

Appendix A

March 29, 2023 Hearing Transcript

Oakview Preliminary Plat -- PPL-22-0001

Note: This is a computer-generated transcript provided for informational purposes only¹. The reader should not take this document as 100% accurate or take offense at errors created by the limitations of the programming in transcribing speech. A recording of the hearing is available from City Hall should anyone need an accurate rendition of the hearing testimony.

Hearing Examiner Olbrechts:

Okay, I guess we're official. The recorder is going. Hi, my name's Hearing Examiner Olbrechts. I'm your city's hearing examiner. Been that since 2018. This is the first hearing I've had to hold out here, though, not a lot of development activity coming out here, and that's certainly understandable. I've held a couple thousand hearings throughout the state since the 1990s. This is just what I do for a living and I've lived in a small town myself up in Granite Falls, out in Forks, and also as a city attorney, I've represented small towns like Index and Buckley. So I have a little understanding what it's like to live in a really nice-looking community like this.

And I'll disclose too, I went and looked at the development site this morning, drove along 292nd, looked at the neighborhood behind it, Oakview Heights and the beautiful oak trees that you have out in that lot, that kind of thing. I was the hearing examiner for the City of Lakewood for a long time, and the white oak was a big issue out there as well. The whole city there is full of them, and they have a lot of people out there trying to protect them. So that's not a new issue for me.

Now, by state law, I'm only allowed to consider evidence that's put into the record today. That way you all know exactly what information I looked at. I'm not allowed to talk to the staff or the applicant or the property owners about this project in advance of the hearing. All the information that I'm going to see is all the information that's available to you, that's why the state law is set up that way, so I don't make my decision on something that you didn't even know was a factor in the decision making.

So staff has prepared a staff report. You've all probably seen it or at least know it's available. It's a pretty lengthy document of about 20 pages, and at the very end of that document, actually 32 pages, the staff has put a list of exhibits that they wanted me to consider. As for projects of this size this is fairly typical, there's a lot of analysis that was done. We have a traffic impact study that assesses whether or not the congestion created by the project is within standards found acceptable by your city council, there's an assessment of the white oak trees, there's an assessment of storm watered drainage to make sure that this project doesn't flood adjoining properties, a wetland report, and then your city has some pretty stringent tree retention standards, so that was factored in here. All in all, 42 exhibits. And William, are these exhibits, are they made available to the public? Are they on a website or something, or how?

William Starks:

¹ Hearing examiner comments about appeal rights to the City Council have been deleted since they are inaccurate and could confuse the public as to their appeal rights. The appeal issue was corrected and clarified by the hearing examiner during the hearing itself.

Yes, sir. They're on their city websites, local government.

Hearing Examiner Olbrechts:

Okay. So I'm looking at the staff report, and like I said, there's a total of 42 exhibits there. Did anyone want to look at those right now, or have any objections to their entry in the record? And when I'm talking about objections, it's a kind of formalistic thing. The objections will be based on that the document isn't relevant to this proceeding or isn't authentic, essentially, like there's a deed in there and it's really not a validly recorded deed, something like that. Normally I don't get any objections. Like I said, I'll just admit the staff report and 42 exhibits.

And all testimony will be taken under oath today. So I'll just start off on the staff side. As I said, staff will start off here. Then we'll let the applicant speak next. And after they're done telling us what this project is about, we'll move on to public comments and get that in the record. And once all the public comments are put in there, we'll go back to staff to answer any questions you raised, or provide any rebuttal evidence they think is necessary. Then applicant makes the final word, they get the final argument, and I have 10 business days, that's a couple weeks to issue that final decision. And as I said, that's appealable to the city council.

So who's going to speak on behalf of staff here today, Mr. Lell? Okay. Mr. Lell I know is an attorney, so I don't need to swear him in. Attorneys don't get sworn in in hearings, but everyone else does. So because Mr. Lell isn't going to be presenting evidence, he's just going to be presenting argument and then referring to witnesses, present testimony if necessary. Mr. Lell, go ahead.

Zach Lell:

Thank you and good morning, Mr. Examiner. As indicated, my name is Zach Lell, I'm the city's special land use council for this matter. With me at the staff table are City of Roy Public Works director William Starks, and City of Roy's contracted engineer Russ Porter with the Gray and Osborne firm, they'll be providing testimony to the extent needed today.

My presentation will be relatively short. The staff analysis for this preliminary plat and the associated variances are set forth in the very voluminous staff report. I would again like to reiterate that that is introduced into the record along with the various exhibits that the examiner had referred to. With respect to procedure, I would like to make one clarifying point. As indicated in the staff report and as an exhibit to the staff report, the city's current procedural regulations for preliminary plats vest the final decisional authority in the examiner, not the city council. That was a change that was made within the last few months. The ordinance effectuating that change is listed in the exhibits and provided in the exhibits at exhibit number 12, and that's ordinance number 1008. That's legally effective as of this point.

