



APPROVED

CITY OF LAKE OSWEGO
Development Review Commission Minutes
Monday, March 20, 2017

The Commissioners convened at 7:00 p.m. in the Council Chamber of City Hall, 380 A Avenue.

Members present: Chair Brent Ahrend, Vice Chair David Poulson, Paden Prichard, Jeff Shearer, and David Rabbino.

Members absent: Kirk Smith and Nader Taheri.

Staff present: Jessica Numanoglu, Planning Manager; Evan Fransted, Associate Planner; Evan Boone, Deputy City Attorney; Janice Bader, Administrative Support; Erica Rooney, City Engineer; and Alissa Maxwell, City Stormwater Consultant.

MINUTES

Mr. Rabbino **moved** to approve the July 18, 2016, August 15, 2016, September 7, 2016 as amended, and September 19, 2016 minutes. Mr. Poulson **seconded** the motion and it **passed** 5:0.

FINDINGS

None.

PUBLIC HEARING (Continued)

LU 16-0048, a request by H. Hudson Homes, Inc. for approval of a minor partition creating two parcels.

Location of Property: 1255 Chandler Road (Tax Lot 1700 of Tax Map 21E 03CC). The staff coordinator is Evan Fransted, Associate Planner.

Chair Ahrend opened the hearing. Mr. Boone outlined the applicable criteria and procedure. The hearing was continued from February 22 to provide the applicant the opportunity to submit additional evidence relative to stormwater management by March 6. The staff report and analysis were made available on March 10. Testimony at tonight's hearing is limited to the matter of stormwater management. Mr. Ahrend reported making a specific site visit since the last public hearing. No one challenged any Commissioner's ability to consider the application.

Staff Report

Mr. Fransted provided a brief summary about what had transpired with the hearings and application so far. He summarized the written materials received. Since the last hearing, the applicant submitted additional written testimony on March 6 (Exhibit F-14). The applicant chose not to redesign the stormwater management system but instead provided additional clarifying documentation to support the proposed infiltration system. The City's contract Stormwater Review Engineer, Ms. Maxwell, reviewed the applicant's new testimony and submitted findings in a technical memorandum on March 9 (Exhibit F-15). Four public comments in opposition to the

application were received (Exhibits G-232-G-235). Ms. Maxwell stated she reviewed the additional information the applicant submitted, summarized in the memo dated March 9 (Exhibit F-15), and noted there was no change proposed to the method for managing stormwater. She added that she had also reviewed the public comments that were submitted and could discuss with the Commission if they desired.

Questions of Staff

Mr. Poulson stated that the stormwater system detail (Exhibit F-14, Figure 1 of 4) submitted by the applicant had changed to include two pop-up overflow valves on each storm chamber, which would allow the infiltration chambers to overflow. Other Commissioners observed that a contour had been added and the elevation of the storm chambers had changed slightly. Ms. Maxwell responded she believed that there had been some minor adjustments to the system and elevations but they would not change the feasibility. In response to a question about an extra chamber being shown, Ms. Maxwell believed the applicant was showing an additional chamber that could be added if needed. Mr. Rabbino recalled the additional storm chamber had been shown on the previous submittal.

Applicant

Christie White, Christie White, Land Use Attorney, Radler White Parks & Alexander, and Eric Evans, Civil Engineer, Emerio Design, on behalf of the applicant. Ms. White agreed that the additional storm chamber was shown on the previous submittal. What was new, she noted, was a 25-year storm calculation that Brown and Caldwell had asked for and pop-up valves were shown in response to a previous question as to where they were located. At the end of the last hearing, the DRC members raised some questions, which were answered in the March 6 submittal. She stated we feel confident that our subsequent review and Brown and Caldwell's subsequent review leads to a clear conclusion of feasibility. She added that the system has been designed to the Code standards. Also with the system proposed the property would perform better post-development than pre-development.

Mr. Evans noted this is a feasibility analysis, and added that when we go to final engineering we will work with staff to make any needed adjustments to the house or landscaping. He stated the location of the facilities may change and that there are standards relative to the property line. He noted the new submittal provided a little more detail on the cross-section. He reviewed the numbers for Lot 1 related to tested infiltration, the location of the chamber, and the layers of rock, with the top elevation of the system at 240' with one foot of soil on top of that, as shown on the cross-section. This is intended as a guideline and can be changed depending on the kind of fill brought in.

