

**From:** [Steve Koper](#)  
**To:** [Erin Engman](#)  
**Subject:** FW: Proposed Stormwater Master Plan Update-Council Hearing 8-12-24 Ord 1489-24 and 1490-24 8-8-24  
CITIZEN CONCERNS  
**Date:** Friday, August 9, 2024 10:40:02 AM  
**Attachments:** [Brown & Caldwell SWMP- Capital Projects List.png](#)  
[2021 3-16 Stipulated Motion to Dismiss- Lucini vs City of Tualatin.pdf](#)  
[2021 3-8 Tualatin OR 1455-21 Repealing OR-1453-21.pdf](#)  
[2021 3-1 LUBA-NITA Tualatin-Ord 1453-21 Lucini VS City Tualatin.pdf](#)

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FYI. I didn't catch that you weren't on the original email.

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**From:** Sherilyn Lombos <[slombos@tualatin.gov](mailto:slombos@tualatin.gov)>  
**Sent:** Thursday, August 8, 2024 5:53 PM  
**To:** Steve Koper <[skoper@tualatin.gov](mailto:skoper@tualatin.gov)>; Kim McMillan <[kcmcmillan@tualatin.gov](mailto:kcmcmillan@tualatin.gov)>  
**Subject:** Fwd: Proposed Stormwater Master Plan Update-Council Hearing 8-12-24 Ord 1489-24 and 1490-24 8-8-24 CITIZEN CONCERNS

Sherilyn

Begin forwarded message:

**From:** G Lucini <[grluci@gmail.com](mailto:grluci@gmail.com)>  
**Date:** August 8, 2024 at 4:31:26 PM PDT  
**To:** Council <[council@tualatin.gov](mailto:council@tualatin.gov)>, Frank Bubenik <[fbubenik@tualatin.gov](mailto:fbubenik@tualatin.gov)>, Bridget Brooks <[bbrooks@tualatin.gov](mailto:bbrooks@tualatin.gov)>, Maria Reyes <[mreyes@tualatin.gov](mailto:mreyes@tualatin.gov)>, Christen Sacco <[csacco@tualatin.gov](mailto:csacco@tualatin.gov)>, Cyndy Hillier <[chillier@tualatin.gov](mailto:chillier@tualatin.gov)>, Octavio Gonzalez <[ogonzalez@tualatin.gov](mailto:ogonzalez@tualatin.gov)>, Valerie Pratt <[vpratt@tualatin.gov](mailto:vpratt@tualatin.gov)>  
**Cc:** John Lucini <[jwluci@gmail.com](mailto:jwluci@gmail.com)>  
**Subject:** Proposed Stormwater Master Plan Update-Council Hearing 8-12-24 Ord 1489-24 and 1490-24 8-8-24 CITIZEN CONCERNS

DATE: August 8, 2024

TO: CITY OF TUALATIN CITY COUNCIL (INDIVIDUALLY & COLLECTIVELY)

RE: CITIZEN COMMENTS SUBMITTED -FOR THE PUBLIC RECORD

PROPOSED ADOPTIONS INTO CITY GOVERNING DOCUMENTS OF  
PTA 24-0003 & PMA 24-0003  
8-12-2024 TUALATIN CITY COUNCIL MEETING AGENDA ITEM  
Public Hearings - Legislative or Other 1. Consideration of Ordinance  
Nos. 1489-24 and 1490-24,  
City-Initiated Updates - Tualatin Comprehensive Plan, Municipal Code,  
and Development Code

**PTA 24- 0003**  
**PROPOSED ADOPTION – SWMP 2019 Brown & Caldwell Stormwater  
Master Plan Update  
as the City's Stormwater Master Plan Update**

In reviewing the Informational Packet posted on 5-8-2024-for the Council's consideration of Ord 1489-24 we understand and support the City's intention to update a much-needed Stormwater Master Plan throughout the City's entire Land Use Planning jurisdiction.

It should be readily apparent that appropriate and effective Land Use Planning by the City of Tualatin for the 300+ acres of what was primarily rural land with minimal stormwater infrastructure within these lands, will require additional planning for major/capital stormwater projects to ensure timely provision of this Public Service as part of the City's responsibility for directing the urbanization process.

Thoughtful and effective Land Use Planning for stormwater management is even more critical within the Basalt Creek Area when recognizing these lands have significant topological, geologic and environmental constraints; where the majority of the Basalt Creek stormwater does not flow into the City's existing stormwater infrastructure within the Tualatin River Basin- but flows south through Washington County, the City of Wilsonville and into the Willamette River Basin; and where overlapping or downstream local governments may have differing stormwater management standards.

However, as posted on 8-5-2024, the proposed Stormwater Master Plan (SWMP) for the City of Tualatin does not adequately address the stormwater management needs of the Basalt Creek and SW Industrial Areas for which the City is responsible for planning future development.

The proposed SWMP does not include -with fact-based supporting documents-current and complete documentation of stormwater inventory (service area, facility capacity or size; and general assessment of condition of the facility), nor adequate and complete documentation assessment, analysis, or forecasting of stormwater management needs based upon land uses designated in the acknowledged comprehensive plan for the Basalt Creek or SW Industrial Areas .

The required Stormwater Capital Projects List included within the proposed SWMP, does not identify one Capital Project (either Public or Private) within the Basalt Creek or SW Industrial Areas needed for the effective urbanization of these lands which the City is responsible for planning.

(Copy of Stormwater Capital Projects List from the proposed SWMP as posted 8-5-2024 -included as attachment)

With respect to the Basalt Creek/SW Industrial Area- City's proposed SWMP does not comply with multiple State requirements- including **OAR 660-011-0020 Public Facility Inventory and Determination of Future Facility Projects**

The public facility plan shall identify significant public facility projects which are to support the land uses designated in the acknowledged comprehensive plan. The public facility plan shall list the title of the project and describe each public facility project in terms of the type of facility, service area, and facility capacity.

(See Review of Proposed SWMP by various State Requirements -provided later in submission)

Whereas the City Council in 2021, had specifically directed the City staff to include the Basalt Creek and SW Industrial Area within the SWMP, this proposed document does not provide appropriate rationale and documentation as to why effective Land Use Planning does not clearly identify major stormwater projects that would be necessary within the

300+ acres Basalt Creek and SW Industrial Area with future development.

It is difficult to understand how the changes in Land Use Zoning Determinations the City adopted starting in 2019 for the Basalt Creek Area -changing the existing type and density of future development from what had been mainly rural land-would not require additional stormwater infrastructure including major capital projects.

While additional projects can be added to the Stormwater Capital Projects List at a later date, the required supporting assessments, analysis, and forecasting of current and future stormwater management needs based upon the City's Land Use Zoning Determinations for the Basalt Creek or SW Industrial Areas -which are necessary for a meaningful and effective SWMP- could not be located as relevant fact-based supporting documents within the proposed SWMP.

**We therefore request the city council to delay the review and adoption hearing for the proposed ordinance # 1489-24 &/or 1490-24/ Relating to PTA 24-0003/ the Adoption Of Stormwater Master Plan Update--until a date specific deadline**

**#1 For the Council to direct City staff –**

- To fulfill and be compliant with the council's prior direction within the City of Tualatin 3-8-21 Ordinance 1455-21 Section 2 -which directed city staff to reinstate the stormwater master plan process ["which must include the Basalt Creek and Southwest Concept Areas"](#)
- For presentation and consideration of the council at the future date specific.

**#2 The City Of Tualatin's Proposed Stormwater Master Plan Update should be reviewed prior to presentation for adoption:**

- To ensure the entirety of the city's land use planning jurisdiction is appropriately included within the scope, assessments, analysis, forecasting, identification of major projects and documentation requirements for a meaningful and 2an effective SWMP ----to be compliant with **City of Tualatin Ord 1455-21**

- To ensure the entirety of the proposed SWMP document meets state's mandates:

- Public Services & Facilities **OAR 660-011-0000**
- Oregon Statewide Planning Goal #11 Public Facilities And Services **OAR 660-015-0000(11)**
- **Metro Chapter 3.02 (Wastewater Management Plan)**
- Oregon Statewide Planning Goal #6 Public Water Quality – **OAR 660-015-0000(6)**
- **Metro Title 3: Water Quality And Flood Management 3.07.330 Implementation Alternatives For Cities And Counties**
- Oregon Statewide Planning Goal #8 Recreational Needs – **OAR 660-015-0000(8)**

- Oregon Statewide Planning Goal #14 Urbanization **OAR 660-015-0000(14)**

- Oregon Statewide Planning Goal #2 Land Use Planning **OAR 660-015-0000(2)**

- To ensure the proposed SWMP will meet requirements and protections for the Willamette River Basin are appropriately identified, addressed and integrated into City Codes (including text verbiage and/or intent)
- To review the **8-2-2024 City Memo included within Exhibit 4c “Basalt Creek Addendum”**, to provide more clarity within proposed Code Text Change identified for **TMC 3-5-220** as to which lands within the Basalt Creek/SW Industrial Areas would require On-Site Detention to be Constructed  
The proposed Text Change

- does not provide sufficient clarity as to which specific document provides the information on which lands in the Basalt Creek/SW Industrial Area this Code requirement would be applicable- or if applicable to the entire Basalt Creek Subbasin.

- and/or does not provide sufficient clarity as to where within the hundreds of pages of documents within the proposed SWMP this document can be found.

- does not provide supporting documentation as to the assessments or analysis upon which the determination of which lands within the Basalt Creek/SW Industrial Area will require more stringent stormwater management requirements.

We are downstream property owners within unincorporated Washington County, Affected Citizens, and Interested Citizens.

We bring to the Council’s Attention – The City Attorney in 2021 already recognized the adoption of the 2019 Brown and Caldwell Stormwater Master Plan (SWMP) was likely to be reversed -due to the inadequate inclusion of the Basalt Creek Area within the scope of the document- and the City withdrew the prior adoption of 2019 Brown and Caldwell Stormwater Master Plan (SWMP)

To help prevent the Council from repeating same actions which resulted in the prior repeal of the 2019 Brown and Caldwell SWMP, we present numerous specific facts and supporting documentation as to why the proposed SWMP- including the newly included Exhibit 4c “Basalt Addendum” - continues to have inadequate inclusion of the Basalt Creek Area and SW Industrial Areas within the scope of the document.

Since 2004, the City of Tualatin has known of its future responsibility of developing an effective Public Facilities Plan for stormwater management in the Basalt Creek Area with the adoption of the “Tualatin Area” into the UGB with Metro 04-1040B. It is not known why the City staff has been unable to produce a thoughtful effective SWMP for the Basalt Creek Area which is compliant with known State requirements in the following 20 years.

