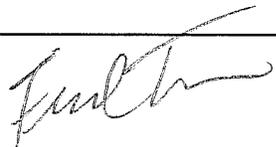


MEMORANDUM

From: Ken Gibb, Community Development Director 
To: Mayor and City Council
Date: June 13, 2008
Re: Responses to Questions from City Councillors regarding Seavey Meadows (PLD08-00001; SUB08-00001)

Attached are 3 documents. The first is the public testimony received prior to 5 p.m. on June 9, 2008. The second is the applicant's final written argument. The third is staffs' response to questions raised by Councillors following the close of the public hearing regarding the Seavey Meadows development proposal on June 2, 2008.

Among the issues raised was how or if the recent LUBA decisions regarding stormwater and wetlands affect the review of this proposal. Staff are preparing a separate memorandum to address this issue, and it will be distributed to Council on Monday, June 16, 2008.

**Testimony Received Regarding the
Appeal of Seavey Meadows
(PLD08-00001, SUB08-00001)
after the June 2, 2008, City Council
Public Hearing, but prior to
close of the record
at 5 p.m., on June 9, 2008**

Young, Kevin

From: Robin Strauss
Sent: Friday, June 06, 2008 2:35 PM
To: Young, Kevin
Subject: Seavey Meadows

To whom it may concern:

The proposed development at Seavey Meadows is an admirable plan that will benefit very low income senior citizens and families that need housing and need it to be affordable. The 1.65 acres of wetland included in this proposal is significantly degraded, not functioning as a healthy wetland and did not receive "protected" status. Furthermore, part of the proposal is to mitigate the loss of this wetland by restoring a larger area (1.75 acres) elsewhere within Seavey Meadows. No one denies that wetlands are an important part of our environment, and considering all the wetlands that have been lost every remaining acre is precious. But if this proposal is approved, it will result in a net increase in wetland area (and quality) at Seavey.

There are over 2000 households in Corvallis whose income is less than 30% of the median and who pay more than 50% of their income on housing. It is very difficult for the city to find available land that can be acquired for affordable housing. This project has been in the works for years and has been approved by previous City Councils and Planning Commissions. The citizens of Corvallis who have the means to live in a comfortable home and provide a stable life for their children need to decide whether conserving this particular parcel of degraded wetland is more important than providing affordable housing for the most vulnerable families in our community.

Sincerely
Robin Strauss
Charles R. Gerke AIA Architect

RECEIVED

June 6, 2008

JUN - 9 2008

Dear City Council:

Community Development
Planning Division

If Seavy Meadows is approved we would like to see the following:

1. Complete the sidewalk along the NW side of Conser at about Diane Pl. This is not a long stretch of sidewalk. It is dangerous for walkers and bicyclists alike. And, there are already a lot of both on this stretch of Conser.

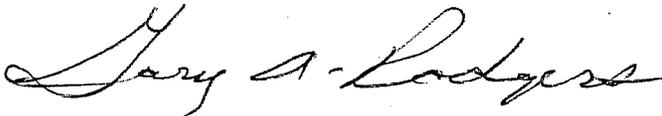
Willamette Neighborhood Housing has enough mitigated land to accommodate this small amount of sidewalk. If the sidewalk is not done now, and a conservation easement is placed on this land, the sidewalk cannot be done later.

2. In the Planning Commission documentation you will notice there are comments about the cottonwood trees next to our house. They state how cottonwoods are subject to breaking and are volunteers where the soil is disturbed. We can see that they are growing only where development has occurred, and in the Dec. 15, 2006 wind storm six of these trees had there trunks break.

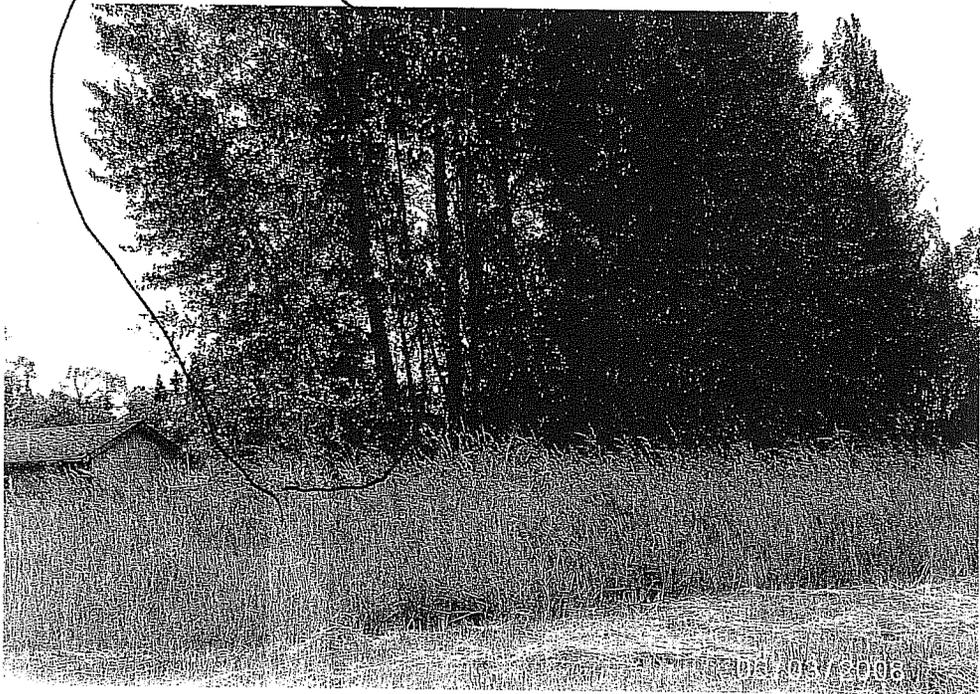
We see these trees as dangerous and a nuisance. The attached photos show how two of these trees are hanging over our shop and shed. Two years ago these trees were barely leaning. Now, the largest one leans 12 feet. Also, there roots sprout cottonwood trees all over our landscaping. And, there sticky seeds and cotton blows all over our yard. It is a mess.

Please remove these trees before we, our guests, and/or our property are hurt.