Ms. White more clearly explained the depths shown in the soil log and the depths shown in the cross-section of the StormTech system on the property (as fully explained Exhibit F-14), in response to concerns raised by Mr. Poulson at the previous hearings regarding an error in soil depth. She noted the resubmitted cross-section provided more detail, such as clarifying the infiltration depths based on the test results, and location of the chamber in a soil strata that meets the Code infiltration rate. Regarding imported soils, in response to Mr. Prichard's question about what the Code says, Ms. White opined that imported soils have to demonstrate they can infiltrate at the level they are required to infiltrate to meet the Code. She stated they have provided information about how one would know the infiltration rate of the imported soils before import and that a soil would be selected that maintains the right level of infiltration rate both pre- and post-compaction at the right elevation for the storm chambers. (A memorandum from the applicant's soil expert is included as an exhibit to Exhibit F-14.) Ms. White added they feel confident based on standards in the industry that this is pretty typical and would be able to accomplish it, and are willing to accept a condition of approval to address this concern.

Ms. White continued, regarding the relief valve a cross-section of the pop-up valve and trapped silt basin have been included in this submittal. She added that does not speak to bacteria, except one of the reasons infiltration is preferred is that soil infiltration can help with downstream impacts of bacteria. Ms. White then discussed the topic of groundwater, which had been raised in public comments. The Code requires that there is a 5-foot distance from the highest tested level of perched groundwater. She recalled the test borings found highest tested level of perched groundwater at 7 feet and noted that bottom of the storm chambers are located at elevations that are at least 6 feet above the tested location of seasonally high groundwater, complying with the Code.

Questions of Applicant

Mr. Poulson noted the test pits show where the soil material changes and agreed with the applicant that the bottom of the chamber is actually bearing on the soils that were tested to infiltrate at 2.5-inches/hour. His question, which he reiterated, was related to concerns about what happens with the water when the soil changes. Mr. Evans responded that the change in soil was not something that was analyzed. Ms. White added that it is her understanding from the soils scientist that the clay layer does allow infiltration, albeit much more slowly. In response to a follow up question from Mr. Poulson about the impacts of importing fill material that would be compacted and if that could be tested, Ms. White responded yes, the geotechnical engineer has noted in their memo that one can assess and test the infiltration rate of the imported soils, and has recommended testing for soil infiltration pre- and post-introduction to the site, which the applicant has agreed to do as a condition of approval. Mr. Poulson wondered what would happen if the post-introduction test fails? He added he was looking for an alternative solution to have assurance of redundancy. Mr. Poulson also expressed concern that, as noted in the original submitted geotechnical report, the area where 2.5-inch infiltration rate was found was made up of imported soil and since it is imported, the rate where tested could be different than other parts of the site. Ms. White responded that by bringing in soil and re-grading there will be more uniform free-draining soils across the site.

Regarding the storm chambers, Mr. Poulson observed there are other things that can be added to the system, like a manhole (Exhibit F-14, p.3 of 18), to help with maintenance. Regarding the bacteria, which will create sludge, and other things that will be flushed into the chamber, Mr. Poulson asked if the applicant would be willing to accept adding a manhole as a condition of approval? Mr. Evans explained that the trapped silt basin, which is something the City of Portland developed, would ensure that silt settles in the trap. Mr. Poulson still expressed concerned about suspended solids that would get past the silt basin. It was stated that an additional clean out access would be acceptable to the applicant.

Mr. Prichard noted that the finished grade shown on the Parcel 1 cross-section does not correspond with contours shown on the site plan. He asked if the applicant would assure that the final contours give a sufficient area at the lower part of the yard to collect overflow to keep it from the adjacent property. Ms. White responded yes, the applicant would do final grading in a manner to collect overflow on the lower area of the site. In response to another question from Mr. Poulson regarding the silt basin sizing, Mr. Evans responded yes they would size it appropriately to the City's approval.

In response to a question from Chair Ahrend, Mr. Evans stated he has been designing these types of stormwater systems for 10 years, which are inspected by himself or his crew after installation, in addition to City plumbing inspection, and there have been no reported failures during this period. Chair Ahrend noted that perched groundwater sits on top of less permeable layers of soil and that normal groundwater is at about 75 feet depth, and asked the applicant to explain the difference and to describe what people are seeing in their backyard. Ms. White responded, per the soils

engineer, on this site the highest elevation of perched groundwater was found at a 7-foot depth. She added that they do not have any information about why there is ponding or other water on other people's property. She observed that after the February storm, the ponding on the subject site dissipated within 24 hours. She noted that water on a site might be from above or from runoff, per what she recalled hearing from Ms. Maxwell at a past hearing. Ms. White also stated they did not conduct any testing on other properties.

Public Testimony

In Support

None

In Opposition

Alex Grauert, 1313 Chandler Rd., Lake Oswego, OR 97034, representing Chandler Rd. neighbors and North Shore/Country Club Neighborhood Association, stated he lives next door to the property. He stated that based on reviewing the materials and discussions with neighbors and the neighborhood association, it seems that the developer's stormwater management plan is nothing more than a rehash of what the Commission was prepared to deny at the last hearing. He opined that nothing of substance has changed about the proposal and that it feels like the developer is not taking the seasonally high groundwater issues seriously. He stated they are really hoping the DRC gets it right since this is the first time they are using the new Stormwater Manual and the decision made would set a precedent. He stated they would like the applicant to design a stormwater system with the seasonally high groundwater as a starting point, which they feel is the Code requirement, and beg to differ that it is not an important issue. He noted it is the applicant that carries the burden of proof here. He urged the Commission not to defer to staff or the hired consultant. He asserted the proposal today is as flawed as it was when the Commission voted to deny the application.

