

Zachery Cardoso

From: Paul Kowalczyk
Sent: Tuesday, June 23, 2020 5:00 PM
To: Olivia Dias
Subject: SUBUGA-ADJ20-04 - Request for Comments
Attachments: 7.3.30.pdf; Saalfeld Griggs - 2002 Response to City Council Review of Eagles View Subdivision No.01-12.pdf; 2004 phase 5 map.JPG

Follow Up Flag: Follow up
Flag Status: Flagged

Olivia,

Mr. Dennis Gwinn who owns Tax Lot 200 of the attached tax map, contacted the City yesterday regarding the request for comments for Eagles View Phase 6 that was sent in the mail to the local residents. His concern is a matter of access to the northerly part of his property which lies under the BPA lines and located adjacent to the proposed Phase 6 of Eagles View. I have attached a copy of a memo provided to Dave Pratt by Mr. Gorsuch with Saalfeld Griggs in February 2002. This memo simply followed the February 11, 2002 City Council meeting and I believe is to be a synopsis of the meeting. Mr. Gwinn believes that this memo indicates on page 2, bullet "C" at the top of the page and on page 3, paragraphs 1 and 2, that the Applicant, and the Applicant's Engineer conceded to provide an additional 60 foot wide public accessway that terminates along his northern property line. Attached is a copy of the preliminary phased plan at the time, with said road access highlighted.

As for my involvement with this, I have merely reviewed the material that Mr. Gwinn provided after our phone conversation to get a better understanding of his question. I have also reviewed all of the plats of the phased subdivision that are recorded with Polk County to see if anything has been granted in his favor, or has been depicted on a recorded plat that indicates the access in question. Based on the information that was made available to me, I don't have anything that clearly identifies an agreement to construct the access way that Mr. Gwinn is requesting. The plats I have reviewed also fall short of providing any help in this matter. The attached preliminary phased plan that shows the highlighted route with the proposed access terminating at Mr. Gwinn's northerly property line, is the only tangible evidence I have been provided that depicts his concern.

I understand layouts of subdivisions change all the time, and that the preliminary copy that was provided may be just that. I told Mr. Gwinn that I would follow up with you on his behalf, although I believe he has already submitted his response to you per our last phone conversation. If you would, please consider my email a response on behalf of Mr. Gwinn as comments received regarding the notice that was mailed to the community pertaining to this development. If you have any further questions, please don't hesitate to contact me.

