

**DEVELOPMENT REVIEW BOARD MEETING**  
**MARCH 14, 2022**  
**6:30 PM**

---

Consent Agenda:

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

**Wilsonville City Hall  
29799 SW Town Center Loop East  
Wilsonville, Oregon**

**Development Review Board – Panel A  
Minutes– February 14, 2022 6:30 PM**

---

**I. Call to Order**

Chair Jean Svadlenka called the meeting to order at 6:30 p.m.

**II. Chair's Remarks**

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

**III. Roll Call**

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

Staff present: Daniel Pauly, Barbara Jacobson, Amy Pepper, Kimberly Rybold, Philip Bradford, and Shelley White

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

**V. Consent Agenda:**

A. Approval of minutes of January 10, 2022 DRB Panel A meeting

**Kathryn Neil moved to approve the Consent Agenda. Rachelle Barrett seconded the motion, which passed unanimously.**

**VI. Public Hearing**

A. **Resolution No. 399. Frog Pond Crossing Subdivision:** AKS Engineering & Forestry, LLC – Representative for Venture Properties, LLC – Applicant and Chaney Paul C Co-Trustee – Owner. The applicant is requesting approval of an Annexation and Zone Map Amendment from Rural Residential Farm Forest 5-Acre (RRFF-5) to Residential Neighborhood (RN) for Approximately for approximately 8.46 acres of property located on the west side of Stafford Road north of SW Frog Pond Lane, 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 to Open Space location and Waiver to minimum street frontage for a 29-lot residential subdivision. The subject site is located at 27227 SW Stafford Road on Tax Lots 100, 300, and 302, Section 12D, Township 3 South, Range 1 West, Willamette Meridian, Clackamas County, Oregon. Staff: Philip Bradford

Case Files: DB21-0036 Annexation

DB21-0037	Zone Map Amendment
DB21-0038	Stage I Preliminary Plan
DB21-0039	Stage II Final Plan
DB21-0040	Site Design Review of Parks & Open Space
DB21-0041	Tentative Subdivision Plat
DB21-0042	Type C Tree Plan
DB21-0043	Waiver – Open Space Location
DB21-0044	Waiver – Minimum Street Frontage

*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, Daniel McKay, Ben Yacob, and Kathryn Neil 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.

**Philip Bradford, 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.

**Mr. Bradford** presented the Staff report for the Frog Pond Crossing Subdivision via PowerPoint, briefly reviewing the site's location and surrounding land uses as well as the background and the Applicant's requests with these comments:

- The City adopted the Frog Pond Area Plan in 2015 to guide development of the 2002 Urban Growth Boundary Area and the Urban Reserve Area to the east and southeast and to ensure continued development of high-quality neighborhoods. As a follow-up to the Area Plan, the City adopted the Frog Pond West Master Plan, which included details on land use, including residential types and unit count ranges, transportation, parks, open space, and community elements such as lighting, trees, gateways, and signs. The subject property was outlined in red on the Slide 2, which showed the Frog Pond West Planning Area.
- Proper noticing was followed for the application, and no public comments were received by Staff prior to the hearing.
- The nine requests before the DRB tonight included two requests that were recommendations to City Council, the Annexation and Zone Map Amendment, and two requests involving discretionary review, a waiver for the open space location and a waiver for the minimum street frontage.
- Annexation and Zone Map Amendment. The Applicant proposed to annex 9.74 acres of land into the City of Wilsonville that consisted of three tax lots and a portion of the Stafford Rd right-of-way. As part of the Zone Map Amendment, the Applicant proposed rezoning 8.46 acres of land zoned Rural Residential Farm/Forest 5-acre by Clackamas County to City of Wilsonville zoning Residential Neighborhood, or RN. The current City boundary was

indicated in orange and the subject property annexation limits in red on Slide 6. The City Council hearing for the Annexation and Zone Map Amendment was scheduled for February 24, 2022.

- The Stage I Master Plan generally established the location of the proposed lots and tracts of the site consistent with the standards. The proposed residential use, number of lots, preservation of open space, and general block and street layout were consistent with the Frog Pond West Master Plan. The proposed development occupied the R-5 and R-7 subdistricts and met the open space requirements of the R-5 subdistrict, although the Applicant had requested a waiver for the location of that open space. The Applicant proposed the installation of the necessary facilities and services concurrent with the development of the neighborhood.
- The Stage II Plan addressed the general development pattern within the subject property and generally demonstrated consistency with City standards and development standards of the RN Zone. The proposed lot layout, lot sizes, block sizes, and access demonstrated consistency with the development standards established for the RN Zone and the Frog Pond West Master Plan.
  - The Applicant had proposed various components required by the Frog Pond West Master Plan, such as the wall along Stafford Rd, a well-designed open space and preserved wetland, along with dispersed stormwater, connected by pedestrian connections that met the design intent of the Master Plan. Slide 10 illustrated the open space and one of the pedestrian connections.
- The proposed 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 Plan. There were 61 trees inventoried on and off site as part of the proposed development, 34 were located on the subject property and 38 trees were proposed for removal, including five trees within the Stafford Rd right-of-way. The Applicant proposed planting 51 new trees, which included 41 street trees, 7 trees within the pedestrian connection Tract C, and 3 trees within the open space Tract A. The 51 trees exceeded the 1:1 mitigation ratio requirement of 38. Trees proposed for removal were primarily located in the center of the site or clustered along the Stafford Rd right-of-way.
- Several conditions of approval were being revised tonight that were emailed to DRB members prior to the hearing and would be entered into the record as Exhibit A4.
  - The primary changes to the conditions of approval pertained to engineering conditions. The most major change was to PDE 11 and the corresponding Finding E26. Staff determined that the Street Tree Planting Plan was not quite in line with the intent of the Master Plan guidance for street trees and revised the conditions to ensure that the proposed Street Tree Plan would align with the intent of the Master Plan. (Slide 13)
- The discretionary review portion included the two waivers, the open space location and the minimum street frontage. The other requests were in response to clear and objective standards. He noted the waiver criteria on Slide 15 and explained that the RN Zone allowed for the DRB to reduce or waive the usable open space requirement, and the factors for the Board to consider included the walking distance of the usable open space to the subject property, or within 500 ft of it, and 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 standard being waived was 4.127(.09)2.a.