Sincerely,



Gary & Julie Rodgers

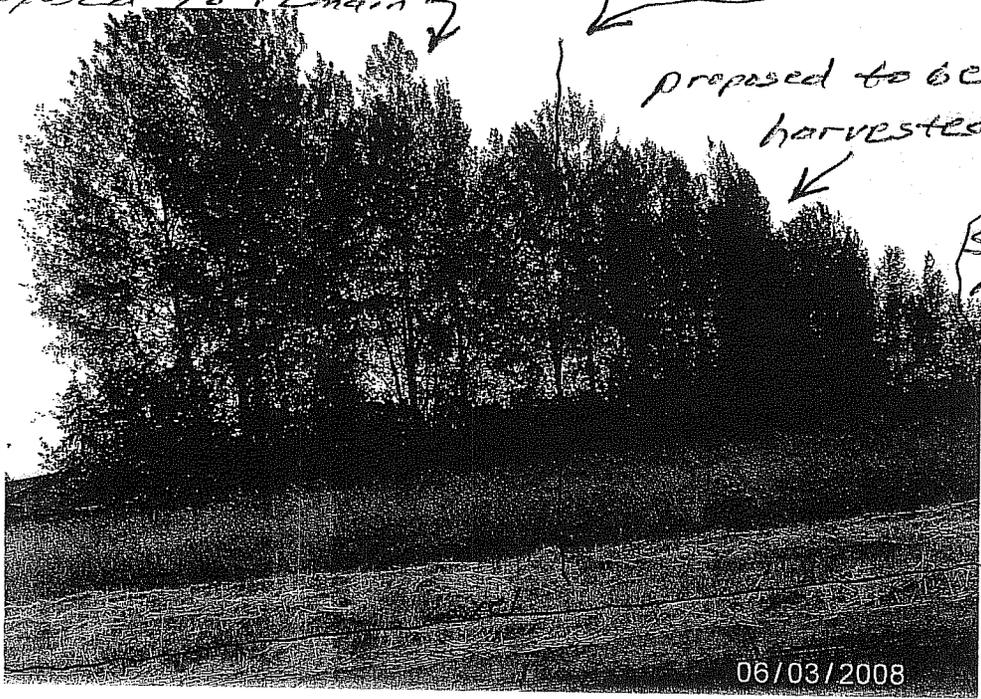


You can see that several trees lean over our property. I would expect to fall or break off in the next few years.

Right about here is the line delineating what will be cut & what will remain. These remaining will be exposed to wind much more than they are now.

proposed to remain ↘

↙ proposed to be harvested.



Sorry, these 2 photos came out crooked



06/03/2008

06/03/2008

Shows row of cottonwoods in question

Our shop: Gary Rodgers
From Gary Rodgers

TO: Corvallis City Council
RE: Additional testimony on Seavy Meadows (PLD08-00001, SUB08-00001)
FROM: Dr. Patricia Muir,
DATE: June 7, 2008

JUN - 9 2008

Community Development
Planning Division

Some of the testimony that you heard on this case on Monday June 2, 2008 pointed out that the application before you is not specific in several areas that should, according to recent LUBA decisions involving other development applications, be made specific and subject to public scrutiny and comment before the application is approved (or denied). I'm writing today to attempt to list some of those specific areas, and, in so doing, will quote from some of the testimony you've received before. My concern is that you are so buried in staff documents, materials from the applicant, and public testimony that it will be hard for you to find the relevant pieces!

I am also concerned that you might overlook the letter (May 20, 2008) I wrote for your June 2 meeting, since it was not included in the printed packet of testimony (blue) that was distributed at that meeting. Thus, I append that letter in entirety at the end of this memo.

RECENT OREGON LAND USE BOARD DECISIONS:

On May 8, the Oregon Land Use Board of Appeals ruled in favor of an appeal to stop the Cascade Crest housing development. Then on May 30, the Board also rejected Brooklane Heights -- a much larger project to build 45 houses on the steep hillside overlooking the Marys River Natural Area.

General elements from those decisions that are, I believe, relevant to the Seavy Meadows case are quoted below (page numbers refer to the Brooklane Heights decision; my letter of May 20 quoted passages from the Cascade Crest decision, which are similar in concept):

(While the steep hillsides component of this first quotation does not apply in specific, the concept does apply.) *"The city's adopted findings do not address compliance with each of the provisions of CCP 4.6.7. Instead, the city appears to have concluded that compliance with the 2006 LDC hillside development provisions in a future review process will suffice to demonstrate compliance with CCP 4.6.7. However, even assuming that is the case, the city cannot defer such a demonstration of compliance with CCP 4.6.7 to a future review process that does not provide notice or opportunity for public participation."* (page 11)

(Related to drainage into wetland.) *"While there were a page and a half of supplemental findings regarding drainage, it is difficult to tell which findings concern CCP 4.11.12. A greater problem is that the supplemental findings also repeatedly reference the 'incorporated findings' in which the city attempted to incorporate the portions of staff reports and minutes that were favorable to the application. As we discussed in the first assignment of error, that purported incorporation was ineffective. Further, the city appears to have completely deferred consideration of proposed drainage plans and facilities to a subsequent review process that does not provide for notice or opportunity for public input."* (page 16)

(Related to wildlife habitat) *"The findings addressing these CCP policies lump numerous approval criteria together in a manner that makes it difficult to determine which findings are applicable to which approval criteria. An even greater problem is that the city relies on purportedly incorporated findings from staff reports and minutes. As discussed earlier, those purported incorporations were ineffective, and because the findings rely on those ineffective incorporations, the findings are inadequate."* (page 17)

Quoting from my oral testimony from the June 2, 2008 Council meeting, in which I cited LUBA's Cascade Crest decision (page numbers here refer to that decision):

I have analyzed the State Land Use Board of Appeals (LUBA) recent (May 2008) decision on the Cascade Crest case along Brooklane Drive (Case # 2007 – 232) and find remarkable parallels between that case and the case before you. Note that LUBA decided against the City in that case. That decision rested heavily on the precedent established in *Rhyne v. Multnomah County* (23 Or LUBA 442, 447-48 (1992)). To summarize briefly, in that case and in the Cascade Crest case, the developer and the city did a lot of "hand waving" about how engineering feats would manage storm water, minimize impacts on surrounding lands, etc. in ways that would meet applicable land development codes. However, they did not specify those details in the application that was heard, indicating instead that they would be dealt with later – and would not be subject to further public scrutiny or testimony. To quote, from the LUBA decision:

- *"Instead, the city appears to have completely deferred that demonstration to a later process involving only the applicant and the city engineer (page 18)"...*
- *"...the city may not defer consideration of applicable discretionary approval standards to a later review process that does not offer notice and opportunity for public participation." (page 18)*
- *"The city council appeared to apply unspecified provisions of the Corvallis Stormwater Master Plan as approval criteria, but without identifying those criteria or explaining why the proposed development complies with those criteria." (page 20)*
- *And, finally, "The second sentence notes that "concerns regarding wetland protection will be specifically addressed at the time of development through the 2006 LDC". It is not clear what standards are referred to or when they would apply." (page 20)*

The proposal before you tonight is rife with similar unsupported claims, as I pointed out in my letter to the Planning Commission on March 27, 2008 and to the City Council on April 7, 2008. The proposal has NOT demonstrated that the development will NOT have adverse impacts on the surrounding locally protected wetlands. The burden of proof is on the applicant, and the application does not provide the necessary proof.