Josh Bratt, 1335 Chandler Rd. Lake Oswego, OR 97034, provided handouts to the Commission, staff, and Ms. White (three documents had already been submitted and one item was new written testimony). Karen Grauert ceded her 5 minutes to Mr. Bratt. Mr. Bratt stated they are clearly of the view that this is about the Code, not neighbors' preferences. He stated that they would demonstrate that staff and consultants are wrong and their interpretation is erroneous. He referenced and read from a City document from 1997 entitled *Annual Flooding at Lake Garden Ct., An Evaluation and Recommendation*, noting there is a long-standing issue in this area with flooding that the City is aware of and has tried to address. However, past City drainage improvements installed in 2000 near the pond did not address the northwest portion of the neighborhood, including the subject site, three other lots, and the Oswego Lake Country Club. He added the whole area continues to be inundated with high seasonal perched groundwater. Mr. Bratt read from a letter submitted on March 17 by Wendie Kellington which stated the definition of seasonally high groundwater in the Stormwater Manual, which governs, and the City consulting engineer's definition differ. He stated there is perched groundwater on the subject site that is within inches of the proposed stormwater chambers. He read the definition from the Code. He recalled someone affiliated with the City referred to the area as a swamp and stated that houses should never have been built there. He referred to the rainfall spreadsheet and time-stamped photographs he submitted previously. He referred to the new submittal as of Friday, noting they hired a surveyor to measure the high groundwater on their property, other property, and the subject site, and shared the results of the survey of the high groundwater mark and the proposed elevation of the storm chamber. He pointed out the ambient groundwater data on the submittal. In conclusion, he asked the Commission if they would follow the Code or staff recommendation, because they do not align.

In response to a question from Mr. Prichard, Mr. Bratt confirmed the surveyed data is elevations of standing water. Mr. Rabbino noted that perched groundwater is typically below grade and asked if the data reflected water visible on the surface or if the surveyor took borings and measured the perched groundwater below the soil surface? Mr. Bratt responded the blue line was the observed pond levels and that his understanding is that seasonally high groundwater includes surface water and perched groundwater. Mr. Bratt deferred to Dan Symons to further answer this question. In response to a follow up question from Chair Ahrend regarding the surveyed data. Mr. Bratt stated it his belief from the reading the Code that infiltration should be measured to the bottom of the pit, not the bottom of the proposed chamber.

Stephen McCarthy, 321 Chandler Pl., Lake Oswego, OR 97034 supports what the neighborhood association representative said this evening as well as Mr. Bratt's presentation and Ms. Kellington's written testimony. He opined there is a problem with the quality of data and information provided, how it has been interpreted, and the conclusions drawn. He noted in the extra three weeks provided, no additional quality data was provided. He opined the proposal is the same, made a little better with the pop-up valves and better explanations, but it is the same proposal that failed before. He asserted the applicant has not met the burden of proof to persuade the Commission. The data points are still from June 2016, which is a temporal problem. Would the data points yield similar information in the winter? He stated the neighbors asked to be present for the testing but were denied. He asserted there are spatial problems – only one data point for a large lot was not enough – one pit is not representative of the entire site. He opined the data is the same; it has not changed and is not sufficient. Alternative solutions were not presented. He concluded that from a logical standpoint the same result should occur, and that the application should be rejected.

Madalyn Seyer, 220 Chandler Place, Lake Oswego, OR 97034 and Ellyn Bye, 210 Chandler Pl., Lake Oswego, OR 97034 ceded their time to Dan Symons.

Dan Symons, Civil Engineer, stated Wendie Kellington hired him. He stated he read the transcript from the February hearing. He noted he respects Scott Harman, HGSI, and is working with him on another project in Portland. He referred to the March 16 memo from his office (Exhibit G-232) and pointed out and clarified some typos related to sewer and minimum cover. He stated that he does not believe the applicant demonstrated the feasibility of the site to infiltrate groundwater. Whatever you want to call the water on the surface, it is going to get in the way. While the Code defines seasonally high groundwater as perched water, Mr. Simons stated he does not see the difference from an infiltration design standpoint between standing water or a puddle and a surface or sub-surface emulation of groundwater as it is all going to get in the way. Seasonally high groundwater is what the conversation comes down to. He referred to the applicant's detail graphics, which he had highlighted with colors for clarity and included with his memo. He expressed concern about the topsoil fill with a 2.5-inch per hour infiltration rate. He noted there are issues related to the wetted area and the calculations. Related to the tested fill layer and space between the bottom of the facility and the confining layer, there just is no space for the water to infiltrate below or into the sidewalls. He stated that orange mottling is typical of inundated soils and an indicator of seasonal high groundwater, and the testing was done in June. Regarding the summary of survey work done for Mr. Bratt, he was unsure which benchmark the applicant's surveyor used. He opined that the 5-foot separation would not be maintained and described the functions of the required 5-foot clearance area, to provide filtration and for pore capacity so the infiltration rate can be maintained to the layers below.