- The R-5 small lot was shown in light yellow, and the R-7 was in lime green. (Slide 16) Lots 1-5, SW Marigold Terrace, and the Frog Pond Lane right-of-way occupied all of the R-5 subdistrict controlled by the Applicant, leaving no room for the required open space within the R-5 subdistrict.
- The Applicant proposed that the open space required by the subdistrict be within Tract A, which was located in the R-7 subdistrict. Tract A was comprised of everything north of Lot 25, north and east of Lots 22 and 23. Tract A also contained the pedestrian connection that ran from Lots 17-21. Tract B was the alley, so no open space was included there.
- Staff recommended approval of the waiver. He noted the Applicant's presentation would cover the rationale for the waiver and address the approval criteria.
- The second waiver requested by the Applicant was for the minimum street frontage. The criteria for approval involved taking advantage of functional land use design to produce a better layout than traditional design and to promote flexibility. The standard being waived was Section 4.127(.08) Lot Development Standards.
- The Applicant had worked through several different iterations of the proposed development where initial configurations resulted in the removal of large, healthy, Oregon White Oaks that were located on the property line but fell mostly on the property to the west. The current plan allowed for the preservation of those significant trees but necessitated a waiver for Lots 17-24 because those lots did not front a public street. Access was taken via a private alley as shown on Tract B. The Applicant's presentation would cover the rationale for this waiver and how the configuration met the waiver criteria.
- He entered the following exhibits into the record:
  - Exhibit C4: Emails between Staff and ODOT regarding comments from ODOT about the Traffic Study and the resolution of those comments.
  - Exhibit A4: Staff Memo to the DRB outlining changes to the conditions of approval, findings, and discussion points within the Staff report.
- He also noted the language in Condition of Approval PDE 9 was being slightly changed because as currently written it implied the lighting would be installed prior to the Public Works Permit, which was not the intent of that condition.

**Kathryn Neil** asked for clarification about where the open space would be located, its size, and whether the open space was entirely on the subject property, noting a comment made about it abutting adjoining open space.

**Mr. Bradford** indicated on the Type C Tree Removal Plan slide where the open space would be located. He confirmed the proposed open space would be 109,344 sq ft, less the fenced stormwater facility, which did not count. The requirement was 2,089 sq ft. (Slide 12) He confirmed the open space was entirely within the subject property, just not within the subdistrict that required the open space.

**Chair Svadlenka** understood a specific amount of the 109,000 sq ft was designated as usable open space that would be appropriate for Lots 1-5.

**Mr. Bradford** replied the minimum requirement for usable open space was 1,045 sq ft, which the Applicant had exceeded by quite a bit.

**Ms. Neil** stated she did not understand how 109,000 sq ft could fit in such a small area, as each of the lots was approximately 6,000 sq ft, and the area only looked like about four lots. She asked if everything to the right of the stormwater facility without lots, was also open space. Was it for drain water or a wetland area? (Slide 12)

**Mr. Bradford** confirmed it was a wetland area and that nothing could be built under the powerlines, which were indicated by dashed lines running diagonally.

**Ms. Neil** understood the only place a playground could go was in the upper lefthand corner. (Slide 12, left diagram)

**Mr. Bradford** explained that PDR Zones had slightly different standards for usable open space. In the case of the subject application, the usable open space standards were governed by the Frog Pond Master Plan and the RN Zone as compared to the Code requirements in the PDR Zone, which the Panel might be more familiar with given recent land use cases it had heard. The RN Zone was more flexible in general. For example, pedestrian access ways and pathways counted as usable open space, so there were pathways running through a good portion of Tract A. Therefore, that was a usable open space feature that counted towards meeting the intent of the Master Plan as it provided pedestrian and cycle connections through the site.

**Daniel McKay** confirmed the Staff report stated the open space was moved to R-7 to meet the minimum lot density for R-5. The table on Page 34 showed the lot range for the given side areas and it appeared that what the Applicant had proposed would meet the maximum density possible. He asked if that was an error in the text or the table, or had he misinterpreted that.

**Mr. Bradford** confirmed the Applicant was going for the maximum in that land use subdistrict.

**Mr. McKay** asked if the Applicant could still meet the City and State standards, and open space requirement, if they removed one lot and making it a four-lot subdivision if the DRB were to deny the open space waiver.

**Mr. Bradford** believed so, but providing it as proposed allowed for a much larger, better-oriented open space. However, in theory the Applicant could reduce the number of lots in the subdistrict and provide the open space there.

**Mr. McKay** understood that had been the rationale for moving the open space and asked if any other rationale was used.

**Mr. Bradford** replied the Applicant would address their rationale in meeting the Code standards in their presentation.

**Mr. McKay** asked what site improvements, if any, were planned to the open space area to make it usable or have recreational benefits or value.

**Mr. Bradford** replied that the open space standards for the Frog Pond Master Plan were more broad and included pedestrian connections and paths, so the paths that ran through Tract A were a usable amenity as people could bike or walk through there and connect to other bike and sidewalk facilities once the right-of-way to the north was built. A condition of approval also required the western connection so that the path to the subdivision to the west, as well as to the subdivision to the west of that, so the proposed path would provide a cross-neighborhood amenity.

**Mr. McKay** asked if the pedestrian pathway was what was originally supposed to be a street.

**Mr. Bradford** replied that was a different area. He noted Tract D was supposed to be a street. The Master Plan and Street Demonstration Plan, as initially envisioned, had a street that went around a block in the middle with streets that continued to the west. Instead, the Applicant had proposed a pedestrian connection, but the remainder was consistent with the Master Plan intent as the other connections were provided very close to the locations as shown on the Master Plan with some additional conditions from Staff that had one connection going all the way. (Slide 8)

**Mr. McKay** asked if the green portions on the right of the map were for the recreational opportunities, and if there were any plans for developing the grove space underneath the power lines. He believed it was a field currently. (Slide 8)

**Mr. Bradford** stated that based on different State policies, the wetland area to the east had to remain untouched and preserved.

**Mr. McKay** clarified he meant the area to the north on the other map adjacent to the stormwater facility and above Lot 21. Was it going to be cleared and made a usable lawn area, or what was the plan for that? (Slide 12)

**Mr. Bradford** explained there were Oregon White Oaks and some larger shrubs and anyone could that area however they saw fit. The pedestrian trail went through that area and looped around it. Other than providing the landscaping, no feature was attached to it that could be identified on the plan materials.

**Chair Svadlenka** noted Page 40 stated that the proposed open space was the 109,344 sq ft and the proposed usable open space was 57,846 sq ft. She asked if the 57,000 sq ft was solely the pathways.

**Mr. Bradford** replied that the usable open space was everything minus the fenced stormwater facility. The open space requirement was 50,000 sq ft. Half of the 109,000 sq ft was 57,000 sq ft, and he was showing what the Applicant had proposed as what the requirement would be as minimum open space as the correct proportion, but all that was required to meet the Code requirement was 1,045 sq ft.

**Chair Svadlenka** asked how many square feet the pathway was adding she understood the green pathways on the previous slide was the only usable space in the area above Lot 21. (Slide 8)

**Mr. Bradford** confirmed that based on his interpretation of the Frog Pond Master Plan open space requirements, the pathways and everything else in the tract, met the usable space requirements.

**Chair Svadlenka** stated that per the Staff report, usable open space had to be within 500 ft of the lots, and that the usable open space was 430 ft to 490 ft away from Lots 1-5. She asked what open space that was.

**Mr. Bradford** replied he had measured to any point within Tract A from the R-5 subdistrict.

**Mr. McKay** asked if it would be the pedestrian path the left and adjacent to Lot 6 and 16. (Slide 12)

**Mr. Bradford** answered yes, adding they could connect through there from Lot 5, which was roughly 430 ft. At another point, it was close to 490. Either way, it met the distance requirements. He clarified he had not measured from Lot 1. He had measured from the district boundaries.