The need for the City of Tualatin to develop an effective SWMP for the Basalt Creek was identified and acknowledged in the 4-7-2016 email from the City Engineer, Jeff Fuchs, during the adoption process of the Professional Services Contract with Brown and Caldwell to update the City’s existing SWMP.

[“We believe this is the appropriate time to include the Basalt Creek Planning Area](#)

in the Storm Water Master Plan (SWMP). We included the Planning Area in the SWMP so we can evaluate existing and future drainage conditions for an area that will likely be annexed into Tualatin in the future. Evaluating storm water hydrology and hydraulics in the Basalt Creek Planning area will allow us to better plan for future infrastructure needs by understanding how much runoff to expect and anticipating where the runoff will flow based on existing topography and possible future land uses. Including this work in this contract will allow us to save money versus creating a future separate document just for the Planning Area.”

Yet, while the 2018 Basalt Creek Concept Plan and the 2019 Basalt Creek Comprehensive Plan identified deficiencies and inadequacies in the existing stormwater infrastructure within the rural Basalt Creek Area and need for additional infrastructure with development- these two major Land Use Planning Documents for the Basalt Creek Area did not provide adequate documentation the State requires of for a Facility Plan as required in OAR 660-011-0000.

When the 2019 Brown and Caldwell Stormwater Master Plan Update was presented for Public Comment in December 2020, during the Planning Commission Review, and prior to the Council Hearing-on 2-8-2021, on multiple occasions we submitted our significant concerns regarding the inadequacies and deficiencies as to stormwater management planning for the Basalt Creek Area. We included within our submissions to the City, supporting documentation of a review and the report of the deficiencies of the 2109 Brown and Caldwell SWMP by an Environmental Engineering firm who had previously conducted hydraulic and stormwater assessments within the Basalt Creek Area. (A summary of the deficiencies found within the 2019 Brown and Caldwell SWMP from the consultant’s report is included within the attachments to this submission. The City received the entire consultant’s report within the 2020-2021 submissions).

**On 2-8-2021 Ord # 1453-21 (the 2019 Brown and Caldwell SWMP)** was voted for adoption by the Council-

after discussion regarding the adequacy of the Basalt Creek Area inclusion within the document

**On 3-1-2021 a LUBA NITA (Notice of Intent to Appeal)** was filed -see attached

- The Tualatin City Attorney recognized that the prior adoption was likely to be reversed and the City then withdrew the 2019 Brown & Caldwell Stormwater Master Plan Update from adoption

**On 3-8-2021 Ordinance # 1455-21 City Council Repealed the prior adoption Ordinance # 1453-21-** see attached

- Included within Ord # 1455-21 Section 2 the Council memorialized clear directions to the City staff  
“The City hereby initiates a new comprehensive Plan Amendment process relating to the City’s Stormwater Master Plan to include the City’s entire planning area. City staff are directed to draft a revised Stormwater Master Plan, which must include the Basalt Creek and Southwest Concept areas, for presentation and consideration by the Council consistent with applicable Tualatin Development Code procedures.”  
-see attached

**On 3-16-2021 -STIPULATED MOTION TO DISMISS- WITHOUT PREJUDICE was filed -see attached**

- “Respondent intends to adopt a new Stormwater Master Plan in the near future.”

Following these legal actions-

- City Staff continued to make Public declarations as to the City’s “*intent*” to develop a Stormwater Management Plan for the Basalt Creek Area including during the development and adoption of the City of Tualatin Urban Renewal Bond for the Basalt Creek and SW Industrial Area in 2021.
- Yet without an adopted SWMP for the Basalt Creek Area, the City of Tualatin continued to conduct, process and/or authorize Land Use Planning Actions forwarding development within the Basalt Creek Area while still lacking an adopted SWMP for the Basalt Creek Area.
- In subsequent proposed Land Use Actions impacting the Basalt Creek Area-City staff have deflected challenges to these Land Use Actions being conducted without a SWMP for the Basalt Creek Area -by stating the City meets stormwater management needs by compliance to Clean Water Services (CWS) Standards for individual projects.

On 7-10-2024 we were informed of the proposed PTA 24-2003 (the 2019 Brown and Caldwell SWMP and the Basalt Creek Parks & Rec Master Plan) and PMA 24-0003 would be presented to the Tualatin Planning Commission (TPC) in one week

On 7-12-2024 we submitted our concerns regarding the PTA in an email to the TPC and to the Planning Département as to inadequacy of the 2019 Brown and Caldwell SWMP appropriately addressing the Basalt Creek stormwater management needs. Our submission also included relevant supporting documents.

On 7-17-2024 City Staff presented information on the proposed PTA 24-0003 to the TPC

City staff while commenting upon the City’s inclusion of the Basalt Creek Area within the proposed SWMP the staff produced two new maps.

These two maps contained minimal standard information expected of supporting documents to a Governing Document

- These two maps lacked an adequate Title for future reference
- These two maps lacked clear identification of the Regional Location of the Map (Basalt Creek)
- One map denoted an unidentified overlay area
  - without a related a legend or label as to what the overlay indicates
  - lacks supporting documentation from which this overlay was developed

- One map apparently indicated stormwater flow directions and potential stormwater facilities-
  - lacks supporting documentation for identified major stormwater projects as per OAR 660-011-0000

While these two maps were included within 8-5-2024 Informational Packet for the Council's Hearing, as of the posting on 8-5-2024 these 2 maps were not included within Exhibit 4c- the "Basalt Creek Addendum"

During the same TPC meeting on 7-17-2024 City staff stated, "additional documents" would be added to an addendum of PTA 24-0003 "requiring more stringent stormwater standards in the Basalt Creek Area".

On 8-5-2024 Exhibit 4c "Basalt Creek Addendum" was newly posted

This "supporting document" to the 2019 Brown and Caldwell SWMP contained

- a 2-page memo listing 2 stormwater standards to be applicable to the entire Basalt Creek Area.
- **and proposed Code Text Change to TMC 3-5-220 - Criteria for Requiring On-Site Detention to be Constructed**
- This proposed Code Change provides a vague reference as to which land within the Basalt Creek Area this Code Change would affect.
  - As stated in the proposed Code Text Change "[located in the Basalt Creek Subbasin, as identified in the Tualatin Stormwater Master Plan.](#)"
    - No document Title or Map Number was identified within the proposed Code Text change to provide the ability to search for this important stormwater management map.
    - No clearly identifiable map or description could be located within Exhibit 4c nor within the 2019 Brown and Caldwell SWMP providing information on affected properties
    - No other supporting documentation was provided as to the determination of which Basalt Creek properties would be affected

**A REVIEW OF THE PROPOSED SWMP UPDATE-LISTED BY STATE REQUIREMENTS IDENTIFYING INADEQUACIES OF THE PROPOSED DOCUMENT RELEVANT TO INCLUSION OF THE BASALT CREEK/SW INDUSTRIAL AREA WITHIN SCOPE OF DOCUMENT**  
State Requirements presented in blue font

- Comments provided in black font

**Land Conservation and Development Department Chapter 660 Division 11 PUBLIC FACILITIES PLANNING OAR 660-011-0000 660-011-0000 Purpose**

The purpose of this division is to aid in achieving the requirements of Goal 11, Public Facilities and Services, OAR 660-015-0000(11), interpret Goal 11 requirements regarding public facilities and services on rural lands, and implement ORS 197.712(2)(e), which requires that a city or county shall develop and adopt a public facility plan for areas within an urban growth boundary containing a population greater than 2,500 persons. The purpose of the plan is to help assure that urban development in such urban growth boundaries is guided and supported by types and levels of urban facilities and services appropriate for the needs and requirements of the urban areas to be serviced, and that those facilities and services are provided in a timely, orderly and efficient arrangement, as required by Goal 11.

**660-011-0005 Definitions**

(7) "Public Facility Systems"

(c) Storm sewer:

(A) Major drainageways (major trunk lines, streams, ditches, pump stations and retention basins).

(B) Outfall locations.

**660-011-0010 The Public Facility Plan**

(1) The public facility plan shall contain the following items:

(a) An inventory and general assessment of the condition of all the significant public facility systems which support the land uses designated in the acknowledged comprehensive plan;

- Inadequate information/documentation of relevant inventory and assessment of the Basalt Creek/SW Industrial Area included within proposed SWMP

b) A list of the significant public facility projects which are to support the land uses designated in the acknowledged comprehensive plan. Public facility project descriptions or specifications of these projects as necessary;

- Unclear, poorly identified, inadequate information/documentation of list of significant public stormwater facility projects to support land uses designated in the acknowledged comprehensive plan for the Basalt Creek/SW Industrial Area included within proposed SWMP

(c) Rough cost estimates of each public facility project;

- Inadequate information/documentation of rough cost estimates of each public stormwater facility project provided for the Basalt Creek/SW Industrial Area included within proposed SWMP

(d) A map or written description of each public facility project's general location or service area;

- Unclear, poorly identified, inadequate information/documentation of this map provided for the Basalt Creek/SW Industrial Area included within proposed SWMP



e) Policy statement(s) or urban growth management agreement identifying the provider of each public facility system. If there is more than one provider with the authority to provide the system within the area covered by the public facility plan, then the provider of each project shall be designated;

- While it is known the City of Tualatin and Washington County have been actively planning and designing major stormwater facilities in the Basalt Creek Area, the proposed SWMP provides inadequate information regarding these projects or other future projects in the Basalt Creek/SW Industrial Area, nor provides clear identification of the respective designated provider.

(f) An estimate of when each facility project will be needed

- The proposed SWMP does not clearly identify a major/Capital Stormwater Project for the Basalt Creek/SW Industrial Area undergoing the urbanization process.
- Yet it is known the City of Tualatin and Washington County have been actively planning and designing major stormwater facilities in the Basalt Creek Area, the proposed SWMP provides inadequate information regarding these projects or other future projects in the Basalt Creek/SW Industrial Area, nor provides an estimate of when each facility project will be needed.

(g) A discussion of the provider's existing funding mechanisms and the ability of these and possible new mechanisms to fund the development of each public facility project or system.

- The proposed SWMP does not clearly identify a major/Capital Stormwater Project for the Basalt Creek/SW Industrial Area undergoing the urbanization process.
- Yet it is known the City of Tualatin and Washington County have been actively planning and designing major stormwater facilities in the Basalt Creek Area, the proposed SWMP provides inadequate information regarding these projects or other future projects in the Basalt Creek/SW Industrial Area, nor provides an estimate of when each facility project will be needed.