Mr. Symons conducted a demonstration, which he described as follows:

- Two dishes each with a wetted sponge were set on the table, the one at the front of the table representing June conditions and the other representing winter conditions. (He turned the dishes so the Commission could better see the water levels.)
- Both dishes and sponges were the exact same size and both sponges had the same moisture content, similar to after a gentle rainstorm. The dish on his left, representing a perched groundwater table during the winter, had a higher level of water (about half full) the other had a moist sponge but no visible water.
- A bottle of water was added to each sponge to represent a 10-year storm. A small amount of water (representing perched groundwater) became visible in the bottom of the dish representing June conditions, demonstrating that having pore capacity around the facility was available to let the water drain into the ground slowly. The other dish representing winter conditions overflowed even when less water was added to the dish than the dish representing June conditions.

Mr. Symons concluded that this demonstration showed that the presence of water seasonally, whatever one call its – seasonal groundwater, perched water, surface water – makes a difference for the net effective infiltration capacity due to lack of pore capacity with the system as proposed. He added that their calculations work if there is a place for the water to go, but there just is no place for the water to go which means they have not demonstrated the feasibility. He added it is unknown where the storage capacity is going to end up and the applicant has not provided a seasonal high groundwater measurement for this time of year. He stated that he does not agree with statements made that the proposal will make the site better than the existing conditions, even with the added facilities, as the compacted soil will minimize the vertical movement of water. He opined that the post-development situation may be worse than the pre-development situation which may have had dispersed storm drains that directed water in various directions and used the whole yard like a sponge. He continued the proposed design focuses the water in one area and it is going to fill up and overflow. He stated the post-testing for infiltration rates after compaction is not going to fix the feasibility problem.

The Commissioners asked several questions and discussion followed. Mr. Poulson described his understanding of detention: 1) to put in facilities to recharge groundwater to pre-development site conditions, and 2) to reduce impacts downstream from increases in intensity. He reiterated his interpretation that the Code requires looking not only at the site but also the watershed in which it sits. He opined that part of the Code's requirement is to analyze what the downstream condition would be and if detention would or would not help that. He continued, in this situation, if a downstream analysis to the pond showed there was capacity to get the water to the pond, the pond could serve as regional detention and attenuate any peaks, thus in essence satisfying what detention is all about. Mr. Symons responded that the Code requires providing detention before the stormwater leaves the site. Even in a case where there were off-site discharges through a pipe connection to the pond, the flow would have to be attenuated before it left the site, before it got to the pond. He agreed with Mr. Poulson that if the pond were designed to serve as a regional facility to detain flow from the entire basin it would make sense to use it. Mr. Poulson asserted it was designed to; he added the proposal would not appreciably increase impervious surface and the pond currently serves as a regional detention pond. Mr. Symons agreed it does after the water ends up on the neighbor's driveway, which he reiterated, does not meet the Code.

Mr. Rabbino noted that the applicant stated the imported soils once compacted would still be able to meet the appropriate infiltration rate. In response to a question if he believed this was not possible, Mr. Symons stated if they do a post-compaction infiltration test and it fails, they would be in a tough spot. At that point they would have to design another system so the feasibility question has to be answered again. In response to a clarifying follow up question if in his opinion the compacted soils could still meet the infiltration rate, Mr. Symons responded no, due to the way the

system is designed and lack of depth of layers. To which Mr. Rabbino confirmed what he had heard, the confining layer temporarily elevates the perched groundwater which impedes the infiltration capacity of the system as designed.

In response to a question from Mr. Prichard about the colored cross-section and if the green area would not take any water, Mr. Symons noted it would but very little. They discussed the wetted area. Mr. Symons stated the applicant would get horizontal flow but not what they have assumed due to compaction, and there could be wash out between the fill layer and the native layer. He opined if they maintained the 5-foot separation there would be more retention, but they have chosen a small facility that could fill up after 4 to 5 inches of water, which means the sideways infiltration would have to do all of the work, which it cannot so the water would come up and overflow.