**Rachelle Barrett** asked for more details about the private alley and how it met regulations for street design, noting she could not find the information in the Staff report.

**Mr. Bradford** asked Mr. Pauly if the alley standards came from the Master Plan cross-section for a private alley. He knew the alley had to be 20 ft in width and have a hammerhead. He asked if Ms. Barrett's question was related to the waiver for the lot frontage.

answered yes, adding if the DRB was going to approve the waiver for lot frontage, the Board needed to be concerned about the ability of a fire truck to get to Lots 22 and 23 and meeting those kinds of standards.

**Ms. Barrett** answered yes, adding if the DRB was going to approve the waiver for lot frontage, emergency vehicle access to Lots 22 and 23 had to be addressed. She was unsure if those standards had been met.



**Daniel Pauly, Planning Manager**, responded that the alley was not intended as a full public street. Page 57 of the Frog Pond West Master Plan featured a typical alley. The subject alley had been reviewed by TVF&R, which had also reviewed similar construction all over Villebois.

**Mr. Bradford** confirmed TVF&R had provided a service provider letter for the application.

**Ms. Neil** asked if each proposed home had two parking spaces, like in the garage, or if any other parking was available to those eight homes.

**Mr. Pauly** replied that per State law, only one parking space could be required.

**Mr. Bradford** added one space per dwelling unit, but no homes were proposed, only lots. At the time of building permit review, compliance with parking standards would be reviewed by Planning Staff.

**Mr. Pauly** stated that both the written Code and the typical alley figure in the Frog Pond West Master Plan stated it had to be at least 18 ft deep, so surface parking had to be 9 by 18 ft, a typical parking space size. Any garage parking also had to meet those dimensions under City Code.

**Ms. Neil** pointed out that in Villebois residents were not permitted to park in their driveways or alleyways. She asked if this would be similar.

**Mr. Pauly** replied that when the developer pulled their building permit, they would have to demonstrate that there was one onsite parking space per unit available in the garage or otherwise.

**Ms. Barrett** asked where the oak trees to be preserved were on the map.

**Mr. Bradford** indicated that the oak trees straddled the property line of Tax Lot 401 to the west. The trees were fully on Tax Lot 401, but their root zones were well on the subject property. The current layout would enable better preservation of those trees.

- He clarified the large circles shown above Lots 21 and 22 on Slide 10 were new trees the Applicant would plant after construction. The trees being preserved were along the front of Lots 17-20, as well the large trees on the property line to the north. He displayed an aerial photo and pointed out trees that were quite substantial and would be preserved.

**Ms. Barrett** asked how the waiver affected the trees' preservation.

**Mr. Bradford** replied the road was shifted farther south, and the lots were oriented differently so the Code requirements could still be met, and they avoided extending the street through the existing trees. The Applicant could speak to the rationale and meeting the Code standards in their presentation.

**Mr. McKay** noted on Page 37, the required lot size of 6,000 sq ft for R-7, and that Lots 6, 7, 15, and 16 did not meet that lot requirement in order to preserve the grove of White Oaks. He asked where those White Oaks were located.

**Mr. Bradford** responded that by putting Tract C as a pedestrian connection, as opposed to a full street, allowed the two pedestrian connections to provide through connectivity through the site, and allowed the site to the west to be configured in such a way to enable the preservation of the trees there. Bumping that tract in made the lots slightly smaller. He noted it was not a waiver, but something the Applicant was permitted to do through the Code.

**Mr. McKay** understood it was smaller because Lots 6 and 16 were shifting significantly, and the Applicant was splitting the difference with Lots 17 and 15 next to them, which made sense.

**Mr. Bradford** agreed that was how he would explain it.

**Ben Yacob** asked what was being done to mitigate stormwater off Stafford Rd. From one photo, it seemed like the tract to the northeast was almost like a drainage basin, and Stafford Rd went right through it. Page 47 of the Staff report showed that the Applicant was not developing any sidewalks on Stafford Rd. With no storm drains on Stafford Rd, the City would be responsible for that. He asked when the City would install storm drains to handle the water on Stafford Rd.

**Mr. Bradford** deferred to the Engineering Development Manager to address questions on the future Stafford Rd right-of-way. The Stafford Rd improvements would be funded in the future by system development charges (SDCs), as noted in the Staff report, and were not being provided by the Applicant at this time.

**Mr. Yacob** asked if the stormwater facility would only be handling stormwater from the subdivision where the roads currently were.

**Mr. Bradford** responded yes, it handled the stormwater from the impervious area of the subdivision, not anything offsite.

**Mr. Yacob** replied, so water that accumulated after a significant rainfall would not be dealt with until the future.

**Amy Pepper, Engineering Development Manager**, replied that the stormwater from the development was required to detain the stormwater to pre-development rates. In a large storm event, the amount of discharge that went towards Stafford Rd would be the same post-development as it was pre-development.

**Mr. Yacob** asked if that water would then go to the undeveloped areas, the wet zone, and Tract A.

**Ms. Pepper** replied there was an overflow to the ditch system in Stafford Rd. Once the Stafford Rd improvements were completed, assuming the City received funding from the developments in Frog Pond, that project would become a City project. It was a chicken and the egg kind of scenario as the City needed the developments to happen in order to have the funding for the Stafford Rd improvements. At present, there had not been enough development to garner the funds to do the improvements.

**Mr. McKay** confirmed with Ms. Pepper that there would be sidewalks and a bike lane on Stafford Rd when those improvements eventually happened.

**Chair Svadlenka** stated that per the Staff report, Page 107, the PFA-2 stated the City was responsible for the actual reconstruction improvement to Stafford Rd per the Frog Pond West Master Plan and Transportation System Plan (TSP). She asked if that included the improvements to Stafford Rd that were just discussed.

**Ms. Pepper** confirmed that was correct.

**Chair Svadlenka** added the Staff report said construction would be undertaken when an appropriate number of home building permits had been issued and sufficient funding had been deposited into the infrastructure supplemental fee account. She asked what number of permits would trigger that and how much money had to be in the account.

**Ms. Pepper** replied Staff had not done that analysis, but at this time, no funds were available. She stated she would look into it and get that number for the Board.

**Chair Svadlenka** noted Page 9 of the Staff report stated there were two locations where the Level of Service (LOS) would drop below D. One location was Stafford Rd and SW 65th Ave, which was under Clackamas County jurisdiction. The Staff report stated that Clackamas County planned to make that a roundabout, but in the meantime, the City's Boeckman Creek Corridor Project, which included improving the intersection of Canyon Creek Rd and Boeckman Rd, would also include a temporary signalization at the Stafford Rd/SW 65th Ave. intersection. She understood that was separate from the Frog Pond West Master Plan and TSP.