So the examiner's decision on the preliminary plat is considered under the current regulations as a type 3-A permit project type, which involves a hearing examiner final decision with no opportunity to appeal to the city council. The city council has no role in this. Any appeal of the examiner's decision would go straight to Pierce County Superior Court under the Land Use Petition Act. And the same general framework applies to the variance request as well.

But I'd also like to clarify a point also made in the staff report in the exhibits, and that is the city of Roy does not have an administrative appeal process for SEPA determinations, like the mitigated determination of non-significance that was prepared in relation to this plat. Again, in that context, any appeal of the MDNS would need to be made to the Pierce County Superior Court under the timeframes set forth in the Land Use Petition Act.

Hearing Examiner Olbrechts:

Mr. Lell, may I interject a couple points here. First of all, it's still closed record appeal to the city council, is that correct? Or it's not?

Zach Lell:

It isn't.

Hearing Examiner Olbrechts:

Oh, okay, because...

Zach Lell:

As the staff understands this, and is emphasized in the ordinance that's included as of this proceeding. There is no council involvement-

Hearing Examiner Olbrechts:

Oh, okay. All right. I misread the new ordinance. And I looked at it. I thought it said there was a closed record appeal. So I'll just correct myself on that then and say there's no appeal to council.

And let me explain a little bit, part of the rationale to remove council from review, I've read all your letters, and I saw some of you were saying, "I vote no for this" or "vote against this project." And I think a lot of you probably didn't mean that literally. But there is kind of a public perception that the development projects are subject to a popularity contest. And unfortunately they're really not. It's totally based on whether or not it meets the permit criteria. If a city council were to deny a project just because everybody in the city was opposed to it, but it still met the permit criteria, the developer would just appeal that to court, the court would overturn the decision, say it meets the permit criteria, it must be approved, and then it would assess damages against the city for violating its own code.

The rationale of the courts, they believe, is that development codes must be applied equally to everybody, and they're not subject to popularity contest just based on whether or not you meet the criteria listed there. And that's why a lot of city councils, most in Western Washington do delegate decision making to the hearing examiner because people like me are trained to make sure that the criteria are followed and that's it, because if you do anything different from the criteria, it's just going to be reversed on appeal. So that's what's going on here. And also, I was wondering, is there a representative here from the school district at all, or?

Mary Irbeck:

Yes.

Hearing Examiner Olbrechts:

Okay. And do you agree there's no administrative appeal? Because I know the appeal the district filed said you wanted to do a SEPA appeal. I just want to clarify for the record that you're...

Mary Irbeck:

I'm Mary Irbeck, attorney for Bethel School District, this is Doug Mann, a facilities planner who's with me today. Yes, we wasn't sure how the city would handle that, and so in order to preserve our arguments, we submitted an appeal.

Hearing Examiner Olbrechts:

Okay.

Mary Irbeck:

There is none, and the appropriate SEPA rules are being followed at this point.

Hearing Examiner Olbrechts:

Okay, good. Yeah. I just wanted to make sure for the record that wasn't still a contested issue. So with that, Mr. Lell, go ahead.

Zach Lell:

Thank you. And again, Mr. Examiner, I'll be very brief with respect to the staff presentation because from our viewpoint, the analysis has been set forth very clearly in the staff report. We will defer to the applicant's presentation, reserving the right to respond to that in our additional comments later in this hearing.

As the examiner's aware from reviewing the record, the primary preliminary plat decisional criteria are codified in the Roy City code at chapters 1143 and 1146. The staff report goes through methodically and addresses those criteria and concludes that all of the relevant criteria for plat approval have been satisfied by the applicant's proposal. The applicant has also submitted a series of variance requests that have been consolidated for processing purposes with its preliminary plat application and are before you here.

Based on the analysis and the staff report, staff is generally supportive of those variance requests, which span the range of a proposed modification to the tree retention and replacement requirements under the code, substituting two cul-de-sacs for a looped road or another type of thoroughfare that would otherwise be required of the city's standard regulations. And then finally, a proposal to eliminate a sidewalk requirement on the south side of 292nd.

Staff supports all of those variance requests with the exception of the sidewalk variance, which for reasons set forth in the staff report, the city believes that the applicant has not met its burden of demonstrating compliance with the relevant criteria for that particular variance. With that, I'll be happy to introduce again Mr. Starks and or Mr. Porter if you have any substantive questions, but we'll reserve further comment until after the applicant or the public makes its presentation.

Hearing Examiner Olbrechts:

Okay. Just a few quick questions. I don't want to get too bogged down in my questions because we have a lot of people that want to speak, but just to clarify the staff report, it seemed to kind of say in one spot the white oak was not subject to protection as priority habitat. In another section it said that it was subject to protection and there's a track created for it. Is that track solely based on the fact that there's considered significant trees under the city's tree retention code? Is that why the track for the oak was created? Mr. Starks, let me swear you in. Do you swear, affirm to tell the truth, nothing but the truth in this proceeding?

