

**DEVELOPMENT REVIEW BOARD MEETING**  
**AUGUST 8, 2022**  
**6:30 PM**

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Consent Agenda:

1. Approval of minutes of April 11, 2022 DRB Panel A meeting



## **DEVELOPMENT REVIEW BOARD PANEL A**

### **MEETING MINUTES**

**April 11, 2022 at 6:30 PM**

**City Hall Council Chambers & Remote Video Conferencing**

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#### **CALL TO ORDER**

A regular meeting of the Development Review Board Panel A was held at City Hall beginning at 6:30 p.m. on Monday, April 11, 2022. Chair Jean Svadlenka called the meeting to order at 6:30 p.m., followed by roll call.

#### **CHAIR'S REMARKS**

#### **ROLL CALL**

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

Staff present: Daniel Pauly, Ryan Adams, Amy Pepper, Kimberly Rybold, Cindy Luxhoj, and Shelley White

#### **CITIZENS' INPUT**

This is an opportunity for visitors to address the Development Review Board (DRB) on items not on the agenda. There were no comments.

#### **CONSENT AGENDA**

1. Approval of minutes of March 14, 2022 DRB Panel A meeting

**Kathryn Neil made a motion to approve the March 14, 2022 DRB Panel A meeting minutes as presented. Rachelle Barrett seconded the motion, which passed by a 4 to 0 to 1 vote with Daniel McKay abstaining.**

#### **PUBLIC HEARINGS**

2. **Resolution No. 402 Frog Pond Oaks Subdivision:** OTAK, Inc. – Representative for West Hills Land Development, LLC – Applicant and Sheri Miller and James Mehus – Owners. Annexation and Zone Map Amendment from Rural Residential Farm Forest 5-Acre (RRFF-5) to Residential Neighborhood (RN) of approximately 10.462 acres, and adopting findings and conditions approving a Stage I Preliminary Plan, Stage II Final Plan, Site Design Review of Parks and Open Space, Tentative Subdivision Plat, Type C Tree Plan, Waiver and Abbreviated SROZ Map Verification for a 41-Lot Residential Subdivision. The subject site is located at 6725 SW Frog Pond Lane on Tax Lots 401 and 402, Section 12D, Township 3 South, Range 1 West, Willamette Meridian, Clackamas County, Oregon. Staff: Cindy Luxhoj, AICP, Associate Planner

Case Files:

DB21-0072	Annexation
DB21-0073	Zone Map Amendment
DB21-0074	Stage I Preliminary Plan
DB21-0075	Stage II Final Plan
DB21-0076	Site Design Review of Parks & Open Space
DB21-0077	Tentative Subdivision Plat
DB21-0078	Type C Tree Plan
DB21-0079	Waiver
SI21-0005	Abbreviated SROZ Map Verification

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

**Chair Svadlenka** called the public hearing to order at 6:38 p.m. and read the conduct of hearing format into the record. Chair Svadlenka, Rachelle Barrett, Daniel McKay, and Ben Yacob declared for the record that they had visited the site. No board member, however, declared a conflict of interest, bias, or conclusion from a site visit. No board member participation was challenged by any member of the audience.

**Cindy Luxhoj, AICP, Associate Planner**, announced that the criteria applicable to the application were stated starting on page 2 of the Staff report, which was entered into the record. Copies of the report were made available to the side of the room and on the City's website.

**Ms. Luxhoj** presented the Staff report via PowerPoint, briefly noting the site's location and reviewing its background, zoning, and the requested applications-with as follows:

- The current city limit was delineated with an orange line on the map. (Slide 2) The Frog Pond Oaks property was located in Clackamas County and zoned Rural Residential Farm Forest 5-Acre (RRFF-5).
- The City adopted the Frog Pond Area Plan (FPAP) in November 2015 to guide development of the 2002 Urban Growth Boundary (UGB) area of Frog Pond West and the urban reserve (~~UR~~)-areas in Frog Pond East and South, and to help ensure the continued development of high-quality neighborhoods in Wilsonville. As a follow-up to the Area Plan, and in anticipation of forthcoming development, the City adopted the Frog Pond West Master Plan for the area within the UGB in July 2017.
- To guide development and implement the vision of the Area Plan, the Master Plan included details on land use, including residential types and unit count ranges, residential and community design, transportation, parks and open space, and community elements, such as lighting, street trees, gateways, and signs.
- Proper noticing was followed for the application with notice mailed to property owners within 250 ft of the subject property, onsite posting, and publication in the *Wilsonville Spokesman*. No public comments were received during the comment period for the project.
- Of the nine requests before the Board tonight, the Annexation and Zone Map Amendment were recommendations to City Council. Six requests were objective in nature as they involved verifying compliance with the Code standards, and the last request, which involved discretionary review, was for a waiver.