**Ms. Pepper** confirmed that was correct. The SW 65<sup>th</sup>/Stafford Rd intersection was already identified in the City's and the County's TSPs as LOS E before the Frog Pond West Master Plan. It was also already identified that the City would contribute funds to those improvements, and it was included as part of the Transportation SDC that the City collected for all development in the city. In the Frog Pond West Master Plan, there was a supplemental fee paid by the homes in this development for different transportation projects, including the Stafford Rd improvements and the Boeckman improvements. Each house had to pay an additional fee that went to those localized improvements, but the SW 65<sup>th</sup>/Stafford Rd intersection was not included in that fee calculation.

**Chair Svadlenka** asked when the signalization at Stafford Rd and SW 65th would happen.

**Ms. Pepper** replied the Boeckman Rd street improvements would be a design-build project that had just been noticed. She anticipated getting proposals back at the end March and a project team moving forward with it in the hope of having construction begin in 2023. Any improvements to the SW 65th/Stafford Rd interchange would be part of that design and include further conversations with Clackamas County. Because the City did not have jurisdiction over that intersection, anything the City proposed would have to be agreed to by the County.

**Chair Svadlenka** asked if temporary signalization meant a temporary traffic light.

**Ms. Pepper** confirmed that was correct; that was the conceptual thinking at this point. It would happen when the Boeckman Dip was closed off for construction and traffic be rerouted.

**Chair Svadlenka** asked if the Boeckman Dip was the same thing as installing the traffic light at Boeckman and Canyon Creek.

**Ms. Pepper** replied the Canyon Creek/Boeckman intersection was before the dip in the road, which she believed would be replaced by a bridge. There were several projects that went together in that overall project, including the signal.

**Mr. Yacob** asked where the bicycle paths would be located.

**Mr. Bradford** explained that every pathway in Tracts A and C were intended to serve bicycles and pedestrians, and curb cuts allowed for that as well, to make up for bike facilities that were not on street.

**Mr. Yacob** understood that until the sidewalk and storm drain developments occurred on Stafford Rd, people would have a way to ride bikes in that neighborhood without having to use Stafford Rd.

**Mr. Bradford** replied they would have to enter in at a certain point, but there was no connection to the north yet as no development was proposed. That area was outside any planning area the City had done and was the northern limit of the Frog Pond West Master Plan Area. When the subdivision to the west was built, it would provide connections further west and connect into the Boeckman Creek Trail. There would not be a connection upon construction, or any imminent completion of one, that would allow a cyclist to come off Stafford and down Kahle Rd, but there was a condition to allow for the future northern connection.

**Mr. Yacob** stated he was concerned because Stafford Rd had been included in a few cycling books for Oregon, and he had occasionally seen cyclists on it, and now traffic would be increased.

**Chair Svadlenka** asked Mr. Bradford if there were plans to improve SW Frog Pond Lane.

**Mr. Bradford** responded that Frog Pond Lane functioned as a signature collector between Willow Creek Dr and Stafford Rd. The Applicant had a very short frontage on Frog Pond Lane and would provide interim improvements, but the full improvements would be provided with Tax Lot 200 because the Applicant's frontage was too small to facilitate those improvements there. He believed the Staff report noted that the City would likely be the entity that would construct that full improvement, so the Applicant was dedicating the correct amount of right-of-way and striping that area accordingly in the interim condition. Frog Pond Lane had its own cross section in the Master Plan and the Applicant was supposed to meet that standard for Frog Pond Lane.

**Chair Svadlenka** asked if all 29 lots in the subject development would use Frog Pond Lane as it was their only way onto Stafford Rd because Kahle Rd was not developed.

**Mr. Bradford** replied that there was never a connection envisioned to Kahle Rd in the Master Plan. They were both pedestrian connections at that point. However, that was a sufficient connection to Frog Pond Lane to serve the development. He believed the subdivision to the west had been deemed complete, but it was very likely it would develop at approximately the same time. At no time would that be the only access point, although the City could not depend on that subdivision being built. The access that was currently provided was sufficient with the three-quarters street improvement for Marigold.

**Chair Svadlenka** stated she was not so concerned with the access point as she was with the condition of SW Frog Pond Lane, which was pretty rough. It was basically a glorified dirt road and she was concerned about the number of vehicles that would be using it once the 29 lots were developed.

**Mr. Bradford** responded that Frog Pond Ridge, located to the south, would provide improvements of Frog Pond Lane south of the center line of that right-of-way, resulting in significant improvements to the overall Frog Pond Lane right-of-way in the area due to the subdivision that was recently approved to the south and currently under construction.

**Mr. Yacob** asked if the road connection, Marigold Ln to Frog Pond Lane to the south would be completed before the 29 subject lots were built.

**Mr. Bradford** replied all street improvements would be provided prior to any homes being built as part of the Public Works process.

**Mr. Pauly** confirmed he meant the subdivision on the south side of Frog Pond Lane that was making improvements to Frog Pond Lane and was under construction.

**Mr. Yacob** explained that when he drove there, it looked like there was an outline, but it was not complete. To Chair Svadlenka's comment, he had noticed that even the gravel was large and there were broken-off wooden stakes. The road had been started but not completed, and there

were large drains piled-up, awaiting installation, so he wondered if the road would be completed prior to the subdivision being built.

**Mr. Pauly** replied that was anticipated. Utilities could not be run to the subject subdivision until the utilities to the south were done, and that typically happened with the road improvements. He did not anticipate roads being finished and homes being built on the subject project prior to the improvements to the south being done.

**Mr. Yacob** noted that the issue had come up at other meetings about roads being only half completed because a subdivision was not completed.

**Ms. Barrett** asked what the timeline was for Tax Lot 200 development.

**Mr. Pauly** replied that was currently undetermined.

**Mr. McKay** understood there was not enough setback from the public street on Lot 1 to improve the intersection or the long-term plan to bring that connection up to standard and that would be deferred to Tax Lot 200. He recognized this had been done in the past, but it seemed challenges were put off for other developers/owners to address when that lot was developed, but he was unsure what that meant. He asked if this was based on a set, known plan, or was it that the first mover got the benefit.

**Mr. Bradford** replied the frontage was very short, and the Frog Pond Lane right-of-way cross section required a bike lane, planter strip, and a planted median. Given the X amount of frontage of that right-of-way, it was difficult because they had to build transitions as the features faded in and out, and there was not sufficient space to build their portion of those street when it was not their property. The Applicant was striping and dedicating the correct amount of right-of-way for that to be provided in the future as the Master Plan intended, but the full construction for the northern side would happen when Tax Lot 200 developed because it was not feasible with such a small distance to build it out how the Master Plan intended. Based on his discussions as this project moved through the process, that was his understanding.

**Ms. Pepper** added the problem with that cross section was the median in the middle. The Applicant would be constructing everything except the median in the middle. The other side of the street, Frog Pond Ridge, would construct their portion as well, and where they had the frontage available, they would be doing the median. Further west, the adjacent property recently deemed complete, would be constructing the full median with their half-street improvements. It was just for this short segment. The medians were pretty long, so the Applicant would not be doing the median at this time.

**Mr. McKay** asked if the future homeowners association (HOA) would be responsible for finishing it, or the City, or were funds already allocated for that purpose.

**Ms. Pepper** replied it would likely be the City in partnership with Tax Lot 200 and providing credits towards their transportation SDCs to finish that portion.