(3) It is not the purpose of this division to cause duplication of or to supplant existing applicable facility plans and programs. Where all or part of an acknowledged comprehensive plan, facility master plan either of the local jurisdiction or appropriate special district, capital improvement program, regional functional plan, similar plan or any combination of such plans meets all or some of the requirements of this division, those plans, or programs may be incorporated by reference into the public facility plan required by this division. Only those referenced portions of such documents shall be considered to be a part of the public facility plan and shall be subject to the administrative procedures of this division and ORS Chapter 197.

- The 2019 Brown and Caldwell SWMP, the Basalt Creek Concept Plan and the Basalt Creek Comprehensive provide several dated, incomplete or inaccurate assessments of the Basalt Creek/SW Industrial Area stormwater management needs, nor do they provide complete forecasting analysis of stormwater management needs based upon the City's current Land Use Zoning Determinations in the Basalt Creek/SW Industrial Area. Nor do these documents provide clear identification of needed major stormwater projects for the City's planning for the urbanization of Basalt Creek/SW Industrial Area. Exhibit 4c "Basalt Creek Addendum" does not provide clear

reference to other specific documents which are to be considered part of the proposed SWMP.

### **660-011-0020 Public Facility Inventory and Determination of Future Facility Projects**

(1) The public facility plan shall include an inventory of significant public facility systems. Where the acknowledged comprehensive plan, background document or one or more of the plans or programs listed in OAR 660-011-0010(3) contains such an inventory, that inventory may be incorporated by reference.

- The 2019 Brown and Caldwell SWMP, the Basalt Creek Concept Plan and the Basalt Creek Comprehensive provide several dated, incomplete or inaccurate assessments of the Basalt Creek/SW Industrial Area stormwater management needs, nor do they provide complete forecasting analysis of stormwater management needs based upon the City's current Land Use Zoning Determinations in the Basalt Creek/SW Industrial Area. Nor do these documents provide clear identification of needed major stormwater projects for the City's planning for the urbanization of Basalt Creek/SW Industrial Area. Exhibit 4c "Basalt Creek Addendum" does not provide clear reference to other specific documents which are to be considered part of the proposed SWMP.

- The proposed SWMP does not provide a rationale or supporting assessments/analysis as to the lack of identification of identified stormwater facilities needed in the development and urbanization of the Basalt Creek/SW Industrial Area.

The inventory shall include:

- (a) Mapped location of the facility or service area;
- (b) Facility capacity or size; and
- (c) General assessment of condition of the facility (e.g., very good, good, fair, poor, very poor).

- Inadequate information/documentation of relevant inventory and assessment of the Basalt Creek/SW Industrial Area included within proposed SWMP

(2) The public facility plan shall identify significant public facility projects which are to support the land uses designated in the acknowledged comprehensive plan. The public facility plan shall list the title of the project and describe each public facility project in terms of the type of facility, service area, and facility capacity.

- Inadequate information/documentation of relevant inventory and assessment and identification of significant public facility project to support land used of the Basalt Creek/SW Industrial Area included within proposed SWMP

### **660-011-0025 Timing of Required Public Facilities**

(1) The public facilities plan shall include a general estimate of the timing for the planned public facility projects.

- The City has not clearly identified any future major/Capital stormwater projected for the Basalt Creek/SW Industrial Area which the City is responsible for directing urbanization within the proposed SWMP.
- It is not clear how effective Land Use Planning is being conducted.

Consequently, it is problematic how the adoption of the proposed SWMP as a Governing City Document-will effectively guide development in the Basalt Creek/SW Industrial Area or negate potential negative impacts of poor planning upon citizens, property or the environment.

#### **660-011-0030 Location of Public Facility Projects**

(1) The public facility plan shall identify the general location of the public facility project in specificity appropriate for the facility. Locations of projects anticipated to be carried out in the short term can be specified more precisely than the locations of projects anticipated for development in the long term.

- The City has not clearly identified within the proposed SWMP any future major/Capital stormwater projected for the Basalt Creek/SW Industrial Area within the proposed SWMP which the City is responsible for directing urbanization.

#### **660-011-0035 Determination of Rough Cost Estimates for Public Facility Projects and Local Review of Funding Mechanisms for Public Facility Systems**

(1) The public facility plan shall include rough cost estimates for those sewer, water, and transportation public facility projects identified in the facility plan. The intent of these rough cost estimates is to:

(a) Provide an estimate of the fiscal requirements to support the land use designations in the acknowledged comprehensive plan; and

(b) For use by the facility provider in reviewing the provider's existing funding mechanisms (e.g., general funds, general obligation and revenue bonds, local improvement district, system development charges, etc.) and possible alternative funding mechanisms. In addition to including rough cost estimates for each project, the facility plan shall include a discussion of the provider's existing funding mechanisms and the ability of these and possible new mechanisms to fund the development of each public facility project or system. These funding mechanisms may also be described in terms of general guidelines or local policies.

- As per 660-011-0005 Definitions-the Public Service of Stormwater Management is identified as (7) "Public Facility Systems"(c) Storm sewer making this requirement applicable to the proposed SWMP.
- The City has not clearly identified any future major/Capital stormwater projected for the Basalt Creek/SW Industrial Area which the City is responsible for directing urbanization within the proposed SWMP.
- It is not clear how effective Land Use Planning is being conducted. Consequently, it is not clear how the City of Tualatin anticipates future stormwater facilities within the Basalt Creek/SW Industrial Area would be funded.
- It is not clear how the City will be able to effectively conduct fiscal responsibilities within City budgets for funding of anticipated capital stormwater facilities which will most likely be required with future development in the Basalt Creek/SW Industrial Area, or if development in this area will be delayed until funding can be found.
- The proposed SWMP does not clearly identify alternative funding

solutions for capital stormwater facilities within the Basalt Creek/SW Industrial Area. The proposed SWMP does not identify nor provide discussion as to utilization of the City of Tualatin Urban Renewal Bond for the Basalt Creek/SW Industrial Area. how the City would accommodate

### **660-011-0045 Adoption and Amendment Procedures for Public Facility Plans**

#### **Adoption and Amendment Procedures for Public Facility Plans**

(1) The governing body of the city or county responsible for development of the public facility plan shall adopt the plan as a supporting document to the jurisdiction's comprehensive plan and shall also adopt as part of the comprehensive plan:

- (a) The list of public facility project titles, excluding (if the jurisdiction so chooses) the descriptions or specifications of those projects;
- (b) A map or written description of the public facility projects' locations or service areas as specified in sections

- the required supporting assessments, analysis, and forecasting of current and future stormwater management needs based upon the City's Land Use Zoning Determinations for the Basalt Creek / SW Industrial Areas -which are necessary for a meaningful and effective SWMP- could not be located as relevant fact-based supporting documents within the proposed SWMP.
- There are concerns as to the effectiveness of the proposed SWMP to fulfill the requirements and intent of a Public Facilities Stormwater Plan to guide development within the Basalt Creek / SW Industrial Areas.
- There are concerns as to effectively protect citizens, property and the environment within the Basalt Creek / SW Industrial Areas and downstream.
- Consequently, there are concerns as to the ramifications of memorializing a Stormwater Master Plan Update for the City of Tualatin, when over 300+ acres of land have not been adequately and effectively included within the scope of the document.

### **OREGON STATEWIDE PLANNING GOAL #11 PUBLIC FACILITIES AND SERVICES – OAR 660-015-0000(11)**

*"To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development"*

- No stormwater Capital Project is identified within the proposed SWMP for the Basalt Creek or SW Industrial Areas within the proposed SWMP nor supporting documentation for rationale.

### **METRO CHAPTER 3.02 (WASTEWATER MANAGEMENT PLAN)**

The Regional Plan shall include the Regional Waste Water Management Plan Text, Sewerage Transmission and Treatment Service Areas Map and Collection System Service Areas Map.

- Minimal if any documentation found within the proposed SWMP regarding applicable investigation of the regional alternatives recommended due to changes in maintenance and/or distribution of any portion of the waste treatment component; or changes in population forecasts and/or waste load projections resulting from the active urbanization of the Basalt Creek Area with over 500 residential units already under construction with another major transportation and regional stormwater facility being planned within the Basalt

Creek Area by Washington County.

- No stormwater Capital Project is identified within the proposed SWMP for the Basalt Creek or SW Industrial Areas within the proposed SWMP nor supporting documentation for rationale.

### **OREGON STATEWIDE PLANNING GOAL #6 PUBLIC WATER QUALITY – OAR 660-015-0000(6)**

Goal 6 Air, Water and Land Resources Quality To maintain and improve the quality of the air, water and land resources of the state.

- The Basalt Creek Area Contains 14+ acres of Federally and State Identified Wetlands
- The majority of stormwater within the Basalt Creek Area flows through Wilsonville to the Willamette River
- No stormwater Capital Project is identified within the proposed SWMP for the Basalt Creek or SW Industrial Areas within the proposed SWMP nor supporting documentation for rationale.

### **METRO TITLE 3: WATER QUALITY AND FLOOD MANAGEMENT 3.07.330 IMPLEMENTATION ALTERNATIVES FOR CITIES AND COUNTIES**

(1) The purpose of these standards is to reduce the risk of flooding, prevent or reduce risk to human life and property, and maintain functions and values of floodplains such as allowing for the storage and conveyance of stream flows through existing and natural flood conveyance systems.

(2) Demonstrate that existing city and county comprehensive plans and implementing ordinances substantially comply with the performance standards in Section 3.07.340 and the intent of this title.

- Proposed SWMP provides inadequate documentation of assessments, analysis, forecasting of stormwater management needs within the Basalt Creek and SW Industrial Areas- an area containing steep slopes > 25% draining to wetlands
- City of Tualatin lacks clear accurate and standardized and complete documentation of various known Natural Resources -including 14+ acres of State & Federally Identified Wetlands within the Basalt Creek Area -within the City's adopted Natural Resource Map 72-1:Natural Resources Protection Overlay District (NRPO) and Greenway Locations and Map 72-3 Significant Natural Resources.
- No stormwater Capital Project is identified within the proposed SWMP for the Basalt Creek or SW Industrial Areas within the proposed SWMP nor supporting documentation for rationale.

### **OREGON STATEWIDE PLANNING GOAL #8 Recreational Needs – OAR 660-015-0000(8)**

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

- The City of Tualatin has purchased over 13+ acres of land within the Basalt Creek Area for future parks
- The majority of this future park land is located within the Basalt Creek Canyon and wetlands
- No stormwater Capital Project is identified within the proposed SWMP for the Basalt Creek or SW Industrial Areas within the proposed SWMP nor supporting documentation for rationale.