As examples, the applicant has not demonstrated *in specific terms* the manner in which the proposed development will meet and comply with:

LCD 2.5.40.04, sec a2 concerning compatibility with uses on a site and uses relationship to neighboring properties,

LDC 2.4.30.04 review criteria 2 and 4 related to preservation and/or protection of significant natural features and lack of change in hydrology,

LDC 2.5.20, sec c concerning preserving to the greatest extent possible existing significant natural features and use of such features in a harmonious fashion, nor **Comprehensive Plan Policy 4.11.12**, which is concerned with impacts of development on water patterns discharging to wetlands, as subsequent testimony will make clear.

(Please also see **Bruce McCune's testimony from your June 2, 2008** hearing related to hydrology of the site and all of the above itemized code numbers.)

Finally, a relevant quote from **Jennifer Ayotte's June 2, 2008 written testimony** to Council:

1. " **There is no storm water detention plan included for public review per LUBA's decision on Corvallis' Cascade Crest Development and this alone is grounds for denying this application. (LUBA Case #2007-232).**

LUBA states that storm water detention plans need to be provided during the review process and not deferred to a later process that doesn't offer public participation. This specifically addresses Condition #27 on page 111 of the staff report and is grounds for denial of this application (*per LUBA's 1992 decision, Rhyn v. Multnomah County*). LUBA also states that developers need to consider the storm water impacts of the subdivision as a whole "to minimize negative effects upon the natural environment" (*LDC 2.4.20.b*).

I do not have enough time to discuss the implications of storm water impacts from this development. I have included, below, more details on LUBA's decision and have attached pertinent excerpts. Since this is a de novo hearing*, the impacts of this LUBA decision apply. However, there are also plenty of other land use criteria that support denial of this application.

LUBA DECISION #2007-232

- The decision states that the developer needs to provide "evidence calculating pre-and post development storm water flows from the subject property" (*Luba Decision, page 20, lines 6-7*)
- This decision stated that storm water detention plans need to be provided during the review process and not deferred to a later process that doesn't offer opportunity for public participation (*LUBA Decision, page 18, lines 13-15*).
- A 1992 LUBA Decision, *Rhyn v. Multnomah County* ruled that "insufficient evidence to determine the feasibility of compliance with the standard", that could be basis for denying the application. (*Rhyn v. Multnomah County, 23 Or LUBA 442, 447-48, 1992*).
- LUBA ruled that the developer needs to consider storm water impacts of the subdivision as whole on the wetland "to minimize negative effects upon the natural environment". (*LDC 2.4.30.04 and LDC 2.4.20.b, LUBA Decision page 21, lines 2-4*)
- The decision specifically cites the language also used in Condition #27 for Seavey Meadows. This ruling does not allow the applicant to address storm water detention facilities **concurrent with development**. It also specifically addresses the criteria inherent in "Appendix F" of the Corvallis Storm Water Master Plan, which is also in Condition #27 of this application (*see page 111 of the staff report*).

- This means that since there is no storm water retention plan included in this application and Condition #27 of the Seavey Meadows staff report states that it will be reviewed outside of the public review process, one of the options the Council has is to deny the application before them tonight.
-

SPECIFIC ELEMENTS OF THE SEAVY MEADOWS APPLICATION THAT ARE PROBLEMATIC RE CODE SPECIFICATIONS AND RECENT LUBA DECISIONS (PAGE NUMBERS REFER TO THE MARCH 19, 2008 STAFF REPORT THAT WAS PREPARED FOR THE PLANNING COMMISSION MEETING ON APRIL 2, 2008) :

Page 16 of the Staff Report to the Planning Commission *“Locally Significant and Locally Protected wetlands on adjacent properties will not be affected by this development.”* What technical hydrological information is this claim based on? Were studies of surface water and groundwater movement during the wet and dry seasons conducted to demonstrate lack of impact of the development on surrounding locally protected wetlands? (No.)

Table 3.6-1 in same staff report -- Section 3.6.30 – RS-12 development standards (Page 21) Item p (re riparian corridors and locally protected wetlands) *“Some provisions of Chapter 4.13 apply because of wetlands on the site, but the site does not contain locally protected wetlands. See the preceding discussion of natural features in this staff report. Complies as conditioned in that analysis.”* **Note that this and the previous matter are good examples of exactly the kind of claim that LUBA had trouble with in the previously mentioned applications. The application is NOT specific about how they can be certain that adjacent locally protected wetlands will not be affected hydrologically.**

Note also that the proposed development is **likely to have effects on surrounding locally protected wetlands other than those that are hydrological in nature.** For example, noise influences wildlife behavior and habitat use. The Staff Report acknowledges its discussion of the proposed development’s compliance with Corvallis Comprehensive P Plan Code (page 66, item 4, Noise Attenuation) *“Any noise originating from the proposed development is anticipated to be similar to noises heard within other residential areas of the City (e.g. lawn mowers, children playing, etc.). This criterion is met.”* **How will wildlife in the surrounding wetlands be buffered against this noise – or against changed light regimes (see page 67 of the Staff Report re lighting)?**

Page 82 of the Staff Report. 12. Effects on air and water quality. *“Although the development site is surrounded by significant wetlands, stormwater from the development site will be treated and directed into a public piped stormwater system that will avoid directing stormwater from the development site into the adjacent wetlands.”* Prior to development, water that fell on this site became part of the water regime that is critical for maintaining Seavey Meadows as a wetland. **Where does the applicant demonstrate specifically that the capture and discharge of this water via the stormwater system will not significantly de-water other portions of Seavey Meadows (and hence violate LDC 2.4.30.04 criteria 2 and 4? (See my letter to the Planning Commission from March 27, 2008 for more details re this concern and see also Bruce McCune’s testimony to Council June 2, 2008).**

Page 96 – 97 of the Staff Report re storm water capture and release. As pointed out by Jennifer Ayotte, details of the storm water management plan are NOT specified in sufficient detail that they can be reviewed for appropriateness. Here is a crystal clear example of the “hand waving” that LUBA took issue with in its recent rulings against the City of Corvallis; some of the language on page 96 – 97 is, in fact, virtually identical to language that LUBA cited in those decisions. For example, “*The storm water detention facilities should be designed consistent with both criteria outlined in appendix F of the Storm Water Master plan, and criteria....and should be designed to capture run-off so run-off rates from the site after development do not exceed the pre-developed conditions....*” (Underlining mine to emphasize similarity to language LUBA had problems with; “should be” is not sufficient – what are the details of the plans??)