- The area proposed for Annexation included two tax lots comprised of 10.46 acres outlined in red. (Slide 6) The proposed Zone Map Amendment would rezone the 10.46-acre Frog Pond Oaks property from Clackamas County RRFF-5 to the City's RN zone. The rezone was consistent with the Comprehensive Plan Map designation of Residential Neighborhood as well as with the Frog Pond West Master Plan. The City Council hearing for the Annexation and Zone Map Amendment was scheduled for April 18th.
- The Stage I Preliminary Plan generally established the proposed residential use, number of lots, preservation of open space, and block and street layout consistent with the Frog Pond West Master Plan. Specifically, in regard to residential land use unit count, the proposed Stage I Preliminary Plan Area included portions of Small Lot Sub-district 10 and Medium Lot Sub-district 11.
  - Although the Applicant proposed 21 lots in Sub-district 11, within the range of proportional density requirement for that part of the site, 12 lots were proposed in Sub-district 10, three lots fewer than the 15-lot minimum of 15. The City may allow a reduction in the minimum density for a sub-district when it is demonstrated that the reduction is necessary due to topography, protection of trees and natural resources, infrastructure needs, and similar conditions.
  - The proposed three-lot reduction was related to placement of two stormwater facilities in the Small Lot Sub-district and limitations on lot configuration and location related to street alignments and extensions required by the Frog Pond West Master Plan. The proposed lots in the subdivision met or exceeded all dimensional standards, including minimum lot size requirements, while preserving significant trees and allowing for compliant future development within the Master Plan area. The configuration of lots as proposed would allow for buildout of Sub-districts 10 and 11, consistent with the Master Plan recommendations. The Applicant proposed installing necessary facilities and services concurrent with development of the residential neighborhood.
- The Stage II Final Plan addressed the general development pattern within the subject property and generally demonstrated consistency with City standards and the development standards of the proposed RN Zone. The proposed lot layout and size, as well as block size and access, demonstrated consistency with development standards established for the RN Zone and in the Frog Pond West Master Plan.
  - The Applicant provided a large open space in Tract E in the northwest portion of the site and a smaller open space area in Tract D in the northeast part of the site. Tract E included active play areas, benches, and a trail that connected to a proposed local trail in the Frog Pond Vista subdivision to the west and Frog Pond Crossing subdivision to the east. Active play areas were outlined in blue, and the trail was highlighted with a red-dashed line. (Slide 10)
  - Conditions of approval ensured that the trail would continue through Tract D to connect with Frog Pond Crossing, illustrated with an orange-dashed line (Slide 10), and that the final alignments of the connections to the west and east were coordinated at the time of construction permitting. Tracts D and E preserved numerous mature trees, including a large grove that contained Oregon White Oak, and both tracts would be attractively landscaped.
- Site Design Review looked at Tract C in the proposed subdivision outlined in blue, which completed the western part of a pedestrian connection primarily constructed in the Frog Pond Crossing subdivision to the east, outlined in green. (Slide 11) Only the trees and landscaping on the west side of the path in the pedestrian connection were within Tract C of the Frog Pond Oaks development. Tract C had a wider cross-section than was typical for a pedestrian connection to accommodate a temporary water line within the tract.

