Kay Mumper
1454 Grantham Lane SE
Salem, Oregon 97302

Lisa Anderson-Ogilvie
Planning Administrator
City of Salem

July 23, 2019

Re: Case no. FRP-ADJ-SUB 19-01

Dear Ms. Anderson-Ogilvie:

The supplemental staff report states, " Regardless of how much a refinement plan deviates from the conceptual layout shown on the Illustrative Plan, all refinement plans, however, must still be consistent with the goals and policies of the Fairview Plan."

On page 6 of Exhibit 1, under Sustainable Ecological Systems of the Plan, No. 6, Respect the landscape is the statement, "Large existing forest blocks and wetlands are preserved and will be expanded over time."

On page 11 of Exhibit 1 are the statements, "Another mature grove of fir trees is located atop the northwestern ridge of the site. It also will be protected and enhanced as neighborhood park or community open space. Scrub oak and native plants at the southwestern edge of the property will be protected for their ability to serve as wildlife habitat and as an ecological buffer."

On page 12 of Exhibit 1, Green Infrastructure Overview, is the statement, "Providing such an infrastructure has influenced much of the proposed plan, from setting aside the site's significant natural assets..."

On page 18, of Exhibit 1, under Natural Resources, are the statements, "Another mature grove of firs to be protected and enhanced as neighborhood park or community protected open space sits atop the northwestern most ridge of the site. (B) At the southern edge of the property is a considerable acreage of scrub oak and native species that will be protected for its ability to serve as wildlife habitat and provide an ecological buffer." (C)

On this same page is a map showing these two forested habitats and labeled as B and C. This same area is shown on page 5 and is labeled The Woods.

One page 18 of Exhibit 3, Mobility Plan, are the statement under Sustainable Fairview Goals, No. 6 "Respect the landscape, The Sustainable Fairview Pan will work with, not against, the existing landscape. Large forest blocks and wetlands will be preserved and, indeed, expanded over time."

On page 20 of Exhibit 3 is an Appendix A, Sustainable Fairview Principles. Under No. 6, Respect the Landscape are the statements, "The Sustainable Fairview Plan will work with, not against, the existing landscape. Large forest blocks and wetlands will be preserved and, indeed, expanded over time."

It is obvious from the number of, and repetitive nature of these statements, that the preservation, protection, expansion and enhancement of these two fir and oak groves was important to the writers of the Fairview Plan, In order to be consistent with this Fairview Plan The Woods must not be developed and Case no. FRP-ADJ-SUB 19-01 must be denied.

A handwritten signature in purple ink, appearing to read "Jerry Mumper".

Jerry Mumper

A handwritten signature in purple ink, appearing to read "Kay Mumper".

Kay Mumper

cc: Bryce Bishop, Planner II
City of Salem

RECEIVED

JUL 23 2019

Jerry and Kay Mumper
1454 Grantham Lane SE
Salem, Oregon 97302

COMMUNITY DEVELOPMENT

Lisa Anderson-Ogilvie
Planning Administrator
City of Salem

July 23, 2019

Re: Case no. FRP-ADJ-SUB 19-01

Dear Ms. Anderson-Ogilvie:

One of the submittal requirements for a refinement plan is: "Proposed method for the perpetual maintenance of any common open space and common facilities:" SRC 530.030(d)(12). Webster defines method as, "a procedure or process for obtaining an object".

The applicant does not propose any method for the perpetual maintenance of any common space, but does state that, "The private streets, utilities, open spaces, common facilities and community areas will be maintained by covenants, conditions, and restrictions established by The Woods Home Owners Association."

Condition 8 of the subdivision approval states, "Prior to final subdivision plat approval, the applicant shall submit a Home Owners Association Agreement and Covenants, Conditions, and Restrictions (CC&R) document for review and approval by the City Attorney for perpetual maintenance and operation of all common properties and facilities within the development including, but not limited to: private streets, private utilities, open spaces, common facilities and community areas." Again this does not describe any method for the perpetual maintenance of any common open space and common facilities.

If the staff argument is that The Woods CC&R will be similar to Fairview Addition CC&R and should satisfy the requirement, The Fairview Addition CC&R only mentions results, not methods. Even the results are subjective as the CC&R states "The Association shall maintain the common property in a good and attractive manner, and in a manner consistent with the development and its surroundings."

The past is often recognized as an indicator of the future. The largest common area in Fairview Addition is along the northern boundary and is sometimes referred to as an urban farm. We realize that good and attractive are both subjective terms, but we don't think that anyone looking at this common space would agree that it is being maintained in a good and attractive manner. We have enclosed four pictures of this common area.

We believe that the record should remain open until the applicant meets the requirements of S303.030(d)(12) by submitting their proposed methods for the perpetual maintenance of any common open space and common facilities, and the public has had an opportunity to comment on the submittal.

A handwritten signature in purple ink, appearing to read "Jerry Mumper".

Jerry Mumper

A handwritten signature in purple ink, appearing to read "Kay Mumper".

Kay Mumper

cc: Bryce Bishop, Planner II
City of Salem