Page 112 – Development Related Concerns: Item A Excavation and grading plans. “*Prior to issuance of any construction permits, the applicant shall submit an excavation and grading plan, including erosion control methods, to the City’s Development Services Department for review and approval.*” **How can these plans not be subject to public scrutiny in light of the fact that the plan must be consistent with LDC 2.4.30.04 Review Criterion 4** “Excavation and grading shall not change hydrology....water quality and quantity that supports locally significant wetlands...”

I am out of time, and so are you, no doubt. I hope, however, that this memo helps to point you to specific problematic areas in Willamette Neighborhood Housing’s application – most of which have been pointed out by others or by me in previous testimony.

Thank you for your time.

APPENDED LETTER SUBMITTED BEFORE YOUR JUNE 2, 2008 HEARING (OMITTED FROM PRINTED TESTIMONY DISTRIBUTED IN BLUE AT THAT MEETING)

Memorandum to: Corvallis City Council

RE: Support for Planning Commission's denial of Major Modification to a Conceptual and Detailed Development Plan and a Major Subdivision Replat [Seavy Meadows (PLD08-00001, SUB08-00001)]

From: Patricia S. Muir, Plant Ecologist,

Date: May 20, 2008

Before offering details concerning my opposition to Willamette Neighborhood Housing Services' (WNHS) application to build affordable housing on a portion of Seavy Meadows, I ask that you consider the following as you weigh your decision.

(1) As City Councilors, it seems to me that it is your duty to carry out the will of the people. What is the will of the people in this case? No citizen has ever, to my knowledge, submitted either oral or written testimony in support of development on any of the remaining city-owned acreage of Seavy Meadows. (Two letters in support of WNHS' application did appear this spring in the Corvallis Gazette-times, but both were written by members of WNHS' Board). In contrast, abundant testimony in opposition of further development of this wetland has been submitted in the current case (i.e., to the Planning Commission for its April 2 and April 16, 2008 hearings on the case) or in previous cases involving potential development on the wetlands (see <http://comcst.net/~seavyave/seavy.html> for history). What does this suggest is the will of the people?

(2) Please remember that, if you approve the proposed development, you are assuming that a *major* engineering feat can be accomplished on the site. This feat must *ensure* that:

- the development will not cause significant hydrological impacts to the surrounding locally significant and protected wetlands,
- the housing and pavement associated with the development will not be fraught with the difficulties often associated with building on Dayton soils, which underlie the subject property, and
- the housing will still be affordable, given the engineering required to meet the previous two requirements.

Does the applicant *ensure* any of the above? The precautionary principle states, in essence, that if there is potential for harm associated with an activity, that activity should be avoided until there is certainty that harm can and will be avoided. Has the applicant demonstrated beyond reasonable doubt that harm to the surrounding wetlands will be avoided, that the housing and associated infrastructure will be reliable over the long term, and that the housing will be affordable, given these necessities? To me, the precautionary principle sets a high bar in this case, and suggests that you should uphold the Planning Commission's denial of the application.

RESPONSE TO WNHS'S APPEAL OF THE PLANNING COMMISSION'S DECISION:

Now, for details (and please see the written testimony that I submitted prior to the April 2, 2008 and April 16, 2008 Planning Commission hearings as well). RE WNHS' memorandum of appeal, submitted on April 28, 2008 to the Corvallis City Manager's office:

(1) Appeal of the denial on the basis of **LDC 2.5.20.c and LDC 2.5.40.04**, claims, in essence, that the Significant Natural Features on the site (wetlands and trees) are in fact not significant. While somewhat degraded, the wetlands are still significant, and, if protected (or even enhanced, if they were used as mitigation for a wetland project elsewhere), would rebound readily. The subject property has experienced more disturbance than the surrounding locally significant and protected wetlands, and so appears, temporarily, to be "degraded," however native facultative wetland species such as tufted hair grass (*Deschampsia cespitosa*) and popcorn flower (*Plagiobothrys figuratus*) have recolonized the partially excavated areas, with populations that are increasing in extent each year. Further, water still ponds in the area, demonstrating clearly that it performs its valuable water storage, filtration, and gradual release functions. The seasonal ponding provides valuable habitat for frogs, birds, and other wildlife. WNHS' presentation of cottonwood trees as having been raised as a significant concern (because they are over 8" in diameter) – and their implicit claim that their significance is of the same magnitude as wetland status – raises a straw man that can readily be discounted; everyone knows that cottonwoods grow rapidly and I doubt that anyone would argue that development on the site should be prevented because there are ~ 25 year old cottonwoods there.

(2) Appeal of the decision on the basis of **Comprehensive Plan Policy 4.11.12** and, related, in WNHS' 3rd point, **LDC 2.4.30.04.b.4** makes more than one unsupported claim regarding the reason that their application should not be denied in light of these policies. (a) "*wetlands to be impacted are ...separated hydrologically from the remaining wetlands..*" and (b) "*the development site is physically separated from the surrounding wetlands by roads that include Conser Avenue, Jasper Street, and Sorrel Place.*" This claim (collectively) ignores the fact that roads such as Conser Boulevard or Sorrel Place do not separate the wetlands from surrounding wetlands – **they are connected beneath the surface, hydrologically!!** What we see on the surface is only a small fraction of the picture – underground water moves from place-to-place in this system, and roads do not necessarily disrupt those connections. That is, Seavy Meadows is an integrated wetland system, given the underground hydrology of the area. The applicant must demonstrate conclusively that underground hydrological connections with adjacent wetlands will not be disrupted in ways that damage the hydrology of those wetlands. What hydrological studies have they undertaken to elucidate water depths and flow patterns in the Seavy Meadows system?

While, as pointed out by the applicant, the existing catch basins and storm sewer main in Sorrel place undoubtedly already de-water surrounding wetlands to some extent, the applicant must demonstrate convincingly that further de-watering will not result from the proposed development.