**OREGON STATEWIDE PLANNING GOAL #14 URBANIZATION OAR 660-015-0000(14)**

“To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

“Comprehensive plans and implementing measures shall manage the use and division of urbanizable land to maintain its potential for planned urban development until appropriate public facilities and services are available or planned.”

- No stormwater Capital Project is identified within the proposed SWMP for the Basalt Creek or SW Industrial Areas within the proposed SWMP nor supporting documentation for rationale.

**OREGON STATE LAND USE PLANNING GOAL #2 FOR LAND USE PLANNING OAR 660-015-0000(2)** -also provides requirements for the development and adoption of the Land Use Plans,

“All land use plans shall include identification of issues and problems, inventories and other factual information for each applicable state-wide planning goal, evaluation of alternative courses of action and ultimate policy choices, taking into consideration social, economic, energy and environmental needs. The required information shall be contained in the plan document or in supporting documents.”

- Incomplete supporting documentation of assessments – including accurate existing stormwater infrastructure, the analysis, the forecasting of stormwater management needs based upon the City’s adopted Land Use Zoning Designations; list of stormwater capital projects for the Basalt Creek and SW Industrial Areas per OAR 660-011-0000 standards could not be found within the proposed SWMP
- Incomplete identification of prior issues as to the deficiencies and cause of prior withdrawal of the 2019 Brown and Caldwell SWMP document could not be found within the proposed SWMP
- Inadequate identification of actions taken to resolve prior deficiencies in the same document being presented for adoption. Inadequate provision of supporting documents of corrective actions provided for fact-based decision making.
- Inadequate discussion and documentation as to rationale for omission of an identified stormwater Capital Project within the 300+ acres of Basalt Creek and SW Industrial Areas the City is responsible for Land Use Planning as part of the urbanization of these areas within the proposed SWMP.

We do not agree that proposed Ord 1489-24 and/or PTA 24-0003 adequately fulfills the requirements stated within the **City of Tualatin Ord 1455-21 – “to draft a revised Stormwater Master Plan, which must include the Basalt Creek and Southwest Concept areas, for presentation and consideration by the Council consistent with applicable Tualatin Development Code procedures.”**

As Council members we hope you will understand the significance of the need for a thoughtful and effective Stormwater Management Plan is necessary to be memorialized for all portions of the City’s Land Use Planning Area- not just a select portion.

Respectfully submitted,

John and Grace Lucini  
23677 SW Boones Ferry Road  
Tualatin OR 97062

## **ATTACHMENTS/ SUPPORTING DOCUMENTS:**

**3-1-2021 LUBA NITA**

**3-8-2021 ORDINANCE # 1455-21 CITY COUNCIL REPEALED THE  
PRIOR ADOPTION ORDINANCE # 1453-21**

**3-16-2021 STIPULATED MOTION TO DISMISS- WITHOUT  
PREJUDICE**

**THESE PRIOR SUBMISSIONS TO THE CITY OF TUALATIN SHOULD BE  
ON FILE WITH THE CITY OF TUALATIN  
FOR THE 2020 -2021 PUBLIC PROCESS OF THE ADOPTION 2019  
BROWN AND CALDWELL SWMP UPDATE  
FOR THE 2024 PROPOSED PTA 24-0003 CITY OF TUALATIN SWMP  
UPDATE-**

Please notify us should an additional copy be needed.

**2020 12-15 SUBMISSION TO CITY OF TUALATIN -DURING PUBLIC  
COMMENT PERIOD**

**RE: 2019 BROWN AND CALDWELL SWMP UPDATE**

OUR SUBMISSION INCLUDED CONCERN REGARDING THE  
PROPOSED DOCUMENT,

ALSO INCLUDED A 12-14-2020 REVIEW OF & REPORT ON THE  
2019 BROWN AND CALDWELL SWMP

BY LEA Environmental Associates

The complete Review and Report should be on file

at the City of Tualatin within the 2020-2021 submissions

A summary of the Report is provided below

**2021 2-5-2021 SUBMISSION TO CITY OF TUALATIN**

**-City Council Hearing 2-8-2021 2019 BROWN AND CALDWELL  
SWMP UPDATE COUNCIL HEARING**

**2024 7-12-2024 SUBMISSION TO TUALATIN PLANNING  
COMMISSION**

**-City staff Presentation for Review of Proposed PTA 24-0003 and  
PMA 24-0003**

**CAPITAL PROJECTS LIST IDENTIFIED WITHIN PROPOSED CITY OF  
TUALATIN SWMP UPDATE**

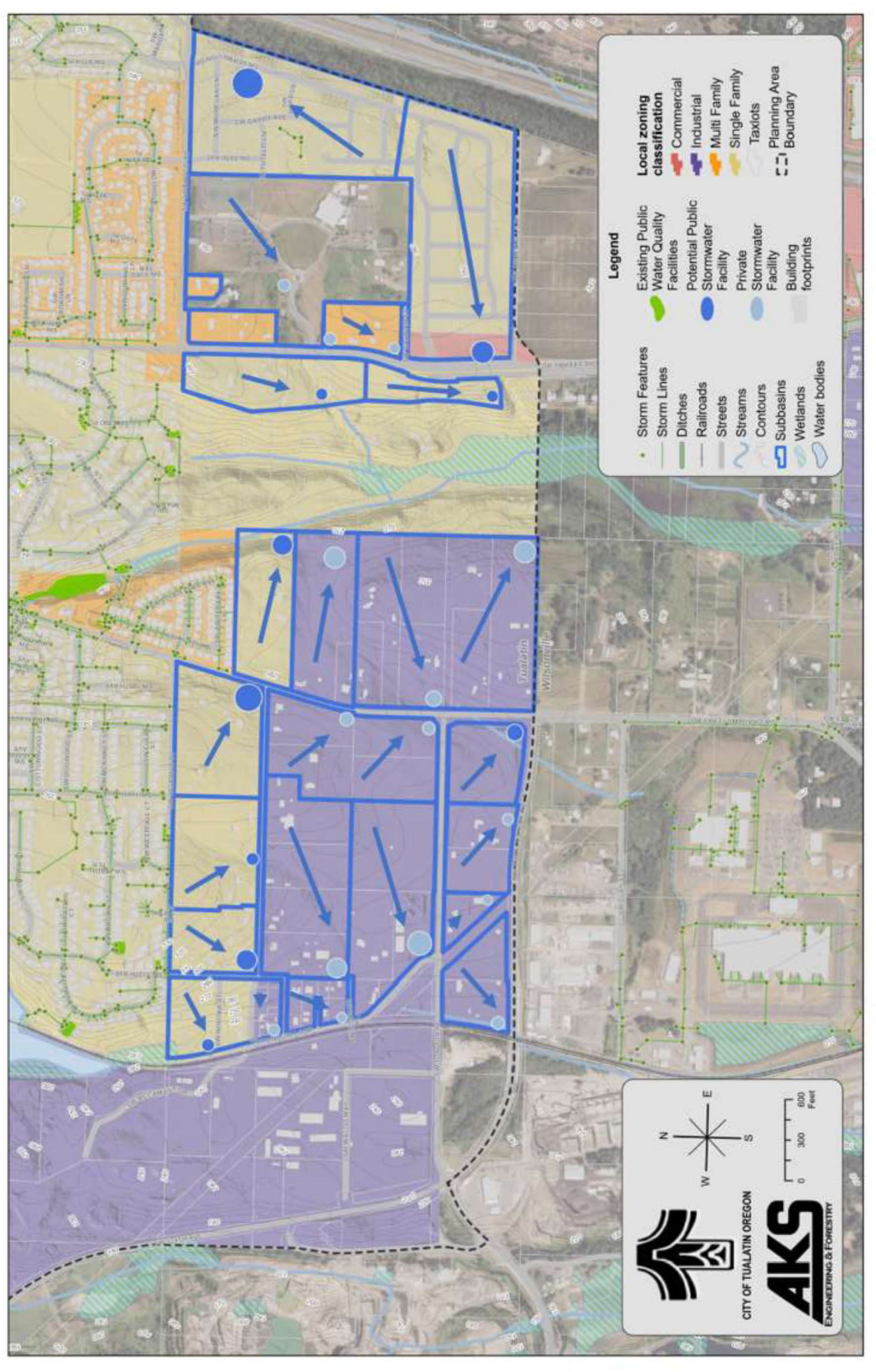
**NO STORMWATER CAPITAL PROJECTS LISTED FOR THE BASALT  
CREEK AND SW INDUSTRIAL AREA**

- WHICH INCLUDE OVER 300 ACRES OF RURAL LAND WITHIN THE  
BASALT CREEK/SW INDUSTRIAL AREA

- UNDERGOING URBANIZATION UNDER THE DIRECTION OF THE  
CITY OF TUALATIN







**Legend**

Storm Features	Existing Public Water Quality Facilities	Potential Public Stormwater Facility	Private Stormwater Facility	Building footprints
Storm Lines	Water Quality Facilities	Stormwater Facility	Stormwater Facility	Building footprints
Ditches				
Railroads				
Streets				
Streams				
Contours				
Subbasins				
Wetlands				
Water bodies				

Local zoning classification	Commercial	Industrial	Multi Family	Single Family	Taxlots	Planning Area	Boundary
Commercial	Industrial	Multi Family	Single Family	Taxlots	Planning Area	Boundary	

0 300 600 Feet

**CITY OF TUALATIN OREGON**

**AKS**  
ENGINEERING & FORESTRY





1 III.

2 The persons sent notice of the land use decision or limited land use  
3 decision by mail, by the City of Tualatin, are: Petitioners John and Grace Lucini  
4 (23677 SW Boones Ferry Rd, Tualatin, OR 97062); and Clean Water Services  
5 (2550 SW Hillsboro Hwy, Hillsboro, OR 97123).