William Starks:

I affirm to state the truth and nothing but the truth.

Hearing Examiner Olbrechts:

Okay, great. Go ahead.

William Starks:

All right. Yes, best to my knowledge that's what it was created for.

Hearing Examiner Olbrechts:

Okay. And also, I was curious that the staff report identified you can get credit for park impact fees if you dedicate some recreational space, that kind of stuff. Will any of these tracks potentially qualify for that park credit?

Zach Lell:

That is something that is going to be reserved for a future analysis because park impact fees are calculated, which is not the preliminary plat stage. And I think that the purpose of that reference in the staff report is essentially a placeholder, conceptually, for when that becomes relevant in the future.

Hearing Examiner Olbrechts:

Okay.

Zach Lell:

Obviously the park impact fee ordinance is going to apply in the manner that it's written regardless of anything that is said or done in this hearing.

Hearing Examiner Olbrechts:

Okay. And also in the variance analysis for the cul-de-sacs, there was mention that the topography also justified the variance. Could kind of explain how that affected the variance analysis? Sir, what's your name for the record?

Russ Porter:

I'm Russ Porter with Grant Osborne Engineers.

Hearing Examiner Olbrechts:

Okay, Mr. Porter, do you swear, affirm, to tell the truth, nothing but the truth in this proceeding?

Russ Porter:

I do.

Hearing Examiner Olbrechts:

Okay, great. Go ahead.

Russ Porter:

It kind of is on a hillside, and where those two roads that in the cul-de-sacs would be in if they were to make a loop, it would be kind of a difficult loop that wouldn't really provide any benefit.

Hearing Examiner Olbrechts:

Okay. And also in, just for the purposes of variance analysis, in terms of assessing hardship, I was kind of curious how many homes could they have built there if they weren't the wetlands and the significant

trees that need to be retained? I mean, roughly, do you have any idea? I don't recall. What was the number of homes [inaudible 00:14:17] allowed there?

Russ Porter:

I honestly do not recall.

Hearing Examiner Olbrechts:

Oh, okay. No, that's fine. And there's a lot of concern about the water source, and I think the staff report said that the Department of Health has approved the city's water system. Is that correct?

Russ Porter:

Yes, sir, it has.

Hearing Examiner Olbrechts:

Okay. All right. And then there was an assertion that some PFAS compounds were in the system. Has that been a problem in Roy? What's going on with that?

Russ Porter:

All right, well due to its new nature and still going through EPA as a draft document on treatment for it, it's up in the air. Yes, we do have PFAS that was detected at one of our well sites, which was well one, and we're continuing the monitoring because of its fluctuation, lowering levels. We're working with the Office of Drinking Water to turn our steps in what we're doing. We're still currently monitoring.

Hearing Examiner Olbrechts:

Okay. There are also concerns raised about septic systems and their impacts to groundwater. Is that something the city's considered, or is you kind of leave that to Department of Health?

William Starks:

That's pretty much left to Pierce County Department of Health.

Hearing Examiner Olbrechts:

Okay. And then finally, this is mainly just to answer questions raised by the public, does the city have construction hours, that kind of thing? And are you aware of what the applicant plans in terms of when they're going to be constructing these homes?

William Starks:

I think that would be part of the final plat agreement. But you do have standard...

Russ Porter:

We have standard operation times of when what can be performed.

Hearing Examiner Olbrechts:

Okay. Do you know what they are off the top of your head?

Russ Porter:

Not off the top of head.

Hearing Examiner Olbrechts:

Okay. It's in the code, yeah.

Zach Lell:

We'll be very happy during the public testimony portion to quickly review the Roy City code and provide a citation to the applicable code provision then.

Hearing Examiner Olbrechts:

Okay. Great. Thank you. Let's move on to applicants. I'm assuming we have applicant representatives here. Sir, is that you?

Ruben Schultz:

Yes. Hi, I'm Ruben Schultz on behalf of the applicant. I'm the attorney representing the owners who are here today. The presentation will be given by Colleen Noronha, and she's with Apex. I think probably the most efficient way to do this is for me to just step out of the way and allow her to do her thing.

Hearing Examiner Olbrechts:

Okay, sure.

Ruben Schultz:

Do you mind if I sit at this location?

Hearing Examiner Olbrechts:

Oh yeah. No, that's fine. Yeah, that's perfectly fine.

Colleen Noronha:

So I'm...

Hearing Examiner Olbrechts:

Do you want to sit up there at the microphone? I want to make sure we get you recorded. Let me swear you in. Do you swear, affirm, to tell the truth, nothing but the truth in this proceeding?

Colleen Noronha:

I do.

Hearing Examiner Olbrechts:

Okay. And ma'am, what's your name for the record? How do you spell it?