Mr. Rabbino noted the applicant's figures have perched groundwater at elevation 232.2'; Mr. Symons agreed that was in June. Mr. Symons noted what was measured last Sunday was at elevation 237' and above, and in response to a follow up question, it was not measured from a subsurface boring. Mr. Symons added that it was the surface water elevation, and that it does not matter the water is sub-surface or above ground, it is still in the way. He described where they took the measurements – in Mr. Bratt's backyard, at Lake Garden Ct pond, and at the golf course. Mr. Rabbino and Mr. Symons discussed their differing definitions of perched groundwater. Mr. Rabbino stated it was his understanding that perched groundwater is subsurface. Mr. Symons countered that a swamp is perched groundwater. Mr. Rabbino noted there were definitional issues as that would be ponded surface water to him. He added that he was simply trying to understand Mr. Symons' interpretation. Mr. Symons stated yes, it is temporarily ponded, perched groundwater from which there needs to be a 5-foot separation.

Mr. Symons agreed, in response to a question from Chair Ahrend, that in his opinion the ponding observed last week meets the City's definition of seasonally high, perched groundwater. Chair Ahrend asked for staff's interpretation. Ms. Maxwell responded that ponded surface water is not perched groundwater. She added that due to pressure the perched groundwater reaches equilibrium below the surface soil, and typically there is an impermeable layer like clay higher in the soil under the perched groundwater. She noted that what is being seen out there is surface water that gets lower over time as it drains, not perched groundwater that is getting higher as water is added to it. She acknowledged there is a difference of opinion. Ms. Maxwell stated she does not interpret the Code to mean that perched groundwater and ponded surface water are the same thing. Mr. Symons observed this area is a low point of the localized elevation. In response to a question that Mr. Symons testified that he did not think this system would work better than pre-development, Mr. Symons stated that was correct, as designed the system would force all of the water into the chambers, which would overflow before the water infiltrates. He added that the neighborhood had a basin to store the water in this yard and as proposed it would be filled.

In response to a question from Mr. Shearer to staff as to why they are using a 5-foot depth to seasonally high groundwater rather than 10 feet, Ms. Maxwell responded she interpreted these as infiltration trenches with drain rock, which is why a 5-foot separation is required. Mr. Shearer suggested they are basically building a drainage trench with rock similar to a French drain, which Ms. Maxwell agreed was correct but that it is called an infiltration trench, which is how it is defined in the Manual.

Neither For Nor Against

None.

Rebuttal

Ms. White surmised there are two areas of comments: 1) Where is the perched groundwater and what is it? 2) Are the calculations as to how the system would work in a 10- and 25-year event correct? She stated the way she reads the Stormwater Code is the way she hears staff and Brown and Caldwell read it, which is also how every jurisdiction she has worked in reads it – that ponding surface water is not considered perched seasonally high groundwater. She added that the reason for that seems to be because of seasonal changes. Ms. White asserted she heard the opponent say they did a survey of surface water on properties other than the applicant's. She added that without being able to determine through soil logs, or borings, or the like whether that water was simply ponding and not infiltrating, or if it was gone 24 hours later, they determined or assumed that it was the high perched groundwater table. She continued, that because of the second deduction made, they assumed it also must be true on the applicant's property. She opined she did not think this was substantial evidence that overcomes the actual site-specific testing done on the applicant's property where soil borings found actual perched water on the site 7 feet below the surface at its most conservative, which was what the system was designed around. She added she does not believe topographic surveys of surface water found in the neighborhood are very probative of the circumstances for groundwater on the applicant's property. Regarding a quote from Mr. Symons, "Whatever you want to call it, it's going to get in the way," is not what the Stormwater Code says; the Code requires one to measure specific things based on specific definitions. Ms. White reminded that the applicant made specific measurements to the perched groundwater, as shown in the record. She added that she has not heard anyone state they took a survey of standing water, a swamp, or ponded water on the subject property that did not infiltrate over time. Regarding what happens if the post-compaction infiltration testing fails, that would be a huge risk that the applicant is not taking. No one is going to do that unless they are certain the system will work. She added the applicant is taking this issue seriously and came back with additional detail on the same design because they believe this facility will work. She added they have Mr. Prichard's concerns in mind that if the system overflows it needs to stay on the property. Regarding the opponent's demonstration, there was no information about stormwater calculations related to the demonstration. Regarding the applicant's 10- and 25-year storm event calculations, they are in the record.

Questions of Applicant

None.

Deliberations

The applicant waived their right to additional time to submit a final written argument. Chair Ahrend opened deliberations.

Mr. Prichard reminded that his concern was about the imported soil, not necessarily the storm chambers. He noted that they are offering a condition and discussed at great length how they can import properly graded soil placed in a proper manner under the supervision of a soils engineer. The condition spelled out in the March 6 memo answers his questions about the imported soils. He noted staff would have to approve the final stormwater design and calculations, and that his questions about imported soils can be answered with the condition.