- A condition of approval required that the final design and layout of Tract C be confirmed prior to issuance of the Public Works Permit to ensure consistency with respect to tree location and distance of trees from the pathway in the connection from the Frog Pond Crossing subdivision to ensure consistency with the connection in the Frog Pond Crossing subdivision with respect to tree location and distance of trees from the pathway.
- The Tentative Subdivision Plat met technical platting requirements, demonstrated consistency with the Stage II Final Plan, and thus, the Frog Pond West Master Plan, and did not create barriers to future development of adjacent neighborhoods and sites.
- Type C Tree Removal Plan. Of the 104 trees inventoried on the site, 76 were proposed to remain, including 15 in the Tract D open space in the northeast part of the site and 61 in the Tract E open space in the northwest part of the site. Trees to remain were outlined with a blue-dashed line. The 28 trees proposed for removal, outlined in red, were due to the construction of public streets and residential lots. The majority of the trees being removed were in the southeast part of the site near the existing house and accessory buildings. (Slide 13)
  - The Applicant proposed planting 109 new trees in the form of 87 street trees, 15 trees within Open Space Tracts D and E, and 7 trees within the pedestrian connection in Tract C. In addition, 13 trees were proposed to be planted adjacent to the stormwater facility in Tract B for a total of 122 trees. Proposed tree planting was in excess of the one-for-one mitigation requirement for tree removal.
- Abbreviated SROZ Map Verification. Consistent with the Development Code requirements, a verification of the SROZ boundary was required at the time an applicant requested a land use decision. Because a wetland area was identified in the central portion of the site, outlined in red, the Applicant conducted a detailed site analysis consistent with Development Code requirements. The City's Natural Resources Manager reviewed the analysis to confirm that the wetland was not deemed locally significant and that no portions of the site should be within the SROZ boundary. (Slide 15)
- Waiver. One request involved discretionary review; a waiver related to the location of the open space required in the R-5 Small Lot Sub-district. When a residential subdivision included land designated R-5 in a small lot sub-district in the Frog Pond West Master Plan, the Code required that 10 percent of the net developable area within the sub-district be in open space, 50 percent of which was to be usable open space. The RN Zone provided an allowance for the DRB to waive or reduce the open space requirement when considering substantial evidence regarding the following factors: the walking distance to usable open space adjacent to the subject property or within 500 ft of it, the amount and type of open space available, adjacent to, or within 500 ft of the subject property, including facilities which support creative play.
  - The Applicant was requesting a waiver to locate the open space required in the R-5 Small Lot Sub-district, colored yellow, within the R-7 Medium Lot Sub-district, shown in light green. (Slide 17) The proposed development included 2.76 acres in the R-5 Small Lot Sub-district. The Applicant proposed 80,230 sq ft of open space primarily in Tract E, outlined in blue, but also in Tracts C and D, which was well in excess of the 10 percent open space requirement of 12,025 sq ft. The open space was not proposed within the Small Lot Sub-district due to the proposed location of stormwater facilities, which served both Sub-districts 10 and 11 within the site, as well as street alignments and extensions required by the Master Plan. As a result, adequate space was not available to meet the minimum open space standards of the R-5 Sub-district 10 while maximizing available housing density for the sub-district.

- The open space in the R-7 Sub-district portion of the site was approximately 365 ft north of the 12 lots located in the R-5 Small Lot Sub-district. Additionally, active open space was available in the Frog Pond Ridge subdivision to the south, which was within approximately 400 ft of the sub-district. The Applicant would further explain how the waiver would meet the purpose of the standard, and address the waiver criteria, during their presentation. (Slide 17)
- The Applicant had requested a modification to Condition of Approval PDE 10 related to planning conditions for Site Design Review. The requested revision, as accepted by the City's Development Engineering Manager, read as follows:
  - PDE 10. **Prior to issuance of any Public Works permits:** Consistent with the Frog Pond West Master Plan, which includes a Public Lighting Plan and recommended lighting plan hierarchy, and recommends that pedestrian connections, trailheads and paths be uniformly illuminated to define a hierarchy of travel routes, and that such illumination follow the Public Works Standards for Shared-Use Path Lighting, the applicant shall, in consultation with the City Engineer, determine if additional pedestrian-scale lighting is warranted along the pathways in Tracts C, D, and E and ~~install~~ **include** any warranted lighting in compliance with these standards **in the Public Works plans**. See Finding E25.
- The Applicant had also requested a modification to Condition of Approval PFD 7 related to engineering conditions for the Stage II Final Plan. The requested revision, as accepted by the City's Development Engineering Manager, read as follows:
  - PFD 7. **Prior to Issuance of Public Works Permit:** A final stormwater report shall be submitted for review and approval. The stormwater report shall include information and calculations to demonstrate how the proposed development meets the **stormwater system design criteria and treatment and flow control requirements of the 2015 Stormwater & Surface Water Design and Construction Standards (Section 3 – Public Works Standards)**. The draft stormwater report shows a portion of the pre-development flows from the site drain ~~to the southeast toward Willow Creek, however, some of those post-development flows are proposed to drain~~ **offsite** to the northwest toward ~~the~~ Boeckman Creek **drainage basin, however, some of that area's post-development flows are proposed to drain to the southwest through the proposed on-site stormwater management facilities and discharge to the Willow Creek drainage basin**. Post-development flows are required to drain in the direction of pre-development flows. The final stormwater report shall be revised so that post-development flows drain in the direction of pre-development flows. Additional LID stormwater facilities may be required to meet the water quality and flow control requirements.

**Daniel McKay** noted the modification Condition PDE 10 seemed ambiguous and asked about the purpose or intention of the change.

**Ms. Luxhoj** explained the condition stated, “prior to issuance of any Public Works permit”, but lighting did not need to be installed prior to issuance of the permit. It did need to be included in the Public Works plans reviewed as part of that permit in case any changes or additional lighting were warranted, but the installation would occur later.