**Mr. McKay** stated it seemed unfair for the City to put the onus on Tax Lot 200 when no application had been received yet.

**Ms. Pepper** explained Tax Lot 200 would do their proportional share for their frontage. It was only a small section wherein they had to construct the median, and the City would give them an SDC credit towards their future homes, which had been deemed adequate and fair compensation. She confirmed the City would cover that.

**Chair Svadlenka** asked what would happen if Tax Lot 200 did not sell and remained in private ownership for years. Would that section of Frog Pond Lane just remain unimproved?

**Ms. Pepper** replied that was a part of how development happened in a patchwork type of way. Improvements came in piecemeal, and there was no real way for the City to correct that. For the City to do improvements to that portion of Frog Pond Lane on Tax Lot 200, the City would have to acquire right-of-way from Tax Lot 200, which would cost the citizens of Wilsonville extra to first obtain that portion and then to make those improvements.

**Mr. McKay** asked what would not happen on Tax Lot 1 because there was not enough space.

**Ms. Pepper** responded the full build out showed two 11-ft travel lanes and a 12-ft vegetated median. The travel lanes would be built along with the bike lanes, landscaping strips, and sidewalks, but the vegetated median would not be constructed. To make the intersection with Marigold Terrace work, the median would essentially only be in front of Tax Lot 1, and it was such a small area that it did not make sense to install it. She confirmed there was a plan for a median throughout the entirety of Frog Pond Lane, but with breaks at some of the intersections. She confirmed there was a larger break at the Marigold Terrace/Frog Pond Lane intersection.

**Mr. Jacob** asked if street parking had been addressed.

**Mr. Pauly** responded no street parking was required by law, so discussing it would be out of the DRB's purview.

**Chair Svadlenka** called for the Applicant's presentation.

**Maria Miller, Land Use Planner, AKS Engineering, 12965 SW Herman Rd, Suite 100, Tualatin, OR**, introduced the project team and presented the Applicant's presentation via PowerPoint with these key comments:

- She highlighted the proposed subdivision's location and how it fit in the Frog Pond West planned community, which was currently being developed. Some of the neighborhoods had already been built out with construction starting at the south boundary and utilities, streets,

underground sewer, and water lines extended to the north. Now that Frog Pond Ridge, the adjacent development to the south, had been annexed into the City and its streets and utilities were being built out, the Applicant's project was ready to proceed with approvals and construction.

- Some of the existing site conditions and constraints explained the Applicant's requested waivers. Quite a few conditions had influenced the design now before the DRB. The entire site was approximately 8.5 acres in size, but a large portion was within the BPA transmission easement that had a large tower with high voltage conduits running through the property. No structures of any kind, no fences or playgrounds, nothing could be built within the easement based on the conditions of the power company. (Slide 4)
  - The wetland was not mapped on the City's natural resources map or in the Master Plan, but it extended south outside the easement, so it was additional area that was not buildable.
  - Some of the 13 mature Oregon White Oaks were on the property line and some were offsite, but due to their size and large canopy, any soil disturbance would compromise the health of the trees and their root systems, so the Applicant had to completely avoid that grove area as well.
- The subject property was comprised of a portion of two subdistricts, Subdistrict 11 was 12.7 acres, and a small portion was within Subdistrict 10. As designed in the Master Plan, those subdistricts did not follow property lines with the existing tax lot, so the shape of the property was such that the Applicant was constrained and had to meet the standards of the Small Lot Subdistrict.
  - The Applicant could build on up to 58 lots on the entire site and up to 38 lots in Subdistrict 10, however, a large portion of the site was undevelopable due to the easement.
- Based on the proportional land area within the entire district, Frog Pond Crossing was entitled to 24 lots in Subdistrict 11, as that constituted approximately 41 percent of the whole subdistrict, and then 5 lots proportionate share in Subdistrict 10. (Slide 6)
- The Site Plan illustrated the 29 lots to be accommodated. The northeast corner of the site was within the transmission easement, so the Applicant sited the vegetated stormwater basin there because no structures, homes, or facilities could be built in that area. (Slide 7)
  - Tract A was a marshy wetland, so that area would be a preserved, natural space for quiet enjoyment or bird and animal watching. It was protected in perpetuity, and nothing could ever be built there. The remainder of Tract A would be landscaped with some trees and shrubs. The transmission easement had strict standards regarding the how tall the trees could grow and about having to trim the vegetation, so the Applicant was limited in what they could do within the easement.
- As mentioned, there was currently only one access point to the site off Frog Pond Lane. A local street would curve through the project, and the Applicant was stubbing street connections to the adjacent site, so in the future, there would be circulation throughout the property.
- Lots 1 through 5 located in the Small Lot Subdistrict met the minimum size of 4,000 sq ft. The Applicant was very constrained in that area because they were providing a 46-ft-wide right-of-way, Marigold Terrace, and they had to accommodate separate stormwater facilities



because this portion of the site drained to the south and the stormwater pond to the north could not be used for runoff. The entire site could drain to the pond facility, but the area with Lots 1-5 must accommodate its own stormwater, which also limited what could be done on the site.

- A nice pedestrian connection ran through the project clear to the north that featured a 26-ft right-of-way that included a 10-ft-wide paved path for cyclists and pedestrians flanked by an 8-ft-wide landscape strip on both sides. The Applicant would construct one of the two landscaped strips containing trees, shrubs, flowers, ground cover, and bollards for lighting. Because it also utilized Tract C, the adjacent property would build the other matching landscaped strip as it also utilized the right-of-way.
  - She indicated the trees that would be preserved at the north of the site, adding the path would veer along the lots. No additional landscape strip was needed with the trees being preserved in that area where nothing could be done so they would not disturb the root system. The pedestrian connection was part of an entire network that connected through the oaks to the west and then farther to the Creek Trail, a large regional trail facility.
- The Applicant was governed by the standards of the Master Plan and the Code, which did not require any recreational facilities or playgrounds. There was open space natural area comprised of shades, walkways, trees, and a natural preserve wetland.
- To the north, the Applicant was constrained by the oaks that could not be removed and the transmission easement, as well as the wetlands on another portion of the site, resulting in overall limited space for development. As a result, the Applicant was building a 20-ft wide private alley, which was narrower than a public street, but fully vetted by the fire department and garbage company, who had looked over the plans and confirmed there was sufficient turnaround and sufficient width for their vehicles to enter and exit, so the private alley was safe and provided good circulation.
- The Applicant was looking to start the project in the fall of 2023 with all of the homes built in about one more year. Homes would be built incrementally as per market demands.
- Street Frontage Waiver. The private alley would provide rear access to the garages with the homes facing the open space or the nice oaks and pedestrian area.
  - The Applicant was giving up land for the construction of Stafford Rd and also providing a 12-ft-wide landscaped buffer, as well as a theme wall with wrought-iron view fence at the top that would match the rest of the wall going south through Tax Lot 200. Frog Pond Ridge was responsible for building out a portion as well. The Applicant was also dedicating additional property for future street widening on Kahle Rd and Frog Pond Lane.
  - The project would be protecting various natural resources. The oak trees being preserved along the boundary were overlayed onto the Street Demonstration Plan to illustrate how the trees were in conflict with the plan that was originally envisioned. It was important to keep in mind that preliminary designs were highly conceptual in nature and drawn up without inspecting the site beforehand to see what natural resources were present. As such, preliminary designs were flexible, and changes were anticipated as they were often in conflict with natural resources. The Applicant never

anticipated being held to the exact street alignment shown in the Master Plan. (Slide 8-10)