Colleen Noronha:

My name is Colleen Noronha, and I'm with Apex Engineering. I'm project manager, and I also have with me Felix Jacobs, our engineer for the project, and Lexi in planning. I did have a PowerPoint, and I'm hoping that some of the questions you brought up I actually had planned to address during this, and I just wanted to let you know, we do also have our applicants here. We have Neil, Dan, Don, and I'm assuming one other one, Bob.

Hearing Examiner Olbrechts:

Okay, great.

Colleen Noronha:

They are with Roy Meadows Group. We also have Heath and Associates, our traffic engineer here in the back is here also. But we did consult with WFCI, which is Washington Forest Consultants Incorporated, they were our project arborists. We had South Sound Geotechnical Engineering as our project Geotech. Habitat Technologies did our project Wetland and Habitat Conservation Consultant. Bradley Design Group was our project landscape architect. Aspect Consulting was the project hydrogeologist. Apex Septic Design, no relation to our company, is the septic consultant, and then we have Ruben here from Gordon Thomas Honeywell.

So the project is obviously in the City of Roy off State Route 507. The site is accessed via 292nd Street and is east of the Tacoma Railroad. The site is 38.36 acres and is zoned single family residential. The comprehensive plan is low density residential. The project site is surrounded by single family residential zoning with the Oakview Heights neighborhoods of about over 80 homes to the north and east, the McKenna Meadows neighborhood with over 50 homes to the south. To the west is the railroad. Over here is also single family residential.

The site is generally vegetated with trees and shrub, and it consists of steep rolling hills with these stands of trees and a wetland. There is an existing non-residential building and a concrete pad located in the Southwood portion of the site with a gravel access road off of 292nd Street. The site had previously been used for pastures, but since then the property has not been managed, at least in the recent past, and there are many invasive species, including the blackberry and Scotch broom.

Just an aerial view. So our project description, basically the City of Roy, which as I'm sure most people know, is a small town in Pierce County with a rural character surrounded by farms. The city is known for this, and it's Roy Rodeo, which you can see kind of everywhere. The applicant has worked with the City of Roy to develop a project that would provide the required density and affordable housing for the city's comprehensive plan, while maintaining the rural character of the area. The applicants also considered the character of the neighborhood in developing this proposal, and they did solicit feedback from neighboring communities at the time.

So our proposed preliminary plat. Here's a view of our proposed plat. We are proposing a 79 family lots with an average size of about a quarter of an acre. The gross density as shown is 2.05 dwelling units per acre. The maximum for Roy city code is five dwelling units per acre. So the goals of this project, in keeping with the Roy city code, and the comprehensive plan is to add a mixture of varying size homes, including affordable homes, while retaining this rural character. So we did this by using various plot sizes. The average size is a fourth of an acre, but they do vary from about 7,200 square feet, which is about a sixth of an acre, two 1600 square feet, or about two fifths of an acre.

The preliminary plat will also have seven tracks, so you can see the tracks, all in here. Track A, which is this area right here, is going to be the Oregon White Conservation area, which is about five acres. The applicants have worked with the City of Roy, arborist, biologist, and a landscape architect to improve the health of the oak trees in this area and to form a maintenance plan for the continued growth and health

of the trees. This area will also have trails that will be designed, along with the arborist and the landscape architect to protect the trees while still allowing residents access to enjoy the area.

Now track C is actually in the southwest corner. We just had it cut, so it's right down here. That's the wetland, that's about 4.8 acres. This includes the wetland right here. There's 105 foot buffer, but this area is really 420 feet buffer from the wetland. That 420 feet includes the required 105 foot wetland protective buffer, as well as an extra 315 feet due to the slopes in this area. The slopes here are probably about 8-10%.

So the total combined recreational or environmental tracks are open space tracks A and C, include 10 acres, or approximately 26% of the total site area. The remaining tracks are utility tracks. So we've got B, D, and F right here, which are the open space/reserve drain field for community septic. Track E is our storm facility right here, and that's about one and a half acres. And then we have track G right here, that is an existing cell tower. The track is located inside track A, there is that existing cell tower and gravel access road. That track was created just to protect the existing cell and the easement.

So the roads proposed for this project will be public. They will connect to 292nd Street and the eastern and western portion. So right here and right here, they're going to connect to 292nd. They will be designed to Roy City design standards, with sidewalks on both sides of the street. The city code does call for through streets, as you mentioned in the variances, so technically these are supposed to connect through here. The applicant has applied for a variance, which I will be discussing later in the presentation, but I don't know if you can see here, there are some slopes and I think the slopes do get up to 12% at one point in there. And then the Bethel School District has requested a bus stop up here in this northeastern corner of the plat, and that will be shown on the final plat documents.

So proposed utilities. Right here I'm showing the proposed storm. So the preliminary storm facility was designed in collaboration with South Sound Geotechnical Consulting, who analyzed the soils and infiltration rates. They also performed the groundwater monitoring. Based on information they found, we also were then went to Pacific Groundwater Group who did a groundwater study. They installed in this area right here, so right where we're having in the storm pond, they installed three 20 foot deep monitoring wells. They did find groundwater between 9 1/2 to 14 feet deep. So a mounding analysis was recommended for the final design. So we had aspect consulting do the groundwater mounding analysis. They analyzed the mounding and the biometric receptor capacity, and they did consider the potential effect of those proposed drain fields, which are here, here, and here. So they considered those septic drain fields on the groundwater monitoring.