6 Other persons sent notice of the land use decision or limited land via  
7 email only, by the City of Tualatin, as indicated by its records in this matter,  
8 are:

9 City of Durham ([cityofdurham@comcast.net](mailto:cityofdurham@comcast.net));

10 City of King City ([mweston@ci.king-city.or.us](mailto:mweston@ci.king-city.or.us));

11 City of Lake Oswego ([ssiegel@lakeoswego.city](mailto:ssiegel@lakeoswego.city));

12 City of Rivergrove ([manager@cityofrivergrove.com](mailto:manager@cityofrivergrove.com));

13 City of Sherwood ([planning@sherwoodoregon.gov](mailto:planning@sherwoodoregon.gov));

14 City of Tigard ([TomM@tigard-or.gov](mailto:TomM@tigard-or.gov));

15 City of Wilsonville ([neamtzu@ci.wilsonville.or.us](mailto:neamtzu@ci.wilsonville.or.us));

16 Clackamas County ([kenken@clackamas.us](mailto:kenken@clackamas.us), [mfritzie@clackamas.or.us](mailto:mfritzie@clackamas.or.us),  
17 [rickmax@co.clackamas.or.us](mailto:rickmax@co.clackamas.or.us));

18 Washington County Transportation ([Naomi\\_voegel@co.washington.or.us](mailto:Naomi_voegel@co.washington.or.us));

19 Washington County Land Use ([Theresa\\_cherniak@co.washington.or.us](mailto:Theresa_cherniak@co.washington.or.us));

20 DEQ ([deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us));

21 Metro ([landusenotifications@oregonmetro.gov](mailto:landusenotifications@oregonmetro.gov));

22 ODOT ([regionI\\_DEVREV\\_Applications@odot.state.or.us](mailto:regionI_DEVREV_Applications@odot.state.or.us));

23 Clean Water Services ([humphreysj@cleanwaterservices.org](mailto:humphreysj@cleanwaterservices.org),

24 [allane@cleanwaterservices.org](mailto:allane@cleanwaterservices.org));

25 TVFR ([Thomas.mooney@tvfr.com](mailto:Thomas.mooney@tvfr.com));

1 Republic Services ([jolivares@republicservices.com](mailto:jolivares@republicservices.com));  
2 The Intertwine Alliance ([info@theintertwine.org](mailto:info@theintertwine.org));  
3 Ziplly Fiber ([or.metro.engineering@ziply.com](mailto:or.metro.engineering@ziply.com));  
4 PGE ([tod.shattuck@pgn.com](mailto:tod.shattuck@pgn.com), [brandon.flemming@pgn.com](mailto:brandon.flemming@pgn.com),  
5 [kenneth.spencer@pgn.com](mailto:kenneth.spencer@pgn.com));  
6 NW Natural ([Richard.girard@nwnatural.com](mailto:Richard.girard@nwnatural.com));  
7 WCCCA ([icrawford@wccca.com](mailto:icrawford@wccca.com));  
8 Grace Lucini ([grluci@gmail.com](mailto:grluci@gmail.com)); John Lucini ([JWLuci@gmail.com](mailto:JWLuci@gmail.com));  
9 Marissa Houlberg ([marissa@houlbergdevelopment.com](mailto:marissa@houlbergdevelopment.com)); and,  
10 Tualatin Riverkeepers ([info@tualatinriverkeepers.org](mailto:info@tualatinriverkeepers.org)).

11 **NOTICE:**

12 Anyone designated in paragraph III of this Notice who desires to  
13 participate as a party in this case before the Land Use Board of Appeals must  
14 file with the Board a Motion to Intervene in this proceeding as required by  
15 OAR 661-010-0050.

16  
17 DATED: March 1, 2021

18   
19 \_\_\_\_\_  
20 Karl G. Anuta  
21 Law Office of Karl G. Anuta, PC  
22 735 SW First Ave, 2<sup>nd</sup> Floor  
23 Portland, OR 97204  
24 P: 503-827-0320  
25 F: 503-228-6551  
26 KGA@integra.net  
27 *Attorney for Petitioners*

1 CERTIFICATE OF SERVICE

2 I hereby certify that on March 1, 2021, I served a true and correct copy of  
3 this Notice of Intent to Appeal on all persons listed in paragraph II of this  
4 Notice pursuant to OAR 661-010-0015(2) by first class mail.

5 I hereby certify that on March 1, 2021, I served a true and correct copy of  
6 this Notice of Intent to Appeal on all persons listed in paragraph III of this  
7 Notice pursuant to OAR 661-010-0015(2) by first-class mail, or electronic mail,  
8 pursuant to the Records provided by the City of Tualatin.

9  
10 Dated: March 1, 2021

11  
12  
13   
14 \_\_\_\_\_  
15 Karl G. Anuta  
16 Law Office of Karl G. Anuta, PC  
17 735 SW First Ave, 2<sup>nd</sup> Floor  
18 Portland, OR 97204  
19 P: 503-827-0320  
20 F: 503-228-6551  
21 KGA@integra.net  
22 *Attorney for Petitioners*

**ORDINANCE NO. 1455-21**

AN ORDINANCE REPEALING ORDINANCE NO. 1453-21.

WHEREAS, on February 8, 2021, the Council voted to adopt Ordinance No. 1453-21 (An Ordinance Relating to the Stormwater Master Plan; Amending the Tualatin Comprehensive Plan; and Amending Tualatin Development Code Sections 74.630 and 74.640 (PTA 21-0001));

WHEREAS, pursuant to Section 7 of Ordinance No. 1453-21 and the Tualatin City Charter, Ordinance No. 1453-21 is not yet effective, and would not take effect until March 10, 2021; and

WHEREAS, the City Council wishes Ordinance No. 1453-21 to not take effect, to repeal its provisions, and reinstate a new Stormwater Master Plan process to include the City's entire planning area.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

**Section 1.** Ordinance No. 1453-21 is not effective and is hereby repealed in its entirety.

**Section 2.** The City hereby initiates a new Comprehensive Plan Amendment process relating to the City's Stormwater Master Plan to include the City's entire planning area. City staff are directed to draft a revised Stormwater Master Plan, which must include the Basalt Creek and Southwest Concept areas, for presentation and consideration by the Council, consistent with applicable Tualatin Development Code procedures.

**Section 3. Severability.** If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision does not affect the validity of the remaining portions of this ordinance.

**Section 4. Emergency Clause.** This ordinance is necessary for the immediate protection of the public peace, health, safety, and welfare, and takes effect immediately upon adoption.

ADOPTED by the City Council this 8<sup>th</sup> day of March, 2021.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_  
Mayor

APPROVED AS TO FORM

ATTEST:

BY \_\_\_\_\_  
City Attorney

BY \_\_\_\_\_  
City Recorder

1  
2  
3  
4 BEFORE THE LAND USE BOARD OF APPEALS  
5 OF THE STATE OF OREGON  
6

7 GRACE AND JOHN LUCINI,

8 Petitioners,

9 v.

10 CITY OF TUALATIN,

11 Respondent.  
12  
13

LUBA No. 2021-034

STIPULATED MOTION TO DISMISS

14 **STIPULATED MOTION TO DISMISS**

15 The Parties jointly Move to dismiss the proceedings in this matter. The decision at issue  
16 involved an Ordinance adopting a Stormwater Master Plan into Respondent's Comprehensive  
17 Plan. The Ordinance was not yet effective and it has since been repealed. Respondent intends to  
18 adopt a new Stormwater Master Plan in the near future.

19 The Parties stipulate that dismissal is without prejudice as to any arguments Petitioners made,  
20 or may raise in the future, regarding Respondent's Stormwater Master Plan.

21 The Parties further stipulate to the return of Petitioners' filing fees and deposit of costs.  
22

23 Dated this 16<sup>th</sup> day of March, 2021.  
24

25 /s/Karl G. Anuta

26 Karl G. Anuta, OSB # 861423  
Law Office of Karl G. Anuta PC  
kga@integra.net  
Lead Attorney for Petitioners

/s/Sean T. Brady

Sean T. Brady, OSB # 002110  
Tualatin City Attorney  
sbrady@tualatin.gov  
Attorney for Respondent – City of Tualatin



1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on March 16, 2021, I served a true and correct copy of this Stipulated  
3 Motion to Dismiss by electronic mail on:

4  
5 */s/Sean T. Brady*  
6 Sean T. Brady, OSB # 002110  
7 Tualatin City Attorney  
8 sbrady@tualatin.gov  
9 *Attorney for Respondent – City of Tualatin*

10  
11  
12 */s/Karl G. Anuta*  
13 Karl G. Anuta, OSB # 861423  
14 Law Office of Karl G. Anuta PC  
15 kga@integra.net  
16 *Of Attorneys for Petitioners*

## A summarization of Review of Document Comments

by Mr. La Liberte, Principle Engineer La Liberte' Environmental Associates:

Significant problems in the Plan for the BFR south area are:

- lack of identified stormwater facilities
- omission of hydrologic and hydraulic modeling analysis
- potential for misapplication of design alternatives
- absence of stormwater problem acknowledgement and evaluation
- no assessment of stormflows on steep slopes
- topography and soils suggest that infiltration is not a likely future runoff design solution in the Boones Ferry Road area
  - This is an important issue as to the elevation of lands, steep slopes, and drainage into Basalt Creek
  - The elevation of lands above the drinking water wells is of concern with impact upon the well from which the Lucini's obtain their water
- effect of stormflows on the Basalt Creek Concept Plan are neglected
- no existing and future development stormwater flows are compared
- protection of natural resources is unclear
- no designation of Capital Improvement Projects (CIPs9 ) in the BFR south area
- There is no assessment of peak and average stormflows on the steep slopes, which constitute the west flank of the BFR south area
  - These Tualatin stormflows discharge to the Basalt Creek Concept Plan area and their existence is not established in the SWMP.
  - Stormflows on these steep slopes have excessive peak and average flow velocities, which cause erosion  
SEE: Supplement B Part 1 Analysis Report Section 4.  
Stormflow Hydraulics and Part 2 Appendices A2 and I
- The Tualatin SWMP makes no provisions for temporary stormwater storage and discharge facilities when phasing-in large developments such as the Autumn Sunrise property in BFR south.
  - The concern is that arbitrary storage and discharge locations could occur in the interim, before the final stormwater facility is operable.
  - It needs to be specified in the Tualatin SWMP that new construction developments must use stormwater facilities and outfalls consistent only with its final specifications and drawings.

## Project Summary

Capital improvement projects (CIP) have been developed to address the following objectives:

- Increases capacity (flood control)
- Address erosion
- Increase water quality treatment (retrofit)
- Improve water quality (through existing site or facility modifications/restoration to address a pollutant source issue or improve treatment function)
- Address maintenance needs

Table ES-1 below summarizes the identified capital projects, estimated costs, and priorities.

Figure ES-1 shows the location of the proposed CIPs, with priority projects identified. Detailed fact sheets for each CIP can be found in Appendix A.