Thanks,

Paul

Paul M. Kowalczyk, PLS

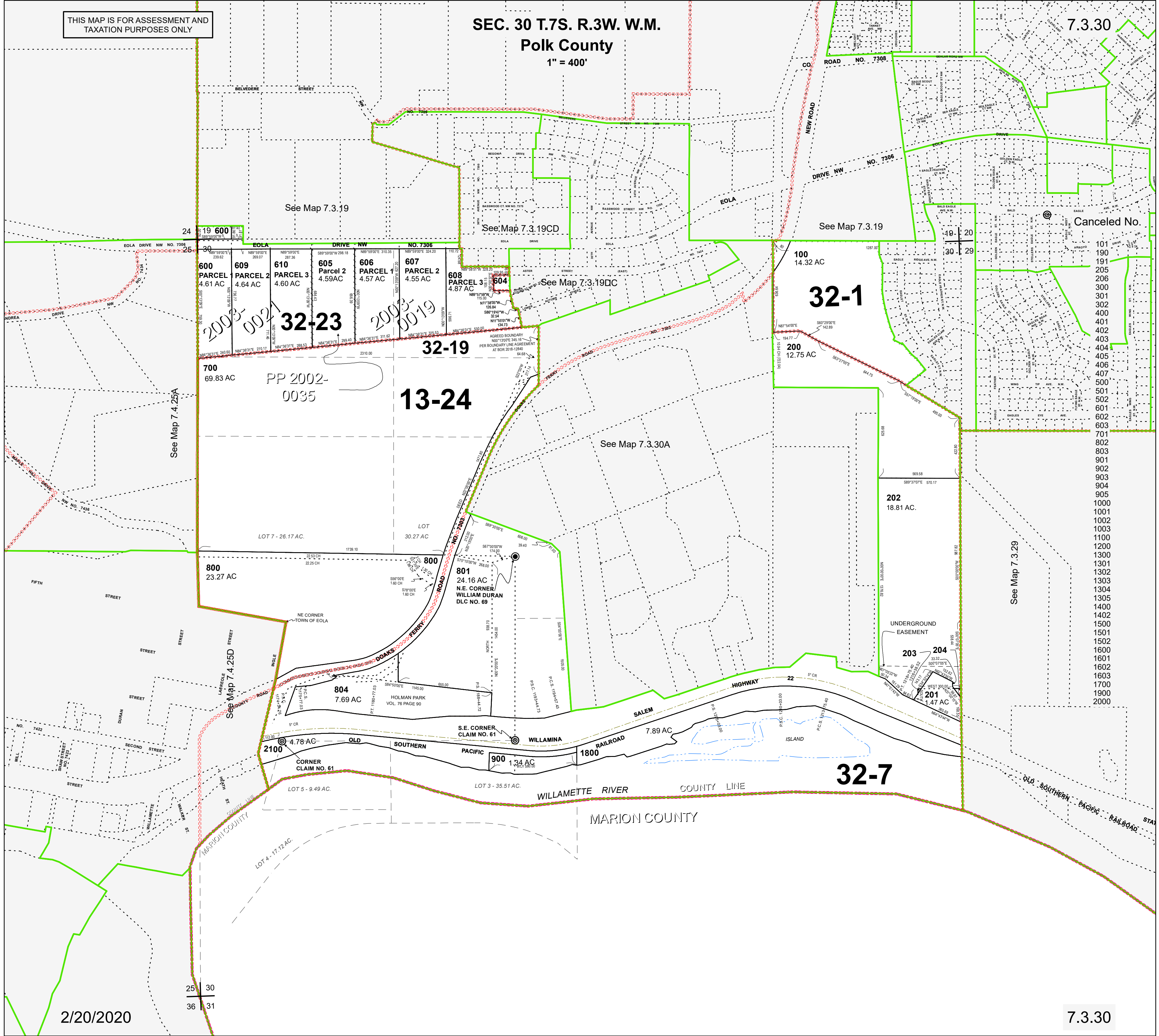
City Surveyor

City of Salem | Public Works Department

555 Liberty St SE, Suite 325, Salem OR 97301-3513

pkowalczyk@cityofsalem.net | Office: 503-588-6211 Cell: 503-949-1014

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CH = 829'0.7317'
 247.31'
 R = 984.83'
 L = 248.15'
 Δ = 14°17'28"



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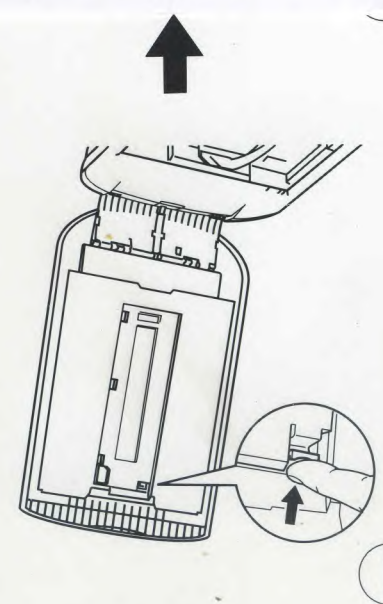


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 Drawn: J.P.S.
 Checked: H.D.S.
 Date: 08-20-08
 Scale: AS SHOWN
 As-Built: _____

EAGLES VIEW PHASE 5

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SAALFELD GRIGGS_{PC}

RECEIVED
FEB 14 2002
COMMUNITY
DEV. DEPT.

February 14, 2002

HAND DELIVERED

Dave Pratt
Principal Planner
Salem Planning Department
555 Liberty Street SE
Salem, OR 97301

Re: Eagles View Subdivision, Plat No. 01-12
Our File No. 9844

Dear Dave:

This memo follows up the City Council meeting of February 11, 2002. I will try to keep this short and to the point. I would appreciate your providing a copy of this memo and the attachments to the City Council for their deliberations. I have enclosed 8 copies for your use. These attachments were previously made part of the record.

I. Additional Conditions of Approval. The Applicant agrees to the following additional conditions of Approval:

A. Applicant shall provide a 25-foot right-of-way on the southerly portion of the cul-de-sac which runs parallel to and north of Eola Drive. The walkway shall extend south in the vicinity of Lots 185 and 186 to provide pedestrian access to Eola Drive.

B. Applicant shall design and construct the detention basin southwest of proposed Lot 37 and east of proposed Lot 26 as a "wet detention system." The detention basin improvements recently constructed in south Salem by the Pringle Watershed will serve as a guide. One dozen bird houses of various types shall be constructed by Applicant in the detention area. The basin area shall be planted in native vegetation. This basin will serve as a water quality and quantity control facility, and thus improve fish and wildlife habitat in the area.

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ATTACHMENT B

C. Applicant shall dedicate 60-foot right-of-way in the vicinity of proposed Lot 39 to provide future connectivity to the undeveloped parcel located southwest of the proposed development, as shown on the attached drawing. Street improvements and utility extensions are not required at this time because the proposed development abuts the Urban Growth Boundary.