So based on the information from our consultant's analysis and using the 2019 Stormwater Management Manual for Western Washington, the proposed plan is that each lot will manage its own storm water on site, drainage from the proposed roads will be managed through a system of catch basins. And that's kind of what I've highlighted here, are the catch basins. So they will be managed through a system of catch basins that will convey runoff to an infiltration pond located along the Western boundary right here. The native soils have been determined to meet criteria for water quality and treatment and flow control be met with the catch basins and the infiltration pond. The project does intend to meet the low impact development features in the Stormwater Management Manual, and the conveyance system will be designed and analyzed as part of the final development permit.

Hearing Examiner Olbrechts:

So is the drain field analysis and its impact on groundwater, is that in one of the stormwater analysis documents?

Colleen Noronha:

Aspect Consulting looked at that.

Hearing Examiner Olbrechts:

Oh, okay. But it's not in the exhibits in the record, or is it?

Colleen Noronha:

Yep.

Hearing Examiner Olbrechts:

Oh, okay. Which one is it?

Colleen Noronha:

It's...

Hearing Examiner Olbrechts:

Is it the preliminary plat drainage report? Is that the one you're talking about?

Colleen Noronha:

No, it is Aspect Consulting, and they did the groundwater monitoring. They were the height... Do you remember what the name of the report is? I can't remember. I can picture it as a blue cover.

Hearing Examiner Olbrechts:

Okay. Well if it's in there, I'll find it. I'm just curious. Yeah, that's fine.

Colleen Noronha:

What is it?

Female Coworker:

Groundwater Managing Analysis?

Colleen Noronha:

Oh yeah, so it's called Groundwater Managing Analysis. Is it not in there?

Hearing Examiner Olbrechts:

I don't know which number it is. I'll find it. Yeah, that's fine.

Colleen Noronha:

Okay. And then four, water. The project proposes to connect to the City of Roy Public Water. The project has applied to the city of Roy Public Works department, and they received their certificate of availability for 79 connections. The plan is to connect to an existing 12-inch water main located in 292nd Street at the eastern and western portion of the site. So here, this is the water main, runs here. Here's the two connections. And then down here, and I know I think Bill kind of mentioned it, right down here there is an existing 8-inch, which we will also be connecting to. We are proposing to move that easement over moving that thing, so that way it'll be between two lots.

And for sewer, obviously it's going to be a septic system that was designed in collaboration with Apex Septic. The design calls for a combination of individual and community reserve fields. And I know this is kind of small, but basically the smaller properties to the west along here will be using the reserve drain fields here and here. So lots, the tracks B, D, and F are going to serve the smaller lots on the western side of the site. These will be lots 24 through 28 and 41 through 50. So it's these lots right here. These lots right there. The rest would have their own septic. And a draft septic maintenance agreement has been submitted to maintain these community fields. So that should be in the records also. Power will be by the city of Tacoma. Access for the project is the project that is east of State Route 507, a two-lane, north south state route. That is located-

PART 1 OF 4 ENDS [00:30:04]

Colleen Noronha:

State Route 507. A two-lane, north South state route that is located to the west of the site. The project speed, the sorry, the speed limit adjacent to the site is 40 miles an hour. Onto the south, the speed transitions to 50 miles an hour and to the north approaching the city, it is 30 miles an hour. On access to the site is from 292nd Street, which is a tree rural lane owned by the neighboring community of Oakview Heights. 292nd borders the project to the north, the posted speed limit on that private road is 20 miles an hour. The applicant does have an ingress, egress and utility easement for 292nd recorded number 2000608040169. And then in keeping with rural characteristic characteristics of this area, there is no transit service to the site.

So in preparation for this project, the owners consulted with Heath and Associates on a traffic impact analysis in 2020, which was then updated in 2022. The main goal of this analysis was to assess the existing roadway conditions and forecast newly generated project traffic on Heath and Associates who formed the analysis. They analyze the existing road characteristics. They look at the accident history at the intersection of 507 and 292nd. At least from 2017 to 2020, there have been no accidents. They looked at the baseline peak volume hours by performing an intersection count and then they did site distance at the access drives, where our project will access 292nd Street to make sure they provided sufficient sight lines due to the grading and the horizontal curve. When you're looking east in particular. Then Tacoma Railroad track does board to the side on the west. So the applicant did coordinate with Tacoma Railroad for the safety of the rail caution.