**Table ES-1. Capital Project Summary**

Priority Project	CIP Number	CIP Name	Cost estimates
	1	Manhasset Storm System Improvements	\$1,581,000
X (Phase 1)*	2	Nyberg Creek Stormwater Improvements	\$3,412,000
	3	Sandalwood Water Quality Retrofit	\$107,000
	4	Mohawk Apartments Stormwater Improvements	\$295,000
X	5	Herman Road Storm System	\$1,023,000
X	6	Blake St Culvert Replacement	\$552,000
	7	Boones Ferry Railroad Conveyance Improvements	\$515,000
	8	89th Avenue Water Quality Retrofit	\$262,000
	9	125th Court Water Quality Retrofit	\$206,000
	10	93rd Avenue Green Street	\$224,000
X	11	Juanita Pohl Water Quality Retrofit	\$156,000
X	12	Community Park Water Quality Retrofit	\$158,000
X	13	Water Quality Facility Restoration - Venetia	\$65,000
X	14	Water Quality Facility Restoration - Piute Court	\$104,000
X	15	Water Quality Facility Restoration - Sequoia Ridge	\$83,000
X	16	Water Quality Facility Restoration - Sweek Drive Pond	\$103,000
	17	Siuslaw Water Quality Facility Retrofit	\$454,000
X	18	Water Quality Facility Restoration - Waterford	\$180,000
X	19	Saum Creek Hillslope Repair	\$171,000
X	20	Hedges Creek Stream Repair	\$327,000
X	21	Nyberg Water Quality Retrofit	\$2,037,000
		<b>Total</b>	<b>\$12,015,000</b>
		<b>Total (Priority projects only)</b>	<b>\$6,482,000</b>

a. CIP 2, Nyberg Creek Stormwater Improvements includes three phases of development. Phase I implementation is considered priority.

**From:** [G Lucini](#)  
**To:** [Ext - Planning; Erin Engman](#)  
**Cc:** [John Lucini](#)  
**Subject:** Master Plan Adoptions- PLANNING COMMISSION MEETING 7-17-2024 Citizen Comments  
**Date:** Friday, July 12, 2024 4:50:03 PM

---



**TO:** ERIN ENGMAN-CITY OF TUALATIN  
CITY OF TUALATIN PLANNING COMMISSION  
**RE:** PROPOSED MASTER PLAN ADOPTIONS (PTA/PMA 24-0003  
SCHEDULED AGENDA ITEM FOR PLANNING COMMISSION MEETING 7-17-2024

#### FOR THE PUBLIC RECORD

Thank you to the City of Tualatin for sending the email Notice of proposed Changes to multiple Governing Documents which are part of the City's Comprehensive Plan. We received the Notice on 7-10-2024 for the scheduled Planning Commission Meeting Agenda Item for 7-17-2024... 7 days later.

This unanticipated Notice was surprising to us – as we are Affected Property Owners in the Basalt Creek Area and also have been extremely Interested Persons who have actively sought for years to address the need for the City of Tualatin to adopt an effective Stormwater Management Plan for the Basalt Creek Area since 2015.

We present two main issues to the City of Tualatin Planning Commission for their consideration and discussion during their 7-17-2024 meeting.

**1) CONCERNS REGARDING THE PROPOSED MEMORIALIZATION OF AN INCOMPLETE AND NOW OUTDATED 2019 BROWN & CALDWELL STORMWATER MANAGEMENT MASTER PLAN (SWMP) AS A “BACKGROUND DOCUMENT” WITHIN THE CITY’S GOVERNING DOCUMENTS**

**2) CONFLICTING MAP INFORMATION PROVIDED WITHIN PROPOSED LAND USE ACTIONS**

- **THE CITY OF TUALATIN PARKS AND RECREATION BASALT CREEK MASTER PLAN**
- **AND MAPS WITHIN PMA 24-0003**
- 

#### SPECIFIC CONCERNS:

**1) CONCERNS REGARDING THE PROPOSED MEMORIALIZATION OF AN INCOMPLETE AND NOW OUTDATED 2019 BROWN & CALDWELL STORMWATER MANAGEMENT MASTER PLAN (SWMP) AS A “BACKGROUND DOCUMENT” WITHIN THE CITY’S GOVERNING DOCUMENTS**

The City has provided little to no Public Outreach within the last years to inform or provide the Public, Affected Property Owners and/or Interested Citizens participation in the development of the proposed memorialization of the dated and incomplete 2019 Brown & Caldwell Stormwater Management Master Plan (SWMP) document as a “background document” to be included within the City's Governing Documents

The City's claim of compliance to the State's Goal #1 for Citizen Involvement stated within Exhibit 1 PTA PMA 240003 FINDINGS AND ANALYSIS sites only one Public Outreach Event relating to 2019 Brown & Caldwell Stormwater Management Master Plan (SWMP) Update document.

- The City did not clearly identify the Public Outreach Event cited in Exhibit 1 -while related to the same 2019 Brown & Caldwell Stormwater Management Master Plan (SWMP) document –was actually an Outreach Event...
  - was actually an Outreach Event held in 2020 for a different Land Use Action which was the 2021 adoption of the document to Update the City's Stormwater Master Plan
  - The adoption of the 2019 Brown & Caldwell Stormwater Management Master Plan (SWMP) Update document actually failed in 2021 due to the inadequacies identified by the Public within the 2019 Brown & Caldwell Stormwater Management Master Plan (SWMP)
- While the City's Exhibit #1 claimed the 2020 Public Comment Period for a different Land Use Action as justification of compliance to #1 for Citizen Involvement for a current PTA
  - Exhibit #1 did not summarize, list or include the Citizen Comments submitted during the Public Comment Period in 2020 to the City regarding the 2019 Brown & Caldwell Stormwater Management Master Plan (SWMP) Update document,
  - The incomplete provision of relevant facts within Exhibit #1 from the City's citation of the Public Comment Period in 2020 for the 2019 Brown & Caldwell Stormwater Management Master Plan (SWMP) Update document
    - inhibits current decision makers from effective communication previously submitted by citizens regarding the document,
    - diminishes citizens ability to influence current decision makers,
    - limits clear identification and understanding of the multiple technical issues related to the proposed document and
    - hinders current decision makers from learning fact base information upon which to base their deliberations.
- It should also be remembered that Basalt Creek property owners outside City Limits do not have elected representation within the City's Land Use Planning Process- yet are effectively impacted by Land Use Actions taken by the City of Tualatin.
- These property owners who are not City residents are also denied equal membership within the City's (CIO's) which the City states meet the State's required Citizen Involvement program for Land Use Actions Land Use Planning Goal #1 for Citizen Involvement.

Had the City included within Exhibit #1 for the currently proposed PTA-

-The Citizen Comments submitted during the December 2020 Citizen Comment Period for the 2019 Draft of the Brown & Caldwell Stormwater Management Master Plan (SWMP) information relevant to the City's current Land Use proposal

would have included:

- Our 12-15-2020 Submission during the Citizen Comment Period in 2020- a copy has been attached as a PDF
  - Our submission included our comprehensive review of the 2019 Draft of the Brown & Caldwell Stormwater Management Master Plan (SWMP)
  - Our submission also included a review the 2019 Draft of the Brown & Caldwell Stormwater Management Master Plan (SWMP) and a report conducted by an Environmental Engineer Mr. David La Liberte' of La Liberte' Environmental Associates.

Mr. La Liberte has professional knowledge of the Basalt Creek Area having conducted various drainage studies and analysis within the area. His extensive Curriculum Vitae (CV) was also included within our 12-15-2020 submission

His report identified multiple inadequacies within the 2019 Draft of the Brown & Caldwell Stormwater Management Master Plan (SWMP)

**OUR DECEMBER 15, 2020, SUBMISSION TO THE CITY ALSO INCLUDED A FULL REPORT AND A SUMMARY OF MR. LA LIBERTE'S FINDINGS SUBMITTED AFTER HE REVIEWED THE 2019 DRAFT OF THE BROWN & CALDWELL STORMWATER MANAGEMENT MASTER PLAN (SWMP)**

A summarization of Review of Document Comments

by Mr. La Liberte, Principle Engineer La Liberte' Environmental Associates:

Significant problems in the Plan for the BFR south area are:

- lack of identified stormwater facilities
- omission of hydrologic and hydraulic modeling analysis
- potential for misapplication of design alternatives
- absence of stormwater problem acknowledgement and evaluation
- no assessment of stormflows on steep slopes
- topography and soils suggest that infiltration is not a likely future runoff design solution in the Boones Ferry Road area
  - This is an important issue as to the elevation of lands, steep slopes, and drainage into Basalt Creek
  - The elevation of lands above the drinking water wells is of concern with impact upon the well from which the Lucini's obtain their water
- effect of stormflows on the Basalt Creek Concept Plan are neglected
- no existing and future development stormwater flows are compared
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- no designation of Capital Improvement Projects (CIPs9) in the BFR south area
- There is no assessment of peak and average stormflows on the steep slopes, which constitute the west flank of the BFR south area
  - These Tualatin stormflows discharge to the Basalt Creek Concept Plan area and their existence is not established in the SWMP.
  - Stormflows on these steep slopes have excessive peak and average flow velocities, which cause erosion  
SEE: Supplement B Part 1 Analysis Report Section 4.  
Stormflow Hydraulics and Part 2 Appendices A2 and I
- The Tualatin SWMP makes no provisions for temporary stormwater storage and discharge facilities when phasing-in large developments such as the Autumn Sunrise property in BFR south.
  - The concern is that arbitrary storage and discharge locations could occur in the interim, before the final stormwater facility is operable.
  - It needs to be specified in the Tualatin SWMP that new construction developments must use stormwater facilities and outfalls consistent only with its final specifications and drawings.

Yet it appears the City is intent upon memorializing the now dated and incomplete 2019 Brown & Caldwell Stormwater Management Master Plan (SWMP) Update document -with known deficiencies -as a part of the City's Governing Documents- as a "background document".

This is the same document- which the Public identified in 2020-21- provided incomplete stormwater management planning for the entirety of the City's Land Use Planning jurisdiction (including the Basalt Creek Area).

On 3-8-2021- after a prior adoption of this document on 2-8-2021 by the City Council (Ordinance 1453-21)- the Council withdrew and repealed this document from adoption under Ordinance 1455-21.

City of Tualatin Ordinance No 1455-21 Section 2 specifies:

["The City hereby initiates a new Comprehensive Plan Amendment process relating to the City's Stormwater Master Plan to include the City's entire planning area. City staff are directed to draft a revised Stormwater Master Plan, which must include the Basalt Creek and Southwest Concept areas, for presentation and consideration by the Council, consistent with applicable Tualatin Development Code procedures"](#)

During the same 3-8-2021 City Council meeting, the Council directed the City staff to reinstate the Stormwater Master Plan process to include all of the City's planning area- including the Basalt Creek Area.