**Rachelle Barrett** asked for clarification regarding the modification to Condition PFD 7 and what the change meant.

**Amy Pepper, Engineering Development Manager**, explained the condition cleaned up the language a bit. In the north portion of the site, the proposed application had all the drainage going south, which was not permitted in the standards. The modification linked the condition back to the Public Works Standards, but materially, the requirement did not change.

**Chair Svadlenka** confirmed there were no further questions from the Board and called for the Applicant's presentation.

**Dan Grimberg, West Hills Land Development, 3330 NW Yeon Ave, Portland, OR, 97210** stated that West Hills was a locally owned developer/builder of subdivisions in the Metro area for 35 years. They had built a number of communities in Wilsonville, including the first 350 homes in Villebois, Arbor Crossing in the Boeckman Rd area, and Arbor Trail near Wilsonville Rd and four previous developments in Frog Pond. West Hills had been involved in the master plan process with the City and Staff, so they were very familiar with the requirements; however, none of the developments were easy as the Codes were very detailed. When the plans were developed, there was not as much detailed information on trees, wetlands, roads, and utilities as was necessary for development. As such, all of those elements had to be boiled down to the very best subdivision and community the Code allowed which he believed had been achieved with Frog Pond Oaks. West Hills was proud of their involvement in Wilsonville and enjoyed working with City Staff who were tough, but fair, and always willing to talk through issues, which they appreciated. He introduced the project team, all of whom were from Otak, adding they were proud to present the Frog Pond Oaks 41-lot project.

**Li Alligood, Otak, 808 SW 3rd Ave., Suite 800, Portland, OR, 97204** presented the Applicant's presentation via PowerPoint, noting the focus would be on the design process of the new subdivision, given Staff's presentation on the Code requirements. Her comments were as follows:

- Frog Pond Oaks consisted of two properties under the same ownership totaling 10.46 acres and included 41 lots, five tracts, and the associated infrastructure such as utilities, streets, etc. This was the fifth development in Frog Pond West completed by West Hills and future developments were expected to be reviewed in the coming months.
- The existing site contained a house and associated outbuildings. A tree grove in the northwest corner of the site was the reason for the waiver request and were proposed to be located in one of the tracts. As mentioned, the nonjurisdictional wetland in the center of the site would be removed with the development.
- The R-7 Sub-district with 29 proposed lots was to the north of Street C and the Small Lot R-5 Sub-district to the south had 12 proposed lots. The R-7 side also included Tract E, a large open space tract to protect the existing trees. The Applicant had requested a waiver to move the location of the open space from the R-5 to R-7 zone in part due to the stormwater tract in the R-5 zone. All tracts and lots met the minimal dimensional standards of the Zoning Code for the RN Zone.
- She noted the project team had spoken a great deal with City Staff about the stormwater management approach during the application review process and planning processes included conversations when the [inaudible].

**Keith Buisman, Civil Engineer, Otak**, stated Slide 7 was from the Frog Pond West Infrastructure Analysis Plan, and the green area in the center was the very preliminary, high-level location for the stormwater facility area within Frog Pond Oaks, which was driven by topography. The upper northeast

corner of the site was approximately 250 ft in elevation dropping down to 240 ft in the displayed plan, which was generally how the topography was along there. The proposed stormwater management was in compliance with the Framework Plan that had been provided as part of the Frog Pond West Master Plan. Some low impact development approach (LIDA) facilities were dashed along the outline of the image shown.

- Frog Pond Lane, an existing street, was the low point area and the current drainage was a ditch inlet that was about midway along the frontage of the Applicant's improvements that collected drainage from the existing property and channeled it south into Willow Creek Basin. The two proposed stormwater facilities located in Tracts A and B would be LIDA rain garden facilities. Additionally, LIDA swales within the proposed development were designed to manage some of the street runoff. Each proposed stormwater facility was sized according to the City's stormwater management requirements and standards. The space available to the Applicant was pretty tight as far as the space necessary to meet the standards. (Slide 8)

**Ms. Alligood** continued the presentation, noting the R-5 Small Lot Zone had requirements for common open space with a portion deemed active open space. The Wilsonville Development Code allowed for requests to reduce or waive the required open space; however, the Applicant wanted to relocate the open space and enlarge it by six times the amount required in the Code.