Okay. So based on the findings of the traffic impact analysis as well as coordinating with the city of Roy and WSDOT, the following mitigations were proposed. So based on the data from the TIA, the project is anticipated to generate up to 60 AM peak hour trips and 81 PM peak hour trips. The five-year horizon of 2027 was analyzed and assumed a project build out in full occupancy. The analysis determined that a left-hand turn lane was warranted under that forecast 2027 peak hour conditions. The timing and design of the left-hand turn lane will be made based on further discussion with WSDOT and the city of Roy. We have shown a preliminary concept of the left-turn lane onto from state Route 507 at the 292nd intersection. This design is based on the WSDOT's design manual and a 40 mile an hour posted speed limit. And it adds...

I'm sorry it's small...

But it's adds this left turn lane right here and so it would taper the road. But this is based on design with WSDOT and we have coordinated with them and talk to them about it. So they're aware of the project.

The railroad. So after coordinating with Tacoma Rail and the city of Roy was determined that uniform traffic controlled device standard pavement markings and signage should be added to the railroad crossing at 292nd Street. So the Tacoma Rail requested basically that these markings and signs on 292nd

before the railroad. And they also requested standard railroad crossing sign at the entrance just because of where they enter right there.

So critical areas. The state of Washington priority habitats and species mapping identified potential Oregon White Oak priority habitat as well as identifying the occurrence of the Mazama pocket gopher in the southwestern portion of the project site. The National Wetland Inventory mapping identified a portion of a wetland in the southeastern border of the site. So the applicants consulted with WFCI and Habitat Technologies to further evaluate these critical areas. So...

Pocket gophers.

A series of species onsite assessments by Habitat Technologies for potential utilization of the project site by the pocket gophers was completed between 2005 and 2018 following the procedures outlined in that Mazama pocket gopher assessment protocols prepared by the Washington Department of Fish and Wildlife and the US Fish and Wildlife Services. So Habitat Technologies was on site in 2005, 2006, 2007. They did assessments that did not identify any pocket gopher utilization within the project site. It was observed south of the site, but not on this site.

An 2008, assessment did identify a single pocket gopher within this project site. They were again, in 2012 an assessment noted a few active gopher mounds but no gophers in the area. They were back out in 2013 and again in 2018 for assessment. No gopher mounds were identified at that time. Habitat Technologies did note that the once managed pastures within the site had become more and more dominated by invasive shrubs. There were a lot of Scotch broom there and there were a lot of moles on site. Their conclusion that the site is no longer a habitat for the pocket gopher.

So the Oregon white oak priority habitat, and hopefully I will answer your question on the kind of circular one, is it a habitat? So Washington Forestry, the WFCI, the Washington Forestry Consultants, was on site in 2020 and they completed an inventory and a biological assessment of the Oregon white oak trees on the project site to determine if the oak stands are priority habitat per code. So they did a field reconnaissance was performed to determine species composition, tree size, age, condition, wildlife usage, and potential for the stand to qualify at this habitat. They looked at all trees. Their observations where there were 937 trees on site, from nine to 60 diameter at breast height. The understory plants in the oak groves is very, very dense and it really consists of invasive species, blackberry.

So this is what they looked at. They located what they say, four oak stands. Okay? They found four main groves with combinations of oak and Douglas fir and a few western red cedar, some big leaf maple, and a couple of other deciduous trees. Stand one is that north central portion right there.

Okay, right here.

That is the biggest portion. It is eight acres. It's about 495 oaks on that north central.

Stand two, three, and four right here, they are all less than an acre. They're actually between, I guess 0.5 and maybe 0.9 acres and they have all about 58 or less oak trees.

WFCI concluded that while some of the oak stand characteristics meet the standard for priority habitat in their professional opinion, the stands of Oregon white oaks in this property do not meet the standards based on code. So none of the trees that are 20 inch DBH diameter breast height or greater have significant signs of decadence, they don't have cavities, dead scaffolding branches or signs of wildlife or nesting. And that's not in any of the [inaudible 00:38:22] stands.

The site and stands of oaks are stocked with invasive blackberry and this significantly reduces habitat quality. So their conclusion was that it was, did not come to code. Having said that, the applicants understand by the very nature, trees on green space provide benefits and values to the developments and obviously the city of Roy feels very strongly that these trees should be protected. The ability of trees

to improve and maintain quality of life is very important. So even though the stand did not meet the priority habitat, the applicants worked with the city of Roy and their consultants to save as many trees as possible while still maintaining the density and affordable housing.

The applicants originally were planning on 91 lots, okay? That's where one of those questions came in. But to save as many trees as possible and still maintain the required density, track A, a five acre track was created for an oak conservation area and the lots were reduced to 79.

So the applicants worked with WFCI and Habitat Technologies on a preliminary oak restoration plan and a preliminary tree protection plan. Okay? These plans included identifying and protecting all the trees to be saved during the construction phase. This includes trees in the tracks along the edges of the property and between lots if possible. Due to the grading on the site, there's going, once we have the final plans, we'll be able to determine further, but in the conservation area they will remove the invasive species, the blackberry, Scotch broom, and any of the others from the understory.