INPUT FROM PROFESSIONAL HYDROLOGISTS:

Bruce McCune and I visited the site with two professional hydrologists (one in company with Jennifer Ayotte). One is an hydrologist at Oregon State University and the other is a consulting professional hydrogeologist. They agreed that, from the hydrological perspective:

- (1) There is no question that the proposed development will have an impact on hydrology of the area (not just the site); the only question is one of degree of impact.
- (2) There is a high potential that the entire Seavy Meadows area could be partially de-watered by drainage and other underground infrastructure installed as part of the proposed project. Has the applicant demonstrated convincingly that the entire area will not be “robbed” of its water recharge through the drainage, retention and other infrastructure facilities built as part of the development? According to the plan, water will be shunted directly to the Willamette River, rather than re-charging the surrounding wetland. Has the applicant proved that effects of this re-directing of water will be insignificant for the wetland complex? What hydrological studies were undertaken to demonstrate this convincingly? What uncertainties remain in the calculations and predictions?
- (3) The applicant must demonstrate thorough understanding of the hydrology of the entire Seavy Meadows complex. For example, does significant underground water flow from the other side of Conser Blvd to the subject site and beyond, or, conversely, does water from the subject site “feed” groundwater under other areas of Seavy Meadows? If major drainage is created on this site (as proposed explicitly in the case of water catchments and as is implicit, given that underground utilities will also serve as conduits for water drainage), what are the consequences for the hydrologic regime of the entire Seavy Meadows complex?
- (4) The applicant must demonstrate knowledge of whether the water table under the subject site is perched, at what depth the current water table is located, and the groundwater regime that characterizes the system at present. For example, if the water table is perched, and if the layer upon which it is perched is punctured by excavations associated with the proposed development, has the applicant proved that this will not impact the hydrology of the surrounding wetlands?
- (5) The applicant must demonstrate that the proposed underground water detention facilities have been previously demonstrated to be sustainable and successful on soil and ground water systems such as those at Seavy Meadows. For example, how do these perform when the ground is saturated with water, but the water level in the storage device is low -- if the detention facilities de-water but there is still significant hydrological pressure being exerted on them from below, do they basically “float” upwards because of hydrostatic pressure exerted from beneath?
- (6) The applicant should demonstrate that, at the larger watershed scale, this development will have “insignificant” consequences, in light of the cumulative effects of development that have occurred in the area over recent years (as enumerated in Jennifer Ayotte’s written testimony to the Planning Commission on this case).
- (7) The applicant must demonstrate that their proposed, engineered, water retention system has the capacity to deal with major rainfall events. How have they demonstrated convincingly that the development will comply with **Corvallis’ storm water master plan**?

(8) The planned development is insensitive to its location in a wetland; such extensive development on such a site makes no sense economically, ecologically, or hydrologically.

ADDITIONAL COMMENTS:

Beyond the hydrological impacts of the proposed development, I restate (from my written testimony of March 27, 2008), that the applicant has not demonstrated compliance with LDC 2.5.40.04 Sec a2 (regarding compatibility with uses on a site and uses relationship to neighboring properties) or with LDC 2.4.30.04 review criterion 2 (regarding preservation and/or protection of significant natural features) or with LDC Section 2.5.20, Purposes, section c (regarding preservation and harmonious use of significant natural features). Compatibility and protection extend beyond hydrology; various plants and animals rely on all of Seavy Meadows as habitat. How will impacts on neighboring wetlands from greatly increased human activity, human uses of chemicals, pets, and so forth associated with the placement of 43 housing units on ~3.5 acres positioned in the midst of a larger wetland system be avoided? I'm sorry, but the applicant's mention of "split rail fences" to keep people and their animals confined to the development site just doesn't cut it. The applicant must demonstrate that you can plunk the number of people associated with 43 housing units in the middle of a wetland without adversely affecting it.

In short, the burden of proof that surrounding wetlands will not be adversely affected by the proposed development is on the applicant. Has the applicant demonstrated beyond a reasonable doubt that the proposed development will not have impacts on the surrounding wetland system, hydrologically or otherwise?

Please set the bar high – there is very little of this type of wetland left to fight for.

Thank you for your time.

Young, Kevin

From: Mark Knapp
Sent: Monday, June 09, 2008 5:00 PM
To: Young, Kevin
Subject: Solar Access at Seavy Meadows

The application contains insufficient evidence of compliance with the performance standards for Solar Access in the Corvallis Land Development Code.

LDC 1.6 defines Solar Access as a "line-of-sight path to the sun during hours that provide beneficial use of solar energy."

LDC 1.6 defines Solar Access Protection as the "right to unobstructed Solar Access for at least four hours between 9 a.m. and 3 p.m. on November 21 each year."

LDC 4.6.30 states that "Planned Developments on parcels of more than one acre shall be designed so that Solar Access Protection ... is available."

LDC 4.6.30 (c) describes a measurable standard that must be achieved. A minimum of 80 percent of the buildings in a Planned Development must have a sufficient east-west dimension to allow either 30 feet of Solar Access at the ground floor or 15 feet of Solar Access at the ground floor -- depending on whether the units are detached.

Page 54 of the March 19 Staff Report from the Planning Division claims that compliance with the Solar Access standard is demonstrated by the applicant's solar access study in Attachment N (also shown as Attachments M-121 and M-122).

However, that solar access study only shows small drawings that have no detail. There is no data. There are no measurements. The solar access study contains none of the analysis one would reasonably expect. An objective observer has no way of judging compliance.

Furthermore, the pictures fail to even account for shading from trees. Solar Access Protection is defined on November 21, a date on which many trees in Corvallis still retain some or most of their leaves. The presence of leaves is demonstrated by the City's own leaf collection program, which runs from October 27 to December 31, 2008.

The City cannot reasonably approve the Seavy Meadows development plan without evidence that it complies with LDC 4.6.30.