- She noted the R-7 Zone had no open space requirements and reviewed the Frog Pond West standards related to open space and applicable waivers. In the R-5 Small Lot Sub-district, 10 percent of the net developable area, which subtracted streets and infrastructure, was required as open space with 50 percent to be usable open space. Code Section 4.118(.03) applied to all planned development zones and gave the Board the authority to waive development standards, if substantial evidence existed in the record to demonstrate the interest and purpose of the standard would be met in alternative ways. One of those standards was the open space requirement in residential zones. (Slides 10-11)
- Citing the purpose and intent of the open space standards stated in Section 4.127 (.09), she stated the Applicant would continue to provide light, air, open space, and usable recreation facilities to the occupants of each residential development. (Slide 12) The amount of required open space was approximately 12,000 sq ft, and the Applicant proposed more than 80,000 sq ft. The requirement also stipulated 6,013 sq ft of usable open space, and the Applicant proposed 68,470 sq ft, shown in dark green on Slide 13.
- The purpose of the open space standards also cited the retention of natural resources and trees as part of development. By providing the open space in the R-7 Zone instead of the R-5 Zone, the Applicant was able to retain a significant open space with mature tree growth and provide additional open space area for the residents of the community. Public walking trails within Tract E provided access to the trees and had connections to adjacent developments. The standard also addressed access and connections to trails and open space areas. The proposed open space area was less than 400 ft from the R-5 Zone, so closer than the required 500 ft. The previously approved area in Frog Pond Ridge was also less than 500 ft from the R-5 Zone. This distance was approximately the length of two downtown Portland city blocks or one Frog Pond West city block.

**Steve Dixon, Senior Landscape Architect, Otak**, explained the Applicant's overall approach in designing open space, noting that through the various phases of Frog Pond, it became clear that the major characteristic and aesthetic of Frog Pond West were the existing mature tree groves. The open space in



Frog Pond Ridge had retained a significant number of trees, as did the subject proposal. To facilitate vehicular and pedestrian connectivity, the Applicant extended the street grid as much as possible and added to the existing pedestrian access that moved north from Boeckman Rd up through Frog Pond Meadows, Stafford Meadows, and Frog Pond Ridge, extending up the east side of the subject property. As it extended closer to the north edge of Frog Pond West near Kahle Rd, the access widened to 40 ft, becoming like an allée with the existing trees. Pedestrian connectivity had been the primary driver of that design.

- Density was also a factor and the Applicant had met those requirements in R-7 by utilizing minimum lot sizes for the majority of the lots. In R-5, adjacent to Frog Pond Lane, the stormwater requirements had constrained that area. Therefore, it made sense to front lots on the R-5 area provide a large significant open space in the northwest corner of the site.

**Ms. Alligood** noted a split in Willow Creek Dr south of the site allowed for the retention of a large White Oak which was also part of the reason for the variation of Willow Creek Dr.

- She acknowledged the discrepancies pointed out by Staff and Chair Svadlenka, noting the Landscape Sheet L1.00 indicated 28 trees were being removed, but 29 were actually being removed as stated on the Tree Removal and Retention Plan (Sheet L1.10) and the Site Plan. The Applicant had significant mitigation for tree removal, as well as a number of tree credits on site that worked towards that mitigation, so the calculation of how many trees were required remained the same. There was simply an error in the plan set.
- The Applicant had also requested revisions to the conditions of approval related to stormwater management and the installation of the lights to reflect the fact that no site work occurs before Public Works permits were issued.

**Ben Yacob** asked how much of the new vegetation being planted was native and how much was aesthetics.

**Gabriel Kruse, Landscape Architect, Otak**, replied that in more native areas, such as the large landscape tracts, the Applicant tried to use a lot of native plants as opposed to ornamentals which were fairly common. He did not know percentages offhand, but a lot of native seed would go into the understory around the significant trees being saved after the invasive blackberry bushes were cleared out, and Oregon Grape Holly would be used for buffering. The Applicant made every effort to use as many native plants as possible, especially in the more natural settings, while some of the pedestrian connections were a bit more ornamental in nature.

**Mr. Yacob** stated he was happy to hear there was some thought behind the plant choices. He asked what kind of mitigation was planned for omitting the wetland in the middle of the site.

**Mike Peebles, Civil Engineer, Otak**, explained the wetland in the center of the site was reviewed by Otak's wetland consultant and following a concurrence process with the Army Corps of Engineers, they did not take jurisdiction over the wetland. The Applicant moved forward with permitting through the Department of State Lands (DSL). The impact to the wetland was being mitigated through the provision of mitigation credits for wetland banks that were in the area, which was typical for wetland impacts, so no mitigation was being done onsite. The State used those funds for restoration or mitigation in other nearby areas.

**Mr. Jacob** asked if storm drains alone would move water out of the middle of the subdivision to keep it from accumulating.