They're going to be planting desirable native understory species as well as young Oregon oak trees. The larger limbs and trunks that are removed and retained from the healthy trees would be configured in that conservation area to create habitat features for wildlife cover and breeding areas. And then they will establish a monitoring and maintenance program for that area.

So then the other critical area was the wetland area. So Habitat Technologies identified a single wetland within the southeastern portion of the project site. The wetland is dominated by a mixed forest and shrub plant community and had been modified by prior land use actions. The wetland appeared remained ponded and saturated at least in the early portion of the grain season and became dry by late season. The wetland met the US Fish and Wildlife Service criteria and the city of Roy classification as a category three wetland.

The standard buffer for a category three wetland is 105 feet. This project will not encroach on that wetland due to the topography and the slopes of approximately eight to 10% by this wetland. No development will recur within 420 feet. Instead, the applicants of work with the landscape architect to further protect this area by removing the invasive species and planting appropriate trees. Again, not in the buffer, I think the buffer, they'll just be kind of keeping clean.

So we did, the applicants have requested variances. So due to circumstances unique to the project site, major variances have been requested for the following, a cul-de-sac street design variance within inside the project interior, the tree retention replacement variance, and then a 292nd street design variant.

So for the cul-de-sac, the plat design has been through numerous configurations. An earlier plat design had relied on the loop streets as per city of Roy design standards and guidelines for street scape elements. The city actually had concerns about this design and footprint that... Because it could potentially eliminate more trees and it could block access to the conservation area. So the applicant worked with the city of Roy on redesigning the plat and including the cul-de-sacs.

This design eliminated 12 blocks from the plat. It enlarged the oak conservation area and enabled walking paths. I don't know if you can see the walking paths in here. It gets really steep in here, so I don't think you can, but along the edge here we have walking paths. It enlarged... Okay, save significant number of significant trees and allowed easier access to the conservation area for residence. And it also still satisfies emergency vehicle access requirements. As the city has mentioned, the city does support the approval of this cul-de-sac design variance.

So the tree retention and replacement. So a major variance had been requested to reduce the number of replacement trees required to be planted as mitigation for removal of significant trees on site. So the city of Roy code requires 1,923 large and small trees or 2,139 small trees to replace the 427 trees that will be removed by this development. That means basically replanting five trees for every one tree

removed. The applicant consulted with WFCI and Habitat Technologies and the landscape architects on this requirement. All agree that it would not be physically possible to plant that many trees on site without endangering the health and of the existing and replaced trees. So a tree replacement plan was come...

So they looked at what can you do. How can we get as many trees as possible on site and still maintain that health? So the Bradley Design Group has prepared the preliminary tree replacement plan that shows the types and locations of where trees could be planted. The plan calls for 671 deciduous trees and 184 conifers, 856 total. The Bradley Group maximized the planting, adding trees to track A and C, street trees and trees between lots where we believe was possible.

So in the oak habitat area, they will all... Sorry, the oak conservation area, will be oaks and trees that would fit in with that conservation plan. The proposed replacement ratio now is in line with replacement ordinance of neighboring cities and Pierce County. The city supports the approval of this requested tree retention and replacement variance.

So 292nd street design. The 292nd street is a rural tree lined road. It's private and owned by the neighboring community. The city says that the street functions to some degree as a kind of local feeder street/neighborhood street, under their design standards and guidelines for street scape elements. So the applicant plans on installing, they required six inch vertical cement concrete curve, but has requested a variance on the street design for 292nd Street for the following.

So the code calls for a minimum pavement width of 28 feet with the curbside parking as required by the design standards. The applicant is requesting that the 24 pavement section with be retained and that there be no curbside parking. 292nd functions as a local neighborhood street and serves low density neighborhood with relatively large lots. The road has a very rural feel and is lined with trees. The current residents on 292nd have sufficient off street parking and do not require parking on the south side of 292nd.

The proposed plat will not have any homes or driveways facing 292nd. All of those homes will be internal. All driveways front doors will be oriented to the interior streets and given the proposed orientation, the fact that they will have their own driveway and parking onsite, it is unlikely that parking will be needed on 292nd. The city supports waiving the requirement for the widening of the street as well as the curbside parking. And the city also supports keeping the street and it's current width to minimize the impervious surface and calm traffic.

So the applicant had also requested a variance on the required 5.5 to seven foot planted buffer strip, which would be adjacent to the road, followed by a five-foot sidewalk. The reasons they had requested this, and you can see there's a lot of trees along here to add five and a half to seven feet. But a sidewalk, there's also a lot of slopes. So we believe that it retains the rural character of the roads in the trees. Additional impervious surface will be added with the addition of the sidewalks. A number of the additional trees may need to be removed to add the sidewalks. Foot traffic is seldom on the project segment of 292nd Street. There will be sidewalks on the interior streets of the proposed sites. Sidewalks are generally thought to enhance connectivity and promote walking, but 292nd does not have sidewalks on either side. So they will just be sidewalks on our project. On the property site.