Mark Knapp



**WILLAMETTE
NEIGHBORHOOD
HOUSING SERVICES**

MAIN 257 SW Madison Avenue
OFFICE Corvallis, OR 97333
541.752.7220
800.403.0957
541.752.5037 Fax

LINN COUNTY 745 Main Street
BRANCH Lebanon, OR 97355
541.259.2166
800.403.0957
541.258.3791 Fax

EMAIL info@w-nhs.org
WEB www.w-nhs.org



NeighborWorks
CHARTERED MEMBER

April 15, 2008

Mr. Kevin Young, Senior Planner
c/o Corvallis City Council
501 SW Madison Avenue
Corvallis, OR 97333

RECEIVED

JUN 12 2008

**Subject: Final Written Testimony from the Applicant
(Seavey Meadows, PLD08-00001, SUB08-00001)**

**Community Development
Planning Division**

Dear Mayor Tomlinson and Members of the City Council:

We have reviewed the additional written testimony submitted for the appeal of Seavey Meadows, and would like to provide you with our final written responses.

Standing Water in Open Play Areas

Testimony was submitted showing images of nearby play areas with standing water and implying that the open play areas proposed within Seavey Meadows would be covered with standing water during parts of the winter.

The applicant has designed the project with several common green areas that will be used for outdoor recreation. Fill will be placed on the site to raise the existing dug-out foundation pads, so that all new structures are built above the adjacent street grades. This will allow roof drains to be discharged at the curb face in the street. The two common green areas will be graded using a 2% cross slope toward the nearest street. This will provide the necessary gradient to allow surface water to drain toward the streets during heavy rain events. As a result, ponding water is not anticipated during the winter months.

It should also be noted that the applicant has developed two other properties in Corvallis—Lancaster Bridge and Camas Commons— that were wet sites and were successfully engineered to avoid problems with standing water.

Detention and Water Quality

Testimony was submitted implying the project does not comply with the detention and water quality requirements, making it vulnerable to a Land Use Board of Appeals remand.

The applicant has proposed buried oversized pipe to accommodate stormwater detention, as shown on the plans. Treatment of stormwater run-off from pollution generating surfaces will be treated

through a set of two Baysaver pollution control devices installed in new concrete manholes. Stormwater detention and water quality have therefore been addressed in compliance with the City's applicable code criteria.

Hydrology and Wetland Impacts

Testimony was submitted implying ground disturbance from rock fill and storm sewers would capture surface flows or drain-off the subsurface water table, thus reducing the recharge of the surrounding wetlands.

The Hydrology Investigation submitted by the applicant found the project area to have a perched water table caused by a relatively thin clay layer at the surface. There are no improvements or perforations planned within the wetland preserve. Development will only occur on the 3.46 acre development site, where grades will be raised and stormwater will be discharged off-site. The wetland consultant also concluded that the wetlands adjacent to the development site would remain unaffected by the proposed development.

Testimony was submitted suggesting removal of the berms resulted in a flawed mitigation plan because it would reduce areas adjacent to the berms that are now impounding water.

The berms do impound some water following heavy rains; however the mitigation plan calls for removing the berms and restoring these areas to their historic grade. This would reestablish the wetland hydrology and native plant species. The perched water table will continue to support wetland vegetation, irregardless of the berms.

Missing Sidewalk along Conser Street

Testimony was submitted expressing concerns about the missing section of sidewalk along Conser Street, north of the proposed development.

The proposed 3.46 acre development sits on the east side of Conser Street. The missing sidewalk is along the west side of Conser Street over 700-feet north of the development site. The applicant is proposing to reconstruct the existing sidewalks to and through the site to ensure safe and efficient movement of pedestrians, consistent with Land Development Code (LDC) Section 4.0.30.b and d. Since the missing segment of sidewalk is not adjacent to the project there is no nexus for requiring this off-site improvement. In the future, if sidewalk installation is determined to be consistent with a management plan for the open space/wetlands, the City may want to install the missing segment of sidewalk through their Capital Improvement Program.

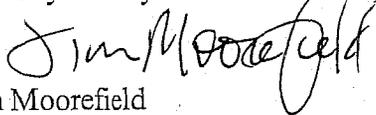
Compliance with Solar Access Requirements

Testimony was submitted that found insufficient evidence of compliance with the Solar Access performance standards found in LDC Section 4.6.30. They also felt the solar study failed to account for shading from trees.

The applicant submitted a computer generated solar study showing the shadow patterns resulting from the proposed development. Newly proposed trees are not required to be considered when

evaluating solar access. As noted on Attachment III pages 53 and 54 of the memo from Ken Gibb to the City Council, staff found the proposal in compliance with the solar access performance standards.

Thank you for your consideration,

A handwritten signature in black ink that reads "Jim Moorefield". The signature is written in a cursive style with a large, looping "J" and "M".

Jim Moorefield
Executive Director

**Staff Responses to Questions from City Councilors at the June 2,
2008, Public Hearing regarding an Appeal of Seavey Meadows
(PLD08-00001, SUB08-00001)**

Councilor York - Provide clarification on the number of required and proposed parking spaces.

Because the applicant has requested approval to construct either senior quad units or four-plexes, and because the parking requirements are different for these two building types, two vehicle parking tables are provided in the staff report. One shows the parking requirements that would apply if senior quads are built, and the other shows the parking requirements that would apply if four-plexes are built. The table for parking with senior quads follows:

Table 4 – Required Vehicular Parking with Senior Quads

Unit Type	Parking Demand Ratio	Number of Units/Square Footage	Number of Spaces Required	Number of Spaces Provided
Single Family Detached	2 spaces per dwelling	7	14	14
Duplex (2 bedroom)	1.5 spaces per unit	4	6	6
Senior Quad (1 bedroom)	1 space per unit	8	8	8
Triplex (3 bedroom)	2.5 spaces per unit	9	22.5 - 10% = 20.25*	21 (3 on street)
Five-plex (1 bedroom)	1 space per unit	6	6	6
Five-plex (2 bedroom)	1.5 spaces per unit	9	13.5	14
Community Building	1 space / 200 sq. ft.	1,700 sq. ft.	9	9 (on street)
TOTAL			77	78 (2 on street, 76 on site)

*NOTE: * Relies on 10 percent reduction due to proximity of public transit services on Conser Street.*

This table (Table 4) shows that, if senior quads were developed, the parking requirement for the development would be 77 spaces. The applicant proposes to provide 78 parking spaces, of which 76 spaces could be accommodated on the development site, and 2 spaces would be accommodated on the adjacent public streets (the north side of Sorrel Place and the west side of Jasper Street). Parking

would be accommodated on single family lots for buildings 12 - 18, within triplex garages and driveways for all but 3 of the spaces required to serve the triplex units, and within the easterly and westerly private alleys for the remaining buildings on the site. Under this scenario, only 2 of the proposed 78 parking spaces would need to be provided on the public streets within the development. In the "Number of Spaces Provided" column the notations "3 on street" and "9 on street," were meant to indicate where exceptions to parking requirements had been requested, for the triplex buildings and the community building. In actuality, with construction of the senior quads, only two on-street parking spaces would be needed.