**Mr. Peebles** confirmed that was correct. The water source and grading had been part of the discussion and evaluation by the Corps and DSL. It was a fairly flat site, and the presence of water was somewhat due to the condition and previous grading of the site by previous property owners. The Applicant also had a geotech on board, and a lot of the existing surface drainage was intercepted with the granular trenches installed as part of the infrastructure improvement. Underground storm drains also had the capacity to intercept and collect any water that might be present underground; however, based on the grading of the site, most of the surface water would not be present in the footprints or homebuilding areas.

**Mr. Jacob** asked if any additional steps would be taken to raise the elevation there.

**Mr. Peebles** replied some grading would be done to create padding for the lots, and the lots themselves would drain to the streets. Additionally, all the rooftops in the subdivision would have lateral connections to the underground storm drains which would control surface water that hits both the new impervious layers as well as the yard areas on site.

**Ms. Alligood** clarified that it was not a floodplain, but a substandard wetland.

**Mr. Peebles** agreed, adding that it was an isolated wetland.

**Mr. Jacob** understood the adjoining subdivision to the east also had a water area, as well as a creek, that ran close to the property, so water was definitely an issue.

**Mr. Peebles** agreed, noting other Frog Pond developments had wetland areas that the Applicant had worked around, provided connection, permitted and avoided impact. Based on the Corps not taking jurisdiction over the subject wetland area, it became a developable area.

**Mr. Jacob** asked about the parking spaces for homes and the sizes of the garages and corresponding driveways.

**Ms. Alligood** understood all homes had at least two-car garages and driveways that would accommodate at least two more cars.

**Daniel Pauly, Planning Manager**, added that Staff verified that the required parking spaces met the required dimensions at the time of Building Permit issuance.

**Daniel McKay** thanked the Applicant for designing two-car garages and driveways.

**Mr. Pauly** clarified that was not guaranteed and could change, legally.

**Mr. McKay** understood the public streets could accommodate parking on both sides and thanked the Applicant for that as well.

**Chair Svadlenka** confirmed the two stormwater facilities would collect the runoff from all of the lots in both the R-5 and R-7 Sub-districts, and asked how water would travel from Lots 33 and 34 to Tracts A and B.

**Mr. Peebles** replied there were two basic types of collection. Runoff from the public streets was collected in catch basins and conveyed into a 12-inch underground pipe within the road right-of-way. Each lot was also connected to that underground storm system, so the roof drains were connected to laterals that went out to the 12-inch storm line, which flowed via gravity, which was why those facilities had to be at the bottom of the hill. Water was conveyed in underground storm pipes and discharged into the rain gardens that provided both detention to help control the quantity of water, and treatment, which helped clean the water. Subsequently, it was outlet into the downstream system in Frog Pond Lane and went further south.

- Besides the two rain gardens, a series of swales and a planter strip would also provide some detention and water quality treatment closer to the source, such as the street runoff going into the filters of the catch basins. Stormwater management on site was a combination of best management practices that met City Code. The Applicant had worked from Boeckman Rd north and was familiar with capacities downstream and how the systems worked and had collaborated with the City's engineering and natural resource staffs to develop good stormwater management systems in Frog Pond West that complied with the Master Plan.

**Chair Svadlenka** asked if alternate designs had been considered to locate Tract B, the stormwater facility, somewhere in the R-7 zone.

**Mr. Peebles** responded that there was a depth issue with the tracts and rain gardens in terms of where stormwater could outfall to and there were no parallel pipes on the property, but the Applicant had worked through those issues with the City. They were also restricted downstream, as the whole system drained into Willow Creek, which was in the open channel flow farther to the south going through Stafford Meadows and Frog Pond Meadows. Moving the facilities up into the R-7 area would result in the treated water being put into the pipes with untreated water. All stormwater facilities had overflow that could not impact structures and locating this one next to Frog Pond Lane enabled better overflow protection for those structures. The Applicant had explored options up north, but with the preservation of the tree area in the northwest corner of the site, the use of LIDA facilities, and maintaining some on street parking, etc., the design as proposed was the best solution for the stormwater facilities. Additionally, it complied with the Frog Pond Master Plan for where those facilities made sense from a topography standpoint.

**Chair Svadlenka** asked if moving Tract B into R-7 would automatically mean a reduction of the open space in Tract E.

**Mr. Peebles** replied if the facility was moved from the tract up to R-7, lots in the R-7 area would be impacted, and development would need to move into the open space area to get more lots, but they were trying to reduce impacts to trees. Additionally, R-5 Sub-district had street frontage restrictions, so no lots could be fronted off of Frog Pond Lane, so with the orientation of those lots, it made sense to put the rain gardens in that location. Moving the facility north might also result in the need for another road for frontage.