II. Applicant's Responses to Council Questions.

1. Removal of fish barriers off-site.

Response: Neither Turnidge Brook, nor "College Creek," are listed as fish-bearing streams in Salem inventories, SRC 68.065(a). However, both swales on site are protected under this tentative plat. The headwaters of Turnidge Brook are protected by the city park. The swale which is alleged to be the headwaters of College Creek is protected by the wet detention basin condition set out in Condition B above. "College Creek" swale is not shown on the USGS maps, which is a precondition to any regulation, SRC 63.038(5). The USGS map is attached. There is an intermittent stream shown on the map. However, it is far to the west of the subject property. There is no identified fish habitat on the subject property, SRC 68.065(a). The property has been farmed for many years. There is no separate stream bed or channel. To impose off-site mitigation of existing conditions on this Applicant would result in a taking under *Dolan*.

2. Riparian Setback.

Response: Neither of the swales are subject to riparian setbacks, because neither of these swales is identified as a fish-bearing stream, SRC 68.065(a); 68.020(d). Neither swale is defined as a "waterway," SRC 68.020(x), because water is present only intermittently. Neither qualifies for riparian corridor protection, SRC 68.020(o) and 68.050.

3. Electromagnetic Field.

Response: The City of Salem does not regulate electromagnetic fields nor does the SRC provide for a special setback from power lines. In the absence of any reliable evidence of negative EMF impacts, only six states have chosen to specify maximum levels of electric field for transmission lines. Oregon is one. The State of Oregon does regulate electromagnetic fields for siting transmission lines. The standard is 9 kV/m, OAR 345-024-0090. The attached figure from the BPA report, which is in the record, shows that the electric field from their 230 kV line is only 2 kV/m under the transmission line, and a mere 1.5 kV/m at the edge of the right-of-way. Therefore, EMF is far below the state standard. The tentative plat also places back yards abutting the BPA right-of-way, which further separate the residences from the power lines and further lowers any EMF. The two affected utilities, BPA and Salem Electric, consider the 50-foot setback as more than adequate, and their publications supporting this have been submitted into the record. There is no evidence proving a public health risk in this instance. There are no grounds under the approval criteria to deny or condition an approval under these circumstances, SRC 63.046, 63.051. To impose a setback greater than the existing BPA right-of-way would result in the unconstitutional taking of private property, in this instance.

4. Accessways.

Response: The Applicant agrees to the imposition of one additional accessway as described in proposed Condition A above.

February 14, 2002

Dave Pratt

Page 3

The three other accessways shown on the proposed plat have been criticized by one witness. However, these 30-foot accessways were strategically placed after numerous discussions with the neighborhood association, and with Planning and Public Works staff. Remember that connectivity is not just for cars. Development of additional streets in these locations would result in unnecessary road construction that would not improve vehicular circulation. The walkways encourage pedestrian travel and discourage unnecessary vehicular traffic.

The Applicant's engineer has reviewed the topography of the site regarding access to Eola from the southerly cul-de-sac. You can see that the grade is quite steep in this area and the Public Works Director testified that an accessway in that location would not comply with ADA requirements. In addition, the transit stop is at Burley Hill Drive and Eola Drive. Therefore, the most convenient pedestrian access to the bus stop would be to proceed south and then east on the internal local street, and then north on Sunwood to the transit stop. It would not be advisable to encourage additional pedestrian activity on Eola Drive in that location.

5. Wetlands.

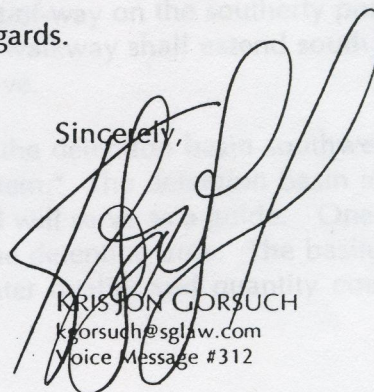
Response: As detailed in both the staff report and Applicant's evidence, there are no wetlands on the subject site. Prior notice was given to DSL and DSL responded in writing to the City that there were no inventoried wetlands on site. The City Natural Resource Department reviewed the site and found no wetlands. The Applicant's expert did field reconnaissance and found no wetlands. The staff report mistakenly said that it had no documentation than an on-site determination was conducted. However, Applicant had earlier provided the on-site report for the record. All required steps were followed. There is nothing further to do in this regard.

6. Trees.

Response: Applicant's approved Tree Conservation Plan under SRC Chapter 68 shows that over 31% of the existing trees will be retained. A maximum of 143 trees will be removed during the expected 10-year course of construction. However, at a minimum, 400 replacement trees will be placed in the development, SRC 132.210; 86.130. In addition, it has been Mr. Epping's past practice to require builders to place additional trees on the lots as they are landscaped.

Thank you for your consideration in these regards.

Sincerely,



KRISTON GORSUCH
kgorsuch@sglaw.com
Voice Message #312

KJG:skw

Enclosures

cc: Larry Epping (w/encls.)
Mark Grenz (w/encls.)

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ATTACHMENT B

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