- In the prior site layout, one street would have to be moved to the south to avoid the trees, and Kahle would have to move north to preserve the other grove. The 26-ft-wide pedestrian connection would have to be moved or reduced in size. The wetland area was originally slated for homes, but the Applicant could not encroach on that area.
- The Applicant's original design exactly matched the required Street Plan, but most of the trees would have to be removed and a portion of the wetland would have to be filled if the Applicant followed the Master Plan layout. The Applicant's alternative layout preserved the oak trees. She noted the black circles showed the extent the tree canopies and that the only tree being removed was dead.
- She explained the reason, one of the blocks shrank in size was because one street had to be moved south to avoid the trees, another street had to move north, and the pedestrian connection had to be realigned. Even though the reduced size lots were not directly in front of the trees, that was the area that had to be squeezed, so some buildable land was lost in that location.
- The Code allowed a reduction in lot size and specifically had a provision for reducing minimum lot area for the preservation of natural resources, including trees and wetlands. A 6,000 sq ft lot could be reduced to 4,800 sq ft, and the Applicant's lot sizes ranged from 4,842 to 5,044 sq ft for the four lots in question. The lots were substantially above the required minimum in depth and width. Instead of splitting the difference and reducing all of the lots on that block, the Applicant made a few lots smaller because the semi-custom homebuilder had a variety of different floorplans that could accommodate a variety of footprints. Consequently, the homes would be very nice, feature decent yards, and meet the zoning district requirements. (Slide 11)
- Open Space Waiver. The only portion of the property that fell within the R-5 Zoning District was a net half-acre in size. Within that, the Applicant had to provide a 46-ft wide local street, landscape planters, a sidewalk, and lots that were a minimum of 4,000 sq ft each. Based on the Code requirements and net square footage of the area, 10% of the developable area, about 2,100 sq ft, had to be provided as open space. A space that small would be best served by landscaping, as it would not benefit the community to squeeze anything else in there. However, the project overall provided almost three acres of open space which included the wetland and the pedestrian connection tracts. One full acre was usable for walking, sitting, and enjoying nature and that far exceeded the minimum required by Code. The remainder of the homes did not have the open space requirement, and the entire community could enjoy the open space.
- The Applicant wanted to provide the maximum number of homes because of how much usable land was lost due to preservation as well as the huge housing shortage, as demonstrated by the City's planning documents. The Applicant's goal was to provide homes to 29 families with this community. The bulk of the open space the Applicant was providing was just one block to the north and was very convenient with pedestrian crosswalks and paths that connected to a regional hiking trail. A much larger,

uninterrupted open space was more valuable to the community than a fragmented 2,000 sq ft plot located within the little block.

- The Applicant believed the project brought many benefits to the City. The project met all the criteria required for approval and provided homes to 29 families as originally planned in the Frog Pond West Master Plan. They had designed a neighborhood with walkable and active streets, beautifully landscaped pedestrian connections, and 26 new street trees to complement the preserved existing mature trees. As intended in the Frog Pond West Master Plan, the neighborhood would provide both visual and physical access to nature. They were preserving a wetland in an open space tract and were providing connectivity to the Boeckman Trail network that ran through the entire master planned community and beyond Frog Pond. (Slide 13)
  - The design provided a high quality, cohesive community design through coordinated Stafford Rd frontage. The Applicant was following the established hierarchy of the street tree species throughout the project, matching the uniform lighting on the collector and local streets, and providing special pedestrian scale lighting along the pedestrian pathways.
  - The Applicant was also dedicating right-of-way for future street expansions, and the project contributed funding for offsite improvements. As mentioned by Staff, upgrades to the public infrastructure depended on these projects being built out and paying their fees for offsite growth.
- The Applicant was proud of the design they had created. It met all criteria, provided open space, and accommodated housing. The Applicant respectfully requested the DRB approve the project.

**Ms. Barrett** asked where the driveways for Lots 1-5 would be located.

**Ms. Miller** replied the curb cuts would be located in between the planters.

**Ms. Barrett** asked why the bike lane did not connect to Kahle Rd.

**Ms. Miller** indicated where the bike lane connected, which was the intended connection with crosswalks and curb cuts. There was a connected network of trails throughout Frog Pond West, and rather than connecting to the sidewalk outside the project, there was a better connection point through the open space that still allowed a connection out to the public street.

**Ms. Barrett** recalled Mr. Bradford had indicated there was a Staff recommendation for it to connect it over in the corner.

**Ms. Miller** replied the Applicant would be amenable to that. The road in question had been built for access to the stormwater facility, but it was also open to biking as it met the width requirement. If necessary, there was no reason why the bike lane connection could not be relocated.

**Mr. Yacob** asked where the homeowners of Lots 17-24 would park their cars.

**Ms. Miller** replied they would have to use their garages. Every home had access off the alley and would have a two-car garage. There would be no street parking as the street was only 20-ft wide. She reiterated that there was no Code requirement to provide street parking or even additional parking beyond one space per home. However, because it was a public street, it could accommodate parking anywhere that was not in front of a driveway if needed.

**Mr. McKay** understood that only the R-5 area required open space while the R-7 required none, however, because the R-5 area was small and the R-7 area had an abundance of space, it made sense why the Applicant had switched it. Alternatively, the Applicant could have opted for four lots with an open space in excess of the requirement or larger lots with an extremely small open space that was not usable.

**Ms. Miller** confirmed that was correct. Tax Lot 200 was a decent-sized R-5 zoned property with a usable proportionate open space. However, it was such a small area, due to the shape of the property in that district, that it did not make sense to permit a tiny facility when there was so much open space in R-7. She confirmed that although people could walk into the wetland, it was not a usable space.

**Mr. McKay** asked if that was the same for the stormwater facility.

**Ms. Miller** replied that the stormwater facility was basically a fenced-off depression in the ground that was landscaped and appeared as an open space.

**Chair Svadlenka** understood most of the open space was undevelopable because of either the easement or the wetland. She asked how much usable open space the Applicant planned for in the development.

**Ms. Miller** replied they did not need to provide any additional open space due to the abundance of the open space already present, even though it was undevelopable. The Applicant purchased the property to build homes on it and was developing the pedestrian connection tracts, which were not constrained in an easement, as open space. Tract D, an unusable 12-ft landscape tract provided a visual buffer and transition between the road and the backyards of the homes.

**Mr. McKay** understood there was no alternative to the proposed layout that would accommodate an additional lot in District 11.

**Ms. Miller** replied the Applicant could potentially obtain permits and fill the wetland to make it developable but had chosen to preserve the wetland instead as it was a nice feature and they wanted to protect as much open space as possible.