**Rachelle Barrett** noted the subdivision was between two others and asked how continuity of design was accomplished across projects with other developers.

**Ms. Alligood** responded Staff has been very engaged in ensuring the Applicant coordinated with adjacent engineering teams and developers. For example, the open space tract and street connections were shared with the development to the east, so CAD files and background information was shared to ensure coordination. City Staff kept the big picture view because they saw everything that came through. She confirmed that coordination extended to details like lighting and color schemes, noting the Frog Pond West Concept Plan had very specific requirements for light fixtures, street trees etc. to ensure the uniformity of those components throughout the Frog Pond West development area. Whatever street trees were proposed for Streets 3 and B would continue through adjacent developments once selected.

**Chair Svadlenka** asked if the Applicant was making any improvements to Frog Pond Lane at the south end of R-5.

**Ms. Alligood** replied the northern part of Frog Pond Lane would be built with the subject project. She noted a 15-ft right-of-way dedication and explained that sidewalks, stormwater facilities, and a center median would be constructed by the Applicant. The developer to the south would build the southern part of Frog Pond Lane, so the road would be complete once both projects were finished. Similarly, the Applicant would build their portion of the Willow Creek Dr street system and dedicate right-of-way for Kahle Rd.

**Chair Svadlenka** noted the Residential Neighborhood Zone required that transportation choices be provided, including active transportation options, and asked about City buses going into Frog Pond and how residents of Frog Pond Oaks would access public transportation.

**Mr. Pauly** replied the Transit Master Plan would be updated in the next year. He had recently spoken with SMART about transit in Frog Pond East and how it might relate to Frog Pond West. Due to various issues, buses did not typically go into residential neighborhoods; however, the right processes and people were at the table to make those decisions. Additionally, the bus routes were not fixed and could change over time depending on needs, which was done through a thoughtful process in the Transit Master Plan and in service planning. That said, SMART participated in development review and had made no requests for extra bus stops or anything adjacent to the subject development in anticipation of any future bus routes on either of the roads, which was consistent with the adopted Master Plan and route planning.

**Chair Svadlenka** called for public testimony regarding the application and confirmed with Staff that no one was present at City Hall to testify and no one on Zoom indicated they wanted to testify.

**Chair Svadlenka** stated that because waivers were for extraordinary situations, she wanted to ensure Board members had the opportunity to look at the waiver and determine how necessary it was.

**Mr. Pauly** clarified that waivers were different from variances, and that discussion would be for variance criteria. Waivers were fairly common and were not related to a hardship or 'as necessary.' If a

waiver led to a better design, it allowed for flexibility in the Code. Waivers were about improving design and flexibility where it made sense, rather than there being a hardship or necessity to do something, which was rare and addressed with a variance. Waivers were more routine and helped address things that were not anticipated when the Code was written. Waivers regarded the positive notion of a better design rather than as necessary.

- He confirmed that waivers did not set precedence because waivers were unique to each situation wherein the DRB would evaluate the uniqueness of a plan to determine if a better design could be created by waiving a particular Code criterion in that specific context. Because the context on each project was different, each was considered anew. Waivers were based on case law. The Board considered the evidence in that specific context to determine if it created a better design.

**Kimberly Rybold, Senior Planner**, added when the Frog Pond RN Code was built, some specific instances and specific criteria were included to guide the Board in determining the appropriateness of a waiver, and open space was a good example. Not only did the Code enable a waiver to be used for open space, it provided specific criteria for the DRB to use in its consideration of the waiver. If there was a concern for precedent, the evaluation of the waiver request against the criteria laid out in the Code would help give the DRB guidance in how the waiver was considered.

**Ryan Adams, City Attorney**, confirmed Staff had summed up the explanation perfectly, reiterating there was no precedent; it was an ad hoc type situation each time.

**Mr. Pauly** stated Staff was happy to provide more specific waiver training if the DRB desired as time allowed on future agendas.

**Chair Svadlenka** agreed that would be good because she had gotten feedback that the DRB should pay particular attention to waivers because they were for extraordinary situations, but she had noted the points made by Staff and how the waiver applied to the subject application. She would have preferred some alternative designs regarding Tract B because that area would satisfy the open space requirement for the R-5 Sub-district, although having Tract E as an open space was a really nice design feature. The preservation of trees, which was a theme that ran through the entire Frog Pond development, was important as well.

**Mr. Pauly** noted the tracts, the stormwater basins, were not gray concrete boxes, but landscaped green spaces, and while not active recreational areas, the spaces did provide the light and air that open spaces provided, while also fulfilling a functional infrastructure need.