Mr. Rabbino appreciated the arguments being raised. He stated that from everything presented in the record and staff's review, and in the absence of evidence from the opponents to the contrary, the applicant has shown the system as designed is proper under the Code. He added he is not persuaded that standing surface water and perched groundwater are the same thing. He opined the applicant's proposal addresses the Code requirements and they have demonstrated it is feasible. He agreed with requiring the additional conditions. Regarding final design, he cautioned staff to be diligent and keep them to the conditions to ensure this gets done right.

Mr. Poulson opined that sometimes our processes simply fail. There is a reason why engineers design these things. He stated that in this process everyone is not really able to look at all of the technical aspects. People without an engineering background can have trouble interpreting the Code. He added that the calculations presented by the applicant were based on specific things – the infiltration rate presumed vertical flow into free-draining soil without impediment, but that is not the case. The infiltration will be impeded by ponded water, which renders the calculations that were submitted inaccurate. He stated he did not believe the proposal met the Code because he does not believe the information presented was reliable. He opined the system would fail. The soil testing that was done with the ground as it exists today is the parameter used to design the system. He added there was no information made available as to what would happen with three feet of fill once compacted. He concluded the system is not a robust enough, does not feel it meets the Code, and should be denied.

Mr. Shearer noted it has been an interesting process. One can make anything look like it will or will not work. He opined the applicant did maybe the minimum possible, which left the Commission in the precarious position of having to make a decision if the system would work or not. He added he is a little torn whether he believes the system is robust enough to take care of the water that is going to be generated on the site. He stated there is also question in his mind why this is considered an infiltration trench and not an infiltration chamber; there is a huge difference. If it is an infiltration trench, it has to be five feet from the groundwater. If it is an infiltration chamber it has to be 10 feet from the groundwater. Maybe that is semantics.

Chair Ahrend stated he understands there is a drainage issue in the neighborhood and that the key is if the proposal will make things better not worse. He opined there is probably a need for a bigger solution out there. For this project to move forward it needs to meet the Code by addressing drainage requirements. Chair Ahrend noted the applicant is required to provide some sort of stormwater management system. Did they pick the one that would work best? That is unknown. What is known is that what is proposed does meet the Code. He added he appreciates the City has brought on a consultant to help inform the Commission's decision. What is being proposed is more than the applicant would have had to do under the old code. It should certainly provide some improvement in the area. Chair Ahrend recalled on the previous Saturday the only water he saw was some puddles on Chandler Rd. in front of the property and on the driveway behind the site's backyard, which was ponded a few feet away from the inlet with a trickle coming in from the other direction. He opined that system needs a fix, but is not the responsibility of this applicant. He stated the evidence presented shows that the water that is at the surface will infiltrate over time and that he is inclined to vote to approve this project.

Mr. Poulson stated the Code allows for water to run off from the site if it is less than 10% of the watershed. He explained the probability of the system as proposed making the problem worse. He added there is no need to recharge the aquifer and nothing would be damaged by releasing water from the site to the nearby pond, dependent upon the capacity of the pipe. He stated in this case he sees no benefit of detention. When asked by Chair Ahrend, Ms. Maxwell confirmed that the Code requires flow to be maintained on site first, if possible; if not possible, they can direct discharge from the site. She added that the 10% figure suggested by Mr. Poulson is totally separate from what has to be done on site first; it is related to the need for downstream analysis in the event of off-site discharge.

When asked Ms. Maxwell reiterated staff reviewed the proposed system as an infiltration trench. She added that the required depth of separation is a water quality issue, and has nothing to do with retention capacity.

Mr. Rabbino **moved** to approve the request for LU 16-0048, as conditioned by staff, and with the additional conditions the applicant has agreed to accept (D.6. Provide post grading infiltration test on the imported and native soils in the area of the Stormtech chambers that shows the soils have an infiltration rate of 2 inches per hour or greater. New condition that the site is graded to ensure no run-off onto the adjacent site by including a swale located at the lower end of the site). Mr. Prichard **seconded** the motion and it **passed** (4:1). The vote on the findings, conclusions and order was scheduled on April 3, 2017 at 7pm.

PUBLIC HEARING

LU 16-0062, a request by the Society of Sisters of the Holy Names of Jesus and Mary for approval of the following:

- A Development Review Permit for a 48-unit Assisted Living structure on the Mary's Woods campus;
- Buffer averaging of the previously delineated RP District, per LU 08-0030;
- To amend the subareas within the CI zone on the campus to redistribute the number of residential units allowed in each subarea; and
- Removal of 34 trees to accommodate the project.

Location of Property: 17400 Holy Names Drive (Tax Lot 300 of Tax Map 21E 14). Staff Coordinator is Debra Andreades, Senior Planner.

Chair Ahrend opened the hearing. Mr. Boone outlined the applicable criteria and procedure. Mr. Prichard, Mr. Ahrend, Mr. Poulson and Mr. Shearer reported making a specific site visit since the last public hearing. No one challenged any Commissioner's ability to consider the application.