**Mr. McKay** understood for Lots 1-5 to access a usable area, the pathway along Marigold Terrace was about 400 sq ft, and the next closest entry point was across Trillium where one

could re-enter a pathway to the wetland and larger green space. He asked how far Lots 1-5 were from those areas.

**Ms. Miller** responded it was approximately 200 ft from Lot 1 to the pedestrian connection and about 270 ft to the other connection. The subdivisions were built out incrementally as individual owners sold their land, but it was not gated subdivision. The plans from Frog Pond Oaks showed a lot of open space, so it would all be perceived as one continuous natural area and the pathways would all be connected. The Applicant had worked with Staff to ensure they were coordinating with the adjacent owner to avoid any pedestrian paths that ended abruptly or were not compatible in design. It would all be linked together very nicely and be a wonderful village to be in. She clarified that R-5 required 10% of the land to be open space and half of that must be usable.

**Mr. McKay** understood the only potential loss to that district was 10% of the Applicant's total usable space.

**Ms. Miller** explained 1,000 sq ft was usable space, and not much could be done with that. However, there was the other open space that was wider, nicer, and had mature trees, shade, and wildlife within easy walking distance for homeowners to enjoy rather than sticking to their assigned, small plot.

**Mr. McKay** noted one full lot would make a decent-sized neighborhood park, although he realized the Applicant probably would not want to give up a full lot.

**Ms. Miller** replied they would not give up a whole lot but make the lots bigger.

**Chair Svadlenka** noted Mr. Bradford had measured a distance of 430 ft from Lot 5 to Tract C but Ms. Miller had said the distance from Lot 1 to Tract C was 200 ft.

**Ms. Miller** explained Lot 5 was kitty-corner across the street. She had measured from the lot that was furthest away.

**Mr. Bradford** clarified that he had measured from Lot 5/the boundary of the R-5 Subdistrict to Tract A, the nearest access point in the open space area. The Code standard was 500 ft from the subject property that required the open space. He had interpreted that as the portion of the site that was the R-5 Subdistrict.

**Mr. McKay** asked if it was one property how did that work.

**Mr. Pauly** noted that over 30 minutes had been spent discussing this item, advising it was a good time to ensure whether the standard had been met and move on.

**Mr. McKay** agreed, noting he would like a definitive response. He was confused because it said subject property, and he assumed either the entire subdivision was a property, or it could be a tax lot, or each of the 29 lots. He asked what it was when referring to the Code.

**Mr. Bradford** read the applicable Code requirement as follows, "The Development Review Board may review or waive the usable open space requirement in accordance with Section 4.118 (.03). The Board shall consider 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 or within 500 ft of the subject property, including facilities which support creative play."

**Mr. Pauly** said he did not believe the Board could get further clarity than that. The broader interpretation would be at any point on the property, which was what he understood the finding stated.

**Mr. McKay** asked if the property was defined as the entire subdivision.

**Mr. Pauly** responded it was the area within the R-5.

**Ms. Miller** added they only needed to measure to Tract C as that was acceptable open space that met the criteria. They did not need to look at Tract A.

**Mr. McKay** understood Tract C met the criteria because it was approximately 1,000 sq ft.

**Ms. Miller** explained that fragments were not counted, Tract C was part of a larger open space area.

**Chair Svadlenka** asked if the area to the right of Tract C would feature grass in between the trees. (Slide 7)

**Ms. Miller** replied that once it was built out, it would be a nicely landscaped area on both sides, featuring ground cover, grass, shrubs, and bollards.

**Chair Svadlenka** asked if there would be space for creative recreation.

**Ms. Miller** replied that providing creative recreation was not required, but rather it was one way to satisfy it.

**Mr. Pauly** noted there was not a way to apply that because it was way too subjective. There was nothing in the Code to measure what was creative or not. He explained this was particular to Frog Pond. Other areas of the city were subject to the newer, updated Code requirements, which were very specific about requiring professional design, but that did not apply here. It was an area within the Frog Pond Code that lacked clarity, and neither Staff nor the DRB could create standards based on their interpretation of what constituted creative.

**Ms. Miller** explained that Tract C was 3,270 sq ft, which was 1,000 square feet above the requirement for the entire subdistrict; even the small piece of open space exceeded the requirement.

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

**Shelley White, Administrative Assistant**, confirmed no one was physically in attendance at City Hall and that no one attending via Zoom wished to provide testimony.

**Ms. Barrett** asked that the additional conditions of approval requested by Staff be reiterated.

**Mr. Bradford** noted Staff was revising the findings and conditions discussed in the memorandum. (Exhibit A4)

**Mr. Pauly** explained the PDE-11 revision. In the design, there was limited space in the planting strip and a lot of demand for things like stormwater, street trees, utilities, curb cuts, and pedestrian paths. Big picture, the condition ensured that balance, as specifically addressed in the Master Plan, was being met; for example, installing street trees in the planter strip wherever possible, and not unnecessarily prioritizing other items unnecessarily before them. Engineering, Planning, and Natural Resources Staff had all ensured this achieved the right balance before it went to construction drawings.

**Mr. Bradford** stated that summarized the change to PDE-11, noting the words that were struck out and replaced with the bolded, underlined, italicized words. Two other conditions of approval had wording changed regarding the waterline loop and the public utility easement.

**Mr. Pauly** added those were requests from the Applicant that the City Engineer was amenable to.

**Mr. Bradford** stated the other changes were to talking points and findings as they related to the street tree condition change, and the remaining items on that page of the memo were impacted by the change to that finding. He confirmed Exhibit C4, Staff's response to ODOT's comments on the Traffic Study, was being added to the record.

**Mr. Pauly** explained ODOT was looking for some analysis that was not required or appropriate at this point. That analysis was done earlier as part of the master planning, and Engineering Staff clarified to ODOT's satisfaction how that all inter-related and ODOT was satisfied with the explanation.

**Mr. Bradford** confirmed that was essentially what the email said.

- He read Condition of Approval PDE 9 into the record. "Prior to issuance of any Public Works permit, the applicant/owner shall ~~install LED street lighting in~~ ***submit information***

*demonstrating* compliance with the Public Works Standards and Frog Pond West Master Plan. The street lighting shall be Westbrook style streetlights.”

**Mr. Pauly** explained that the lighting could not be installed until it was approved.

**Mr. McKay** noted on Page 7 of 66 in the Staff report, the summary for the waiver for the open space location stated, “The open space must be 50% usable space. In order to meet the minimum density in R-5 subdistrict, the entirety of R-5 land on the subject property will be utilized for residential units.” That statement was determined to be inaccurate, it was to meet the maximum, which would not be something that was a requirement either way. He suggested striking the entire sentence.

**Mr. Bradford** stated he supported that change, noting it should not create any problems.

**Chair Svadlenka** confirmed there were no further questions or additional discussion and closed the public hearing at 8:51 pm.