**Chair Svadlenka** asked if locating stormwater facilities closer to lots was preferred.

**Mr. Pauly** replied it was a balancing game. All stormwater facilities could be put into a planting strip in the right-of-way, but parking and street trees would be lost. The designers had consulted with Staff to achieve that balance, and he believed future master planning would utilize block level facilities of this size as opposed to locating stormwater facilities throughout a development, which were hard to maintain and prevented other amenities from being built. Historically, stormwater facilities had been even larger, more regional and not near the lots. The size of the proposed facility provided balance; it was neither huge nor so dispersed that it created maintenance issues.

**Ms. Pepper** added that the stormwater standards required low impact development, which meant more dispersed facilities to the maximum extent practical; however, it was not strictly defined but took into account driveways, street trees, and other factors on how many stormwater facilities there were and where they were located.

**Chair Svadlenka** confirmed there was no additional questions or discussion and closed the public hearing at 7:53 pm.

**Rachelle Barrett moved to adopt the amended Staff report as read into record. Ben Yacob seconded the motion, which passed unanimously.**

The following corrections and amendments were read into the record:

- PDE 10. **Prior to issuance of any Public Works permits:** Consistent with the Frog Pond West Master Plan, which includes a Public Lighting Plan and recommended lighting plan hierarchy, and recommends that pedestrian connections, trailheads and paths be uniformly illuminated to define a hierarchy of travel routes, and that such illumination follow the Public Works Standards for Shared-Use Path Lighting, the applicant shall, in consultation with the City Engineer, determine if additional pedestrian-scale lighting is warranted along the pathways in Tracts C, D and E and ~~install~~ include any warranted lighting in compliance with these standards in the Public Works plans. See Finding E25.
- PFD 7. **Prior to Issuance of Public Works Permit:** A final stormwater report shall be submitted for review and approval. The stormwater report shall include information and calculations to demonstrate how the proposed development meets the stormwater system design criteria and treatment and flow control requirements of the 2015 Stormwater & Surface Water Design and Construction Standards (Section 3 – Public Works Standards). The draft stormwater report shows a portion of the pre-development flows from the site drain ~~to the southeast toward Willow Creek, however, some of those post-development flows are proposed to drain~~ offsite to the northwest toward the Boeckman Creek drainage basin, however, some of that area's post-development flows are proposed to drain to the southwest through the proposed on-site stormwater management facilities and discharge to the Willow Creek drainage basin. Post-development flows are required to drain in the direction of pre-development flows. The final stormwater report shall be revised so that post-development flows drain in the direction of pre-development flows. Additional LID stormwater facilities may be required to meet the water quality and flow control requirements.
- The Applicant's Landscape Sheet L1.00 Notes were corrected to state ~~28~~ 29 trees were being removed, but the actual Tree Removal and Retention Plan (Sheet L1.10) stated 29 trees were being removed.

**Chair Svadlenka moved to adopt Resolution No. 402. Kathryn Neil seconded the motion, which passed unanimously.**

**Chair Svadlenka** read the rules of appeal into the record.

## **BOARD MEMBER COMMUNICATIONS**

3. Results of the March 28, 2022 DRB Panel B meeting
4. Recent City Council Action Minutes

There were no comments.

#### **STAFF COMMUNICATIONS**

**Daniel Pauly, Planning Director**, reported City Council had returned to in-person meetings last week. Currently, City Hall was under construction and occasionally work was conducted at night, so in-person meetings for the DRB would be delayed until construction was complete, which was anticipated to be in June for DRB B and July for DRB A. He invited anyone with further questions to contact him.

**Kathryn Neil** asked if Board members could opt to attend via Zoom or if in-person attendance would be required.

**Mr. Pauly** replied that generally Boards were encouraged to be fully online or fully in person. The technology for hybrid meetings was there, but it made the meetings awkward. That said, last week's City Council meeting featured one member remote and the remainder in person.

**Ryan Adams, City Attorney**, added that new legislation during the pandemic required public meetings be available to the public electronically. If there was a possibility of not having a quorum, it was preferable for a Board member to call in as opposed to not attend at all.

**Mr. Pauly** added the option was to be reserved for extenuating circumstances, such as a Board member being out of town or feeling under the weather, not simply for convenience.

**Ms. Neil** clarified she had summer plans and might have to attend a meeting virtually.

**Rachelle Barrett** stated she had never attended a meeting in chambers and asked how Board members were able to see the details of the Staff report.

**Daniel McKay** replied that each seat had small screens on which to view the presentations. He had also brought his laptop to meetings, which was easier for notes than using the paper binder provided at the time.

#### **ADJOURNMENT**

The meeting adjourned at 8:02 p.m.