Staff Report

Ms. Andreades provided a brief presentation. She provided orientation to the site, which is a campus located off of Highway 43 adjacent to Marylhurst University. The site is zoned CI – Campus Institutional, OC – Office Campus, and R-10 – Residential. The proposed development is in the CI zone. The site also contains a Resource Protection District (a stream corridor and wetland) and the Willamette River Greenway Overlay District adjacent to the river. The City Soils Map also identifies potential weak foundation soils in the area. Ms. Andreades provided an aerial view of the site plan and noted the area where previously approved development is being constructed. She reviewed the applicant's request and provided a site plan of the campus and renderings of proposed development.

Ms. Andreades provided background on the master plan for the area, which was approved by the Planning Commission in 1996, as it relates to the applicant's request to amend the subareas within the CI zone on the campus to redistribute the number of residential units allowed in each subarea. She noted the master plan led to the minimum density standards that currently apply to the site. She explained that each subarea has a different cap on its density and those densities are aggregated to 730 units for the whole campus. The requested redistribution of the number of units allowed in each subarea as proposed would not affect the overall aggregate number of units of 730. She described what is currently in each subarea and how the proposal will correct what occurred in Subarea II. She noted the ODPS phased development schedule expired in 2015, and subsequently the City realized that it had erroneously approved 198 units in Subarea II in 2015, which was more than the maximum 100 number of units allocated to this subarea. As proposed the number of units would be redistributed but would not exceed the aggregated 730 units allowed. She reviewed the applicant's request for a modification to amend the subareas within the CI zone to redistribute the number of residential units allowed in each subarea, as follows:

- Subarea II: from 100 units to 198 units (built)

- Subarea III: from 460 units to 412 units (364 built plus 48 assisted living proposed)
- Subarea III-A: no change – 50 units (built)
- Subarea IV: from 120 units to 70 units (vacant)
- Aggregate of Subarea units: 730

Ms. Andreades stated the criteria for redistributing the number of residential units among the different subareas are met, as discussed in detail in the staff report.

Ms. Andreades then addressed the applicant's request for buffer averaging of the previously delineated RP District. Per LOC 50.05.010.6, a reduction in the protected riparian area (PRA) may be allowed when this adjustment will not reduce the functions and values of the resource, the width of the PRA is increased in other areas to maintain a 30-foot average width, and mitigation is provided. She described the proposed reduction and expansion areas of the PRA, with a reduction of 1,699 square feet and an expansion area of 2,034 square feet (Exhibit E-10). She showed a drawing indicating where the original and proposed RP District boundaries are located and the two areas that would be reduced, the proposed increased area in the buffer, and the proposed mitigation area. She shared the landscape plans for the mitigation area, including mitigation for an unavoidable utility crossing, which shows the expanded mitigation area of 2,025 square feet and more than takes into account the 169 square feet of permanent disturbance for the stormwater system as well as the 1,699 square feet of RP district boundary reduction at a 1:1 ratio (Exhibit E-10).

Regarding building design, Ms. Andreades shared images depicting the existing design vocabulary on the Mary's Woods Campus. She noted that the convent is the heart of the campus, with everything else built to complement it. She shared images of the proposed design of the assisted living building that is compatible with the existing design vocabulary, including the following elements:

- Simple massing,
- Hip roof forms match existing structures,
- Proportions / trim details complement but do not dominate convent,
- Covered portico, and
- Stucco is the predominate building material – natural tones.

She shared a slide showing proposed building colors and materials and noted that the applicant had also brought large boards with building material samples for the Commission to view.

In conclusion, Ms. Andreades stated that staff recommends approval of LU 16-0062 with conditions as found in the staff report.

Questions of Staff

None.

Applicant

Chris Delangas and George Signori, Ankrom Moisan Architects, provided background about the project. The project is to construct a 48-unit assisted living facility at Mary's Woods, which is the next step on the campus. An aerial view of the site was shown and surrounding uses were pointed out, including the Willamette River, the Glenmorrie neighborhood, and Marylhurst University. Another aerial was shared of the campus with the location of the proposed development and West Field development noted. A site plan and perspective views were shown and reviewed. Some history of the campus was provided about the Sister's of the Holy Name and early development on the site. Mr. Delangas noted the ODPS was developed over 20 years ago as a thoughtful plan for

the development of this senior housing campus. He added that even though the ODPS has expired the applicant still feels it has important elements that have been referenced. He reviewed the mission of Mary's Woods. He noted this is a 76-acre campus with many natural features and open spaces. The campus slopes gently from Highway 43 toward the river at about 5%; those natural contours have helped to reduce impact of development on the site to Highway 43. He opined that the Sisters have always promoted careful development related to the environment.