Following is the table for parking required to serve the development, with four-plexes:

Table 5 – Required Vehicular Parking with Four-plexes

Unit Type	Parking Demand Ratio	Number of Units/Square Footage	Number of Spaces Required	Number of Spaces Provided
Single Family Detached	2 spaces per dwelling	7	14	14
Duplex (2 bedroom)	1.5 spaces per unit	4	6	6
Four-plex (3 bedroom)	2.5 spaces per unit	8	20 - 10% = 18*	18
Triplex (3 bedroom)	2.5 spaces per unit	9	22.5 - 10% = 20.25*	21 (3 on street)
Five-plex (1 bedroom)	1 space per unit	6	6	6
Five-plex (2 bedroom)	1.5 spaces per unit	9	13.5	14
Community Building	1 space / 200 sq. ft.	1,700 sq. ft.	9	9 (on street)
TOTAL			87	88 (12 on street, 76 on site)

NOTE: * Relies on 10 percent reduction due to proximity of public transit services on Conser Street.

This table (Table 5) shows that, if four-plexes were developed, the parking requirement for the development would be 87 spaces. The applicant proposes to provide 88 parking spaces, of which 76 spaces could be accommodated on the development site, and 12 spaces would be accommodated on the adjacent public streets (the north side of Sorrel Place and the west side of Jasper Street). Parking would be accommodated on single family lots for buildings 12 - 18, within triplex garages and driveways for all but 3 of the spaces required to serve the triplex units, and within the easterly and westerly private alleys for the remaining buildings on the site. Under this scenario, 12 of the proposed 88 parking spaces would need to be

provided on the public streets within the development. In the "Number of Spaces Provided" column the notations "3 on street" and "9 on street," were meant to indicate where exceptions to parking requirements had been requested, for the triplex buildings and the community building. With construction of the four-plex buildings (the worst-case scenario for parking), all 12 of the requested on-street parking spaces would be needed.

Councilor Raymond - In addition to the hydrology report, were other impacts considered or studied, such as pedestrians and pets?

Land Development Code Section 2.5.40.04 contains a reference to the decision criteria for a Planned Development. Among the compatibility factors to be considered are effects of the development on air and water quality. These effects are addressed on pages III-12 - III-16, III-82 - III-83, and III-95 - III-97 of the May 23, 2008, Memorandum from the Community Development Director to the Mayor and City Council. Criterion 2.5.40.04.a.14 requires preservation and/or protection of Significant Natural Features, consistent with (among others) Chapter 4.13 - Riparian Corridor and Wetland Provisions. However, none of the requirements in this chapter address potential impacts from pedestrians and pets. Also, the wetland area upon which this development is proposed is not a Locally-protected Locally-significant Wetland, so it is not subject to this chapter's provisions. Staff have not identified a decision criterion that specifically requires consideration of impacts of pedestrians and pets on adjacent areas.

It is anticipated that impacts from pedestrians, pets, and similar phenomena from the proposed development would be similar to existing impacts from existing developed residential neighborhoods in the area. There is no reason to think that impacts from the proposed development would be significantly different from existing impacts from adjacent residential areas. Signage currently exists on the borders of the developed area indicating that Seavey Meadows contains a fragile wetland. If the City Parks and Recreation Department takes over management of the adjacent wetland area, as is contemplated, the area would be managed with signage, educational materials, and other measures, such as boardwalks, so that these types of impacts within the protected wetlands would be minimized as much as possible.

Councilor Grosch - Is the LUBA ruling on the Cascade Crest appeal relevant to this application?

Cascade Crest was an application that fell under the old LDC, but the new Comprehensive Plan, requiring findings and interpretations related to both policy language and code provisions. This application falls under the new Comprehensive Plan, and also the new Land Development Code. Because the LDC was intended to fully implement the new Comprehensive Plan, findings explaining which standards apply and interpreting Comprehensive Plan policies should be less critical. LUBA's direction on the scope of findings will likely mean some additional staff work and longer findings once the Council has made a decision.

Councilor Brown - Is parking allowed on collector streets?

Typically no (see attached LDC Table 4.0-1 Street Functional Classification System). In order to install parking on one side of the street, that street would need to be widened by eight feet. As the street is widened, it tends to increase the speed that vehicles travel. Also, installing the sidewalk would likely have some impact to the wetland. Because it is a component of a Collector Street, the installation would be allowed, but the impacts would likely need to be mitigated.

What are the traffic calming options for collector streets?

Currently, City Council policy does not allow traffic calming on collector streets.

What is the availability of on-street parking on the existing streets within the proposed development (Jasper Street and Sorrel Place)?

Currently, parking is allowed on both sides of Jasper Street and Sorrel Place. Staff estimate that there is currently room for approximately 70 vehicles to be parked on these streets. However, with development of the proposed project, Fire Department Staff have asked that parking be restricted to only one side of each of the public streets in order to facilitate access by emergency vehicles. On-street parking would be allowed on the west side of Jasper Street and on the north side of Sorrel Place. Staff estimate that, with parking on one side of each street, and with the additional curb cuts proposed for the private alleys, approximately 29 on-street parking spaces would be available on Jasper Street and Sorrel Place. Of these, the applicant has requested that up to 12 on-street spaces be allowed to serve the proposed development - three to serve the triplex units and nine to serve visitors to the community building. Additionally, the original Seavey Meadows approval stipulates that 0.38 on-street parking spaces be allocated for each dwelling unit, thereby requiring 1.52, or 2, spaces to serve the existing four-plex. After subtracting these spaces from the estimated 29 on-street spaces available, 15 on-street parking spaces would remain available on Jasper Street and Sorrel Place. This is also discussed on Attachments III-78 and III-79 to the May 23, 2008, Memorandum from the Community Development Director to the Major and City Council.

What is the potential for standing water and household destroying organisms (mold) for developments in these types of areas?

Many developed areas of Corvallis have been constructed on soils similar to the soils at the Seavey Meadows site. Although there have been problems in the past caused by inadequate construction on shrink-swell soils, the building permit review process now requires analysis of underlying soil types, and the utilization of special construction techniques if a development is located on poor soils, to eliminate problems that might otherwise occur. Given these requirements, there have not been reported issues associated with standing water, or other problems, with development in these types of areas in recent years.