**Daniel McKay** moved to amend the Staff report by adding Exhibits A4 and C4; modifying Condition of Approval PDE 9 as read into the record by Mr. Bradford; and striking the following language on Page 7 in the section “Waiver – Open Space Location (DB21-0043)” as follows: ~~“The open space must include at least 50% usable open space as defined by the Code. In order to meet the minimum density in the R-5 Sub-district, the entirety of the R-5 land on the subject property will be utilized for residential units.”~~

The following change was made by Staff:

- Condition PDE 9 “Prior to issuance of any Public Works permits: The applicant / owner shall ~~install LED street lighting in~~ *submit information demonstrating* compliance with the Public Works Standards and Frog Pond West Master Plan. The street lighting shall be Westbrook style streetlights.”

**Kathryn Neil** seconded the motion, which passed unanimously.

**Rachelle Barrett** moved to adopt Resolution No. 399, incorporating the amended Staff report. The motion was seconded by **Daniel McKay**.

**Mr. McKay** stated he was not enthusiastic about the open space waiver. He was unsure the waiver was necessary as he believed it had been demonstrated that it was not necessary to approve the application, and the DRB was instructed to use, as criteria, usable open space. He understood his opinion was subjective, but he did not believe a pathway around the neighborhood was a great type of usable open space. He noted Chair Svadlenka had alluded to the fact that even if the waiver was not granted, no major changes would happen to the District to the north as they were unable to make changes for various reasons. He was struggling because the waiver was not necessary, and it removed usable open space regardless of how large it was; that was the only item that gave him pause to voting in favor of that motion.



**Chair Svadlenka** agreed, adding she also had some concerns with that. She believed the intent of open space was not simply a pathway or small patch of grass between some shrubs. She believed because the language was more subjective, some interpretation was involved in terms of a waiver.

**Ms. Barrett** disagreed, noting the pathway was actually very usable for jogging, bicycling, and dog-walking, etc. They were all recreational spaces.

**Ms. Neil** said she did not believe the amount of open space was significant. The pathways gave a lot more usable space than a small square of grass.

**Mr. McKay** noted that 1,000+ sq ft was a 30x40-ft plot, which was not tiny and could accommodate a playground.

**Ms. Neil** replied she did not believe the Applicant would not give up an entire lot, so the space would just be a sliver.

**Mr. McKay** agreed that was the issue. He was unsure of the lot size, but at a minimum, they would need a 10-ft-wide by 100-ft space. It was not large, but he was confident the Applicant could find some use for it. He reiterated that was the only issue that gave him pause, and he wanted to ensure the DRB had an opportunity to discuss it.

**Mr. Yacob** stated that as an upside, the pathway should remain dry and would not have power lines. As a child, he rode his bike on Stafford Rd and could remember the power lines crackling loudly. Between that and the proximity to Stafford Rd traffic, it was not as if nature would be quietly enjoyed from Tract A without some disturbance. The pathways, however, would provide some quiet, as well as year-round use.

**Chair Svadlenka** asked if the entire pathway in Tract C that connected at the north end would be removed if the waiver was not approved and the open space had to be within the R-5 area.

**Mr. McKay** understood the pathway was there to protect the trees; that requirement would not change.

**Chair Svadlenka** clarified the pathway on Tract C that bordered Lots 6 and 16 was not where the Oaks were located. The trees were north of that, but the Applicant had to create that tract to preserve those White Oaks, so it would not go away if the waiver was not approved.

**Mr. McKay** added, unless the Applicant redesigned the area and returned before the DRB.

**Ms. Neil** noted there was not a whole lot the Applicant could do with that strip of land. The only option was to reduce the lot size.

**Chair Svadlenka** asked how long the strip of land was for Lots 1-5, so she could determine the width if the requirement for usable open space in the R-5 Subdistrict was 1,045 sq ft.

**Mr. McKay** understood there would potentially be 2,000 sq ft of usable space in the R-5 Subdistrict because the Applicant had to provide for that open space and there was no other area within that subdistrict for open space.

**Chair Svadlenka** agreed, adding there was no way to make half of it not usable.

**Mr. McKay** said he understood the Applicant's position, that it was in their best interest, and that the subdivision had an abundance of green space. He assured he was not questioning that because he believed there was a lot of value there. It was just an issue of whether there was a benefit to the community for the waiver. Typically, any proposed alternative was better, and certainly the Applicant demonstrated how their subdivision provided something better, but he did not think that was as a result of providing a waiver.

**Chair Svadlenka** agreed, it was a result of the land use itself.

**Chair McKay** agreed; however, that was not what his opinion was based on. He believed the information provided gave the Board some leeway, that subjectivity, to use as criteria and that was what he was struggling with.

**Chair Svadlenka** asked if any Board members wanted to see a redesign.

**Chair McKay** understood that if the DRB denied the waiver, the Applicant would have to redesign the subdivision. He did not make that motion and that was not necessarily what was being deliberated. His deliberation of the motion was his uncertainty regarding the location of the open space.

**Ms. Jacobson** stated a motion and a second were on the table, and the Board had some good discussion. Now the motion on the table needed to be voted on. If the motion did not pass, then a discussion could be had on how the DRB wanted to proceed in terms of a different kind of motion. Presently, however, there was a motion that had been seconded, and it was time to vote on it unless Board members had more discussion points.

**The motion passed 3 to 2 with Chair Svadlenka and Daniel McKay opposed.**

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

## **VII. Board Member Communications**

### **A. Recent City Council Action Minutes**

**Ben Yacob** asked about the status of the vertical housing in the former Fry's Electronics location and the pedestrian/bicycle bridge over I-5.

**Kim Rybold, Senior Planner**, replied there was nothing new to report. There had been a few inquiries over time about what development would be allowed on that site. At this time, Staff understood that the current property owner still owned the property. For that property and some other properties in Town Center, Staff was continuing to work on a vertical housing tax abatement, which was one of the recommendations of the City's Equitable Housing Strategic Plan. There would be an upcoming work session with City Council to look at the criteria for that program. There was nothing new to report at this time regarding the Fry's site, however.

- The 90% design on the I-5 Pedestrian Bridge was close to being wrapped. The project manager in Engineering had provided some comments to the consultant team that had been working on the design of the bridge and plaza. The City's team had not yet seen those final documents, but once they were reviewed, Staff would post updates illustrating the designs on the City's website. Staff planned to share that with the Planning Commission and City Council once the work was done, potentially sometime this spring. Then, it was a matter of finding funding to construct the project, about which she had nothing new to report.
- She clarified that the property where the bridge landing would be located was a City-owned parcel just north of the Fry's property. The bridge landing would be along the southern edge of the plaza property, which was currently part open grassy field and part parking lot and construction would happen independently of anything on the Fry's site.

**Mr. Yacob** asked if the water treatment plant on the Willamette River would be open this summer.

**Barbara Jacobson** replied it should be. The big pipe project was finishing up, and there was nice, new overlook that had been built. However, the City would begin construction this summer on its water plant, but that should not preclude the majority of the park from being open.

#### **VIII. Staff Communications** - None.

#### **IX. Adjournment**

The meeting adjourned at 9:15 p.m.

Respectfully submitted,

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