Mr. Delangas shared several photos of buildings on the site and described the phased development. He showed a photo of the Marylhurst Campus and stated that the two campuses have traditional design, which the applicant has taken into consideration with the design of the proposed facility. He described the village concept, which was included in the ODPS, and recurring themes that help to create the village feel, including a defined perimeter from natural landscapes, open spaces, public squares and courtyards, and a rich circulation network, both vehicular and pedestrian. Pedestrian connections are provided throughout, as shown on the pedestrian circulation plan.

Mr. Delangas provided an overall view of the Phase II project to help set the context for the assisted living building, including several renderings of buildings and courtyards, entries, and the simple façade palette. He shared images of the commercial component of the Phase II project and described the proposed uses. He shared the Phase II Campus Site plan and noted the assisted living building is about 500 feet from Highway 43, northwest of the commercial area. Due to the slope and trees, the building is not visible from the highway. He showed a plan view of the assisted living building layout and pointed out the groups of trees and the RP setback, which dictated the building design. He described the special treatment for the corner of the building. He shared the landscape plan concept for the building and described the elements. He also shared the civil site plan with dimensions and noted the vehicle drop off in the front area of the building.

Regarding building design, Mr. Delangas stated the building is three stories and is similar to the independent living buildings already designed for the West Field area. Most of the architectural elements match the West Field buildings, including the roof concept, stucco façade, fenestration, window type, and trim appearance. He pointed out the mansard roof, noting the mechanical equipment is hidden on the roof. A rendering of the drop off and main entry was shown and he pointed out how the façade has been broken up with bays, banding, and special trim. The reddish roof matches the other buildings on the campus.

Regarding the floor plans, Mr. Delangas pointed out the common spaces that run throughout the building that have views out to the natural areas. He shared the roof plan to show the wells that hide the mechanical equipment. Exterior elevation renderings were shown and the bays that break up the long façade, which are capped with hip roofs, were noted. The entry has a canopy at the drop off. The palette of materials was shown and described. The backside of the building elevations and other views were also shown. He shared a slide of a simple section to illustrate the mansard roof with screening for the mechanical equipment. He showed the civil plan and noted that it illustrates how the building responds to the grade and the RP setback. Regarding the stormwater plan, he stated they had several conversations with City engineering to discuss stormwater on the site. As proposed, the stormwater that now drains to the riparian area would continue to do that. The landscape plan was also shown.

In conclusion, Mr. Delangas stated the Sisters have provided a legacy of stewardship for the campus. Mary's Woods has been recognized nationally for their high quality facilities and excellent service. He respectfully requested the Commission to accept the staff recommendation to approve this application.

Questions of Applicant

In response to a question from Mr. Poulson regarding inclusion of a memory care element, Mr. Delangas confirmed there is a unit in the existing building. This proposed building would just be assisted living. In response to a question about how they would accomplish maintaining flow to the riparian area, Mr. Delangas responded that the civil engineer worked with staff in the preparation of their 60-page report to ensure that the wetland remains wet. He added that the water would get filtered first, and then detained prior to going to the wetland. In response to a question about the parking lot shown, the applicant stated it is intended to serve the proposed building and would provide some of the required 28 parking spaces; the rest will be included in another lot. Also, there is an existing valet parking system on the campus; folks living here are not really driving much, generating little traffic. In response to a follow up question, Mr. Delangas agreed that they do not anticipate there will be a lot of residents that own cars that would need to be parked there 24/7. In response to a question from Mr. Poulson regarding the roof material, the applicant confirmed it is a composition shingle not tile, but color is terra cotta. In response to a question from Mr. Poulson regarding the geotechnical recommendation to build on geo-piers and if there is potential for exterior walkways to settle over time while the building does not, Mr. Delangas responded they looked at this system pretty carefully and do not anticipate this happening, though he agreed this was a good point which would be addressed carefully. In response to a question from Mr. Shearer regarding if there is a drainage system behind the stucco, Mr. Delangas confirmed yes, the building has a full-blown exterior system with a rain screen wall. Regarding a question from Mr. Prichard if this building is for people who are already on the site, Mr. Delangas responded yes, primarily, but some new people may also move in, as there may not be enough existing residents ready to move over.

Public Testimony

None.

Rebuttal

None.

Questions of Applicant

None.

Deliberations

The applicant waived their right to additional time to submit a final written argument. Chair Ahrend opened deliberations.

Mr. Rabbino **moved** to approve the request for LU 16-0062, as conditioned by staff. Mr. Poulson **seconded** the motion and it **passed** (5:0). The vote on the findings, conclusions and order was scheduled on April 3, 2017 at 7pm.

GENERAL PLANNING AND OTHER BUSINESS

None.

ADJOURNMENT

Chair Ahrend adjourned the meeting at 10:30pm.

Respectfully submitted,
Janice Bader /s/
Janice Bader Administrative Support