Mold problems are typically caused by construction flaws rather than site specific locational factors. In fact, recent changes to the State Adopted Building Code (2006 International Residential Code) address issues associated with inadequate construction techniques of the building envelope, moisture content of wood construction before application of wall covering (drywall), and other factors that are attributable to the onset of problems associated with mold and mildew. The Building code now contains heightened requirements in terms of construction techniques and materials to minimize the potential for mold to develop within buildings. Given these requirements, mold problems are not anticipated in the Seavey Meadows development.

Who is responsible for the property currently owned by the homeowner's association?

(See answer below)

Clarify the maintenance obligations and other potential issues of having two homeowners associations.

The HOA property has been maintained by the City (primarily in the form of mowing and occasional removal of dumped debris) since the mid-1980s. The HOA consists of the owners of the 32 lots in the currently-platted development area, with the City owning/representing 28 of those lots. Prior to any future development, ownership of the HOA-owned land will be transferred to the City and the HOA will be dissolved under provisions contained in the Seavey Meadows CC&Rs. Although the City may proceed unilaterally, staff have consulted with the owner of the four developed parcels, and he has expressed agreement with this approach.

Because Willamette Neighborhood Housing Services, or an affiliated corporation, would retain ownership of all of the land area within the development, including the single family detached lots, it is not anticipated that there would be a homeowners association serving the development. Instead, WNHS, or an affiliated corporation, would be responsible for the on-going management of the development, including monitoring requirements of lease agreements for the single family lots.

What is the potential for the City to finance the construction of the missing sidewalk on Conser Street?

Funding would need to be identified for a project of this type. Due to limited street revenue, this may be an opportunity for the City to apply for a Transportation Enhancement Grant.

Councilor Daniels - In relation to recent LUBA decisions, does Condition # 27 need to be revised to allow for a public review process of the stormwater infrastructure?

This question is being addressed in a separate memorandum that will be distributed to the Council on Monday, June 16, 2008.

Table 4.0-1- Street Functional Classification System¹

	Arterial Highway	Arterial	Collector	Neighborhood Collector	Local Connector	Local
Auto amenities (lane widths) ²	2-5 Lanes (11 - 14 ft.)	2-5 Lanes (12 ft.)	2-3 Lanes (11 ft.)	2 Lanes (10 ft.)	2 Lanes (10 ft.)	Shared Surface
Bike amenities ³	2 Lanes (6 ft.)	Shared Surface	Shared Surface			
Pedestrian amenities	2 Sidewalks (6 ft.) Ped. Islands	2 Sidewalks (5 ft.) Ped. Islands	2 Sidewalks (5 ft.)	2 Sidewalks (5 ft.)	2 Sidewalks (5 ft.)	2 Sidewalks (5 ft.)
Transit	Typical	Typical	Typical	Typical	Permissible/not typical	Permissible/not typical
Managed speed ⁴	20 mph - 55 mph	25 mph - 45 mph	25 mph - 35 mph	25 mph	25 mph	15-20 mph
Curb-to-curb width ⁵ (two way)						
No on-street parking	34 ft - 84 ft.*	34 ft.-72 ft.	34 ft.-45 ft.	32 ft.	20 ft.*	20 ft.*
Parking one side	42 ft. - 84 ft.	NA	NA	40 ft.	28 ft.	25 ft.*
Parking both sides	50 ft. - 84 ft.	NA	NA	48 ft.	28-34 ft.	28 ft.
Traffic calming ⁶		No	Permissible/ not typical	Typical	Permissible	Permissible
Preferred adjacent land use	High Intensity	High Intensity	Med. to High Intensity	Medium Intensity	Med. to Low Intensity	Low Intensity
Access control	Yes	Yes	Some	No	No	No
Turn lanes		Continuous and/or medians with ped. islands	Typical at intersections with Arterials or Collectors	Not typical	Not typical	Not typical
Planting strips ^{7&8}	Two - 12 ft. Except across areas of Natural Features	Two - 12 ft. Except across areas of Natural Features	Two - 12 ft. Except across areas of Natural Features	Two - 12 ft. Except across areas of Natural Features	Two - 6 ft. Except across areas of Natural Features	Two - 6 ft. ⁷ Except across areas of Natural Features ^{7&8}
Through-traffic connectivity		Primary function	Typical function	Typical function	Permissible function	Permissible function

1. These standards do not preclude the flexibility currently allowed through the Planned Development process in Chapter 2.5 - Planned Development.
2. Lane widths shown are the preferred construction standards that apply to existing routes adjacent to areas of new development, and to newly constructed routes. On Arterial and Collector roadways, an absolute minimum for safety concerns is 10 ft. Such minimums are expected to occur only in locations where existing development along an established sub-standard route or other severe physical constraints preclude construction of the preferred facility width.
3. An absolute minimum width for safety concerns is five ft., which is expected to occur only in locations where existing development along an established sub-standard route or other severe physical constraints preclude construction of the preferred facility width. Parallel multi-use paths in lieu of bike lanes are not appropriate along the Arterial-Collector system due to the multiple conflicts created for bicycles at driveway and sidewalk intersections. In rare instances, separated (but not adjacent) facilities may provide a proper function.
4. Arterial Highway speeds in the Central Business or other Commercial zones in urban areas may be 20-25 mph. Traffic calming techniques, signal timing, and other efforts will be used to keep traffic within the desired managed speed ranges. Design of a corridor's vertical and horizontal alignment will focus on providing an enhanced degree of safety for the managed speed.
5. Street design for each development shall provide for emergency and fire vehicle access. Street widths of less than 28 ft. shall be applied as a development condition through the Subdivision process in Chapter 2.4 - Subdivisions and Major Replats and/or the Planned Development process in Chapter 2.5 - Planned Development. The condition may require the developer to choose between improving the street to the 28-ft. standard or constructing the narrower streets with parking bays placed intermittently along the street length. The condition may require fire-suppressive sprinkler systems for any dwelling unit more than 150 ft. from a secondary access point. * To be applied in RS-9 and lesser zones.
6. Traffic calming includes such measures as bulbed intersections, speed humps, raised planted medians, mid-block curb extensions, traffic circles, signage, and varied paving materials and is addressed in the Transportation Plan.
7. Through the Planned Development Review Process, the planting strip along Local Streets and around the bulbs of Cul-de-sacs may be reduced or eliminated.
8. Where streets must cross protected Natural Features, street widths shall be minimized by providing no on-street parking and no planting strips between the curb and the sidewalk on either side of the street.