In the 3-16-2021 LUBA Stipulated Motion to Dismiss the appeal of the City's Stormwater Master Plan the City also stated its intent to adopt a new Stormwater Master Plan in the near future.

Since that time, the City has Publicly re-stated on numerous occasions their "intent" to develop a new Stormwater Master Plan (SWMP) .

It is now over 3 years later, and the City has not presented a SWMP as per State Public Facilities requirements which includes the entirety of the City's Land Use Planning jurisdiction- including the Basalt Creek Area.

Since 2021, due to the absence of an adopted SWMP for the Basalt Creek Area- the City has commented about their reliance upon Clean Water Services to meet Stormwater Management Planning needs. The lack of an effective and adopted SWMP plan for the Basalt Creek Area- may contribute to the City's consultant's study of existing conditions and their comments included within the City's Notice 7-10-24 of the upcoming Planning Commission Meeting

*"Many of you may have provided comments or participated in the City's past consideration of the Stormwater Master Plan in 2021. Since that time, staff has worked with consultants to study the existing conditions within the Basalt Creek planning area. The study concluded that Clean Water Services stringent stormwater standards must be applied to future development within the Basalt Creek planning area."*

It is noteworthy to understand --the City of Tualatin should have known since 2004 (when Metro adopted 04-1040B and the "Tualatin Area" was brought into the UGB) of the City's future responsibilities to develop an appropriate Stormwater Management Plan(SWMP) for the Basalt Creek Area. The City's SWMP for the Basalt Creek Area should have been adopted when the City gained Land Use Planning responsibilities over the Basalt Creek Area in 2019 and been functional for future use in Land Use Planning Actions impacting the Basalt Creek Area.

The City of Tualatin has had 20 years to prepare and develop an effective Stormwater Management Plan per OAR 660-011-000 for the Basalt Creek Area is past due.

An effective thoughtful integrated SWMP for the Basalt Creek Area is integral for appropriate Land Use Planning, future industrial or residential development, transportation planning, flooding mitigation, erosion control, landslide prevention, and natural hazard protections for downstream citizens, property and natural resources in an area known to have steep slopes >25%, and multiple existing Natural Resources identified by Metro for Goal 5 and Title 13 Resources and 14+ acres of wetlands identified in the Federal and State Wetland Inventories.

An effective coordinated SWMP for the Basalt Creek Area will require collection and analysis of data to effectively determine what and where major stormwater projects in the Basalt Creek Area will be required, when the timing of this infrastructure will be needed, and the anticipated funding for the projects – in an area with overlapping local governments with Land Use Planning jurisdiction.

We do not see significant that changes have been made to the 2019 Brown & Caldwell Stormwater Management Master Plan (SWMP) Update document which provides additional required information for the inclusion of the Basalt Creek Area to meet State Stormwater Management Planning Requirements.

We did not find within the documents posted to the City's website on 7-10-24, a clearly identified exhibit or addendum which presents a Stormwater Management Plan for the Basalt Creek Area (per state requirements) to augment the deficiencies within the 2019 Brown & Caldwell Stormwater Management Master Plan (SWMP) Update document

The need for thoughtful Land Use Planning Documents, Land Use Planning, and Land Use decision making within the Basalt Creek Area has been- and is at this time - significantly important and critical. The Basalt Creek Area is actively undergoing transition from mainly rural development with minimal infrastructure within unincorporated Washington County ---to more modernized urban higher density development with more complex infrastructure where both Washington County and the City of Tualatin have overlapping Land Use Planning jurisdiction and may not share the same development requirements or goals.

The adoption of the 2019 Brown & Caldwell Stormwater Management Master Plan (SWMP) document as a "background document" does not address the failure of the City to develop, adopt and utilize a thoughtful and effective Stormwater Management Plan for the Basalt Creek Area.

In fact, the memorialization of the 2019 Brown & Caldwell Stormwater Management Master Plan (SWMP) document within the City's Governing Documents may actually hinder effective, clear and standardized assessment of current and future stormwater management needs – and the identification , planning and funding of major infrastructure within the entirety of the City's Land Use Planning responsibilities.

**Listed below are some of the State's Public Facilities Planning mandated requirements for the development and adoption of a Stormwater Management Plan for municipalities over 2,500 citizens- of which the City of Tualatin is one.**

**OAR 660-011-0000**

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3061>

**LAND CONSERVATION AND DEVELOPMENT DEPARTMENT**

**Chapter 660 Division 11 PUBLIC FACILITIES PLANNING**

- o 660-011-0005 Definitions
- (7) "Public Facility Systems": (c) Storm sewer:
  - (A) Major drainageways (major trunk lines, streams, ditches, pump stations and retention basins)
  - (B) Outfall locations.
- o 660-011-0010 The Public Facility Plan
- o 660-011-0015 Responsibility for Public Facility Plan Preparation
- o 660-011-0020 Public Facility Inventory and Determination of Future Facility Projects
- o 660-011-0025 Timing of Required Public Facilities
- o 660-011-0030 Location of Public Facility Projects
- o 660-011-0035 Determination of Rough Cost Estimates for Public Facility Projects and Local Review of Funding Mechanisms for Public Facility Systems
- o 660-011-0045 Adoption and Amendment Procedures for Public Facility Plans

**We request the City of Tualatin Planning Commission (which is also the City's stated CCI for Citizen Involvement and responsible for the implementation of the citizen involvement program" Goal 1: Citizen Involvement OAR 660-015-0000(1)) to provide informative responses to the following questions:**

**A. What is the intended use of a memorialized 2019 Brown & Caldwell Stormwater Management Master Plan (SWMP) Update as a "background document" – when the document is dated and has not met all of the requirements established by the State for a Public Facilities Management Plan for the entirety of the City's planning jurisdiction?**

**B. How does the proposed memorialization of the of the 2019 Brown & Caldwell Stormwater**


**Management Master Plan (SWMP) Update as a “background document” within the City’s Governing Documents - ---provide clear, standardized, equitable stormwater management planning for use in evaluation, determination and/or implementation of future Land Use Actions throughout all of the City’s planning jurisdiction- including the Basalt Creek Area?**

**C. What has caused the City of Tualatin’s procrastination in developing and adopting an effective Stormwater Management Plan (SWMP) which includes the entirety of the lands within the City’s Land Use Planning Jurisdiction within the scope of the document to conform to the mandated requirements established by the State?**


**D. What actions need to be taken to have the City staff comply with the directions provided by the City Council on 3-8-2021 to reinstate the Stormwater Master Plan process to include all of the City’s planning area, including the Basalt Creek Area?**

We provide our comprehensive reviews of the 2019 Brown & Caldwell Stormwater Management Master Plan (SWMP) Update document which were previously submitted to the City – as Google Links (double click to open) :


- o Our 12-15-2020 submission to the City during the Citizen Comment Period for the then proposed 2019 Brown & Caldwell Stormwater Management Master Plan (SWMP) Update

 2020 12-15 LUCINI Comments Stormwater Master Pl...

The 12-14-21 LEA Comments of the 4-2019 Draft Tualatin Stormwater Master Plan included within our 12-15-21 submission

 2020 12-14 David La Libete #1.pdf

- o Our 2-5-2021 submission to the Tualatin City Council Quasi-Judicial Hearing Scheduled 2-8-2021 City of Tualatin Proposed Land Use Action PTA 21-0001 City of Tualatin Stormwater Master Plan Adoption-

 2021 2-5 Lucini Submission to Tual Council Stormwat...

## **2) CONFLICTING MAP INFORMATION PROVIDED WITHIN PROPOSED LAND USE ACTIONS**

- **THE CITY OF TUALATIN PARKS AND RECREATION BASALT CREEK MASTER PLAN**
- **AND MAPS WITHIN PMA 24-0003**

There appears conflicting information provided within various maps being proposed for adoption by the City which may cause confusion in utilization, implementation or enforcement of City Codes or in Land Use Planning Actions.

Inconsistencies in mapping information within the City’s Governing Documents may also have unexpected and unnecessary impacts upon a property owner’s use or enjoyment of their property or developers attempting to understand existing conditions and limitations.

Both the proposed City of Tualatin Parks & Recreation Basalt Creek Master Plan, and the proposed PMA Map changes contain information on the future location of a Public Trail/Path running in a north-south direction within the Basalt Creek Area- but in different locations within the Basalt Creek Area.

There is minimal supporting information provided with the proposed map changes identifying the assessment factors of the feasibility of effective and successful implementation of the Trail at their proposed locations.

- The Basalt Creek Area has multiple Natural Resources not clearly identified in a clear and standard manner within the City’s Natural Resources **Maps 72-1 Natural Resources Protection Overlay District (NRPO) and Greenway Locations Map and 72-3 Significant Natural Resources Map**- including 14+ acres of wetlands identified within the Federal Wetlands Inventory and within the States Wetlands Inventory.

Metro has also identified Goal #5 and Title #13 Natural Resources within the Basalt Creek Area within the area of the proposed Public Trails/Paths.

As the City’s Natural Resource Maps lack complete accurate information as to the type, location and condition of the various Natural Resources existing within the Basalt Creek Area, the guardrails for the City’s required protection of these resources are significantly diminished.

It is not clear the identified location of the proposed Public Trail/Path in either the Tualatin Parks & Recreation Basalt Creek Master Plan, or the proposed PMA Map changes have been appropriately evaluated as to the potential impact upon the Natural Resources at their identified locations. This is particularly relevant to the City’s proposed changes in PMA 24-0003 where the proposed Public Trail is identified as being directly within the wetlands.

- There is a lack of information as to the anticipated feasibility, success, costs or timing of obtaining a fully functional Public Trail in the Basalt Creek Area through multiple private properties which are currently outside the City Limits. While the City owns several acres in the Basalt Creek Area, there are several other property owners who are not.

The proposed changes to PMA Maps 24-0003 72-2 and 8-4 Bicycle and Pedestrian Plan identify the Public Path/Trail in a location which bisects private property- and not along tax lot lines as identified within the City of Tualatin Parks & Recreation Basalt Creek Master Plan.

As property owners along the proposed north-south Public Trail, we are much less interested in having a Public Trail bisect our property, than one which is located on the western border of our property.

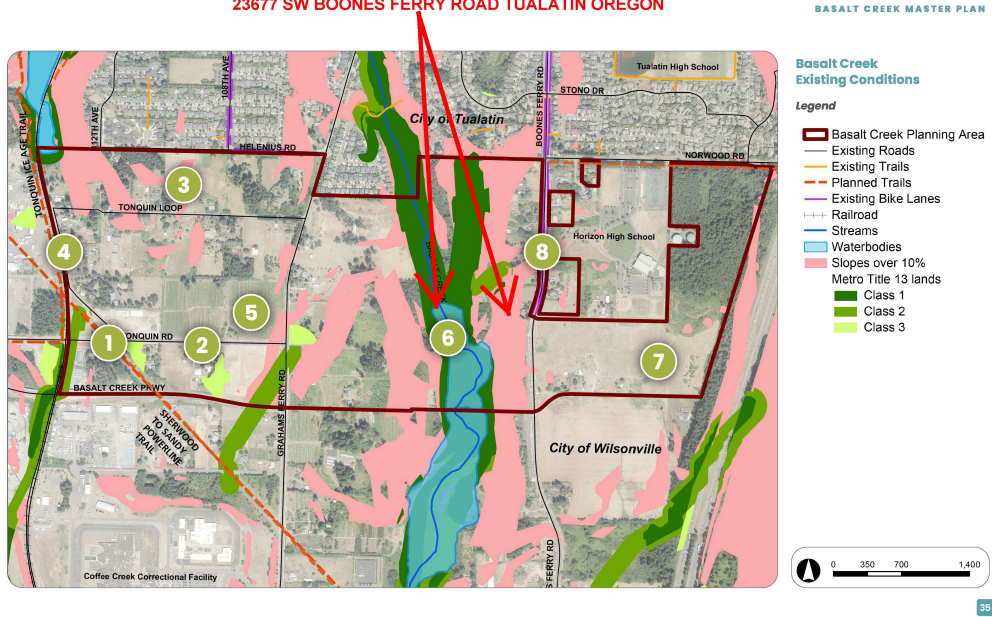
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We request the City of Tualatin Planning Commission (which is also the City's stated CCI for Citizen Involvement and responsible for the implementation of the citizen involvement program" Goal 1: Citizen Involvement OAR 660-015-0000(1)) to provide informative responses to the following question:

- Will the Planning Commission obtain clarity as to the future location of the proposed Public Trail/Path to run in a north-south direction within the Basalt Creek Area?

**APPROXIMATE LOCATION OF OUR PROPERTY-  
WITHIN CITY OF TUALATIN PROPOSED PARKS & REC MASTER PLAN BASALT CREEK AREA  
- MAP OF EXISTING CONDITIONS PAGE 35**

**23677 SW BOONES FERRY ROAD TUALATIN OREGON**

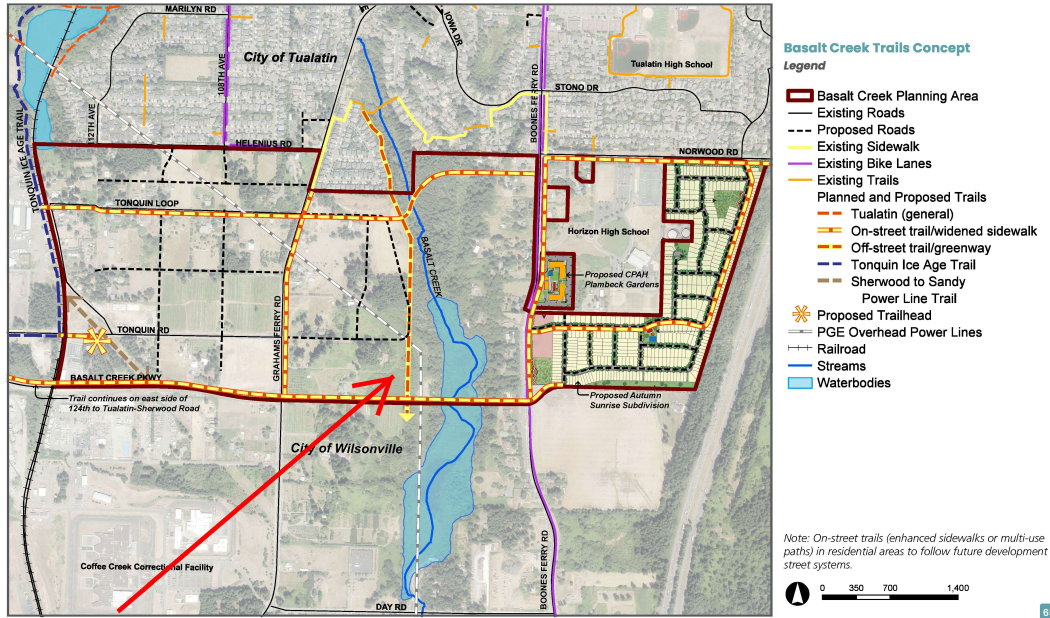


- **PROPOSED PARKS & RECREATION MASTER PLAN DOES NOT INDICATED FUTURE LOCATION OF PUBLIC TRAIL BISECTING OUR PROPERTY OR THROUGH SENSITIVE WETLANDS & GOAL 5 TITLE 13 NATURAL RESOURCES**
- **WHILE PROPOSED CHANGES TO CITY MAPS 8-4 PLANNED PED TRAIL & 72-2 GREENWAY & PATH WOULD BISECT OUR PROPERTY WITH POTENTIAL IMPACTS TO SENSITIVE WETLANDS & GOAL 5 NATURAL RESOURCES**



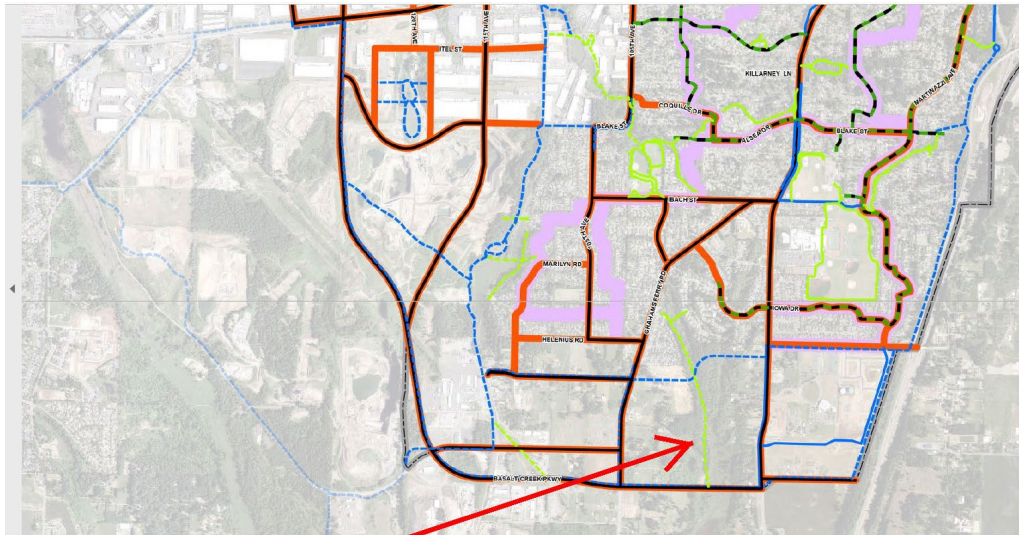
**CITY OF TUALATIN  
PROPOSED FOR ADOPTION EXHIBIT 5  
MASTER PLAN PARKS & RECREATION -BASALT CREEK AREA**

BASALT CREEK MASTER PLAN



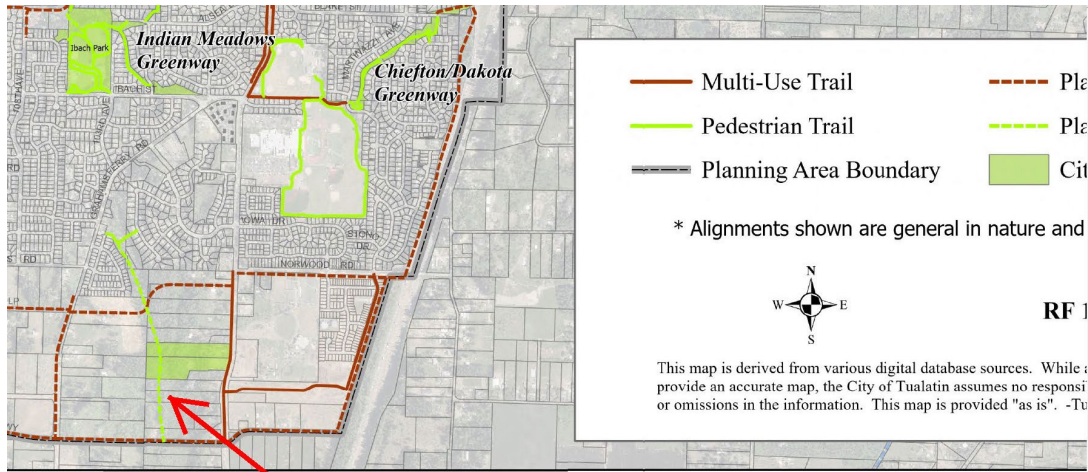
**PAGE 65 MAP CITY OF TUALATIN PARKS & RECREATION MASTER PLAN FOR BASALT CREEK AREA**

- IDENTIFIES PROPOSED TRAIL WEST OF BASALT CREEK CANYON- OUTSIDE OF SENSITIVE WETLANDS
- IDENTIFIED ALONG BORDER OF TAXLOTS- WHICH WOULD NOT BISECT TAX LOTS OF PRIVATE PROPERTY
- CONFLICTS WITH PROPOSED CHANGES TO CITY MAPS 8-4 AND 72-2



**LOCATION OF PROPOSED PLANNED PEDESTRIAN TRAIL  
MAP 8-4 BICYCLE & PEDESTRIAN PLAN**

- WITHIN WETLANDS OF BASALT CREEK CANYON
- WITHIN PRIVATE PROPERTY NOT OWNED BY THE CITY
- BISECTING PRIVATE PROPERTY
- NOT CONSISTANT WITH PROPOSED CITY OF TUALATIN PARKS & REC MASTER PLAN



**PROPOSED MAP 72-2 GREENWAY DEVELOPMENT PLAN & PATH LOCATIONS**

**PROPOSED LOCATION OF PLANNED PUBLIC PATH:**

- THROUGH BASALT CREEK WETLANDS
- THROUGH PRIVATE PROPERTY
- BISECTING PRIVATE PROPERTY

**AND**

- NOT CONSISTANT WITH PROPOSED CITY OF TUALATIN PARKS & RECREATION MASTER PLAN

Respectfully submitted,  
 John and Grace Lucini  
 23677 SW Boones Ferry Road  
 Tualatin, OR 97062