The Bethel School District has requested a bus stop on the northeast end of the flat. School children will be able to reach the bus stop through internal sidewalks. They don't need to walk on 292nd. There is no plan to extend this private road and there is an increased cost to build and maintain with no clear benefits.

Now the city of Roy does not support this variance to eliminate the required sidewalks on the south side of 292nd. The applicant does not necessarily agree with the city's findings, but appreciates that the city

has offered an alternative designs that will protect trees and rural characters. So the city, from my reading of the staff report, is willing to accept a sidewalk design that will allow for some movement within the road easement. They're willing to consider a sidewalk that may ship location closer to the street to accommodate tree retention. City is willing to explore the use of pervious or permeable materials to minimize stormwater runoff. And they're also willing to accept sidewalks and right of way improvement design that maintains a more rural character, including asphalt and cement concrete, or to use a more informal street street planting design and the use of variable planter strips with to accommodate the tree retention. So the applicant does support the city's modifications of the sidewalk plan.

Hearing Examiner Olbrechts:

Okay, so you're saying that you waive your request for variance if they incorporate those considerations. Okay, got it.

Colleen Noronha:

Okay.

Hearing Examiner Olbrechts:

Yeah.

Colleen Noronha:

So if you got what I said?

Hearing Examiner Olbrechts:

Yeah, I think I got the legalese. Yeah, sounds good.

Colleen Noronha:

Okay.

So just in summary, with the exception of the requested variances, the preliminary flat as shown, does conform to Roy Municipal Code, the general requirements for the subdivision approval. They propose variances meet criteria for the variance approval for city code and the intent of the applicant is to provide construction documents that will meet the proposed conditions and the staff reports.

And then I just wanted to say thank you. The applicant and I would like to thank the city staff and the city planner who had professionally assisted in the processing of this project application. The applicant and design team have met with the city staff planner, engineers, on several occasions to collaborate on this proposal. In particular, we wanted to thank Jeff Bowers, the city planner who could not be here, and Ross Porter for the city engineer for their diligent effort regarding this review, processing and input into the proposal. There were a lot of iterations back and forth.

The applicant would also like to thank the city staff for the preparation of the staff report. I understand you guys are super short-staffed and we really did appreciate you getting that to us and being able to schedule and have this hearing today. Thank you Will, [inaudible 00:50:48] and Zach, we really do appreciate you jumping in and helping out on this.

Hearing Examiner Olbrechts:

Okay. Do you want to make your PowerPoint presentation in exhibit to put in the record?

Colleen Noronha:

Sure.

Hearing Examiner Olbrechts:

I'll make that exhibit 43. Any objections over the PowerPoint presentation you just had that way I can look at the diagrams in there. So I'll make that exhibit 43.

Colleen Noronha:

Okay.

Hearing Examiner Olbrechts:

And could you go back to the slide you presented for the cul-de-sac variants?

Colleen Noronha:

Yes.

Hearing Examiner Olbrechts:

So what was the original design you had? Was it that would punch all the way across east to west?

Colleen Noronha:

Yes.

Hearing Examiner Olbrechts:

Is that kind of... Okay. What about if you had just kind of gone, I kind of circled just down... You know what I'm saying there?

Colleen Noronha:

We looked at that, that was one of the proposals.

Hearing Examiner Olbrechts:

Uh-huh.

Colleen Noronha:

Felix can speak probably more to this.

Hearing Examiner Olbrechts:

Yeah. Cause that would've eliminated a couple more lots, but it seems like that would've kept the...

Colleen Noronha:

I thought that was the city who didn't want that, wasn't it?

Felix Jacobs:

Well...

Colleen Noronha:

You wanted you...

Felix Jacobs:

[inaudible 00:51:43].

Hearing Examiner Olbrechts:

Sure. Yeah. Let me swear. Do you swear affirm to tell the truth, nothing but the truth in this proceeding?

Felix Jacobs:

I do.

Hearing Examiner Olbrechts:

Okay. And sir, what's your name for the record?

Felix Jacobs:

My name is Felix Jacobs.

Hearing Examiner Olbrechts:

Oh, okay. And we'll need you to get close to the mic so it picks up here. Yeah.

Felix Jacobs:

My name is Felix Jacobs.

Hearing Examiner Olbrechts:

Okay.

Felix Jacobs:

Engineer with Apex Engineering. So to answer your question, one of the original layouts connected did connect the two cul-de-sacs that's shown there, in an up and down fashion.

Hearing Examiner Olbrechts:

Okay. Yeah. Yeah.

Felix Jacobs:

What that would've done, as Colleen mentioned in her presentation, is limited access to the oak habitat area.

Hearing Examiner Olbrechts:

Oh, I see. Okay.

Felix Jacobs:

Because lots would be backing up to that oak area.

Hearing Examiner Olbrechts:

Okay.

Felix Jacobs:

So by using this layout, it opens up the access to that oak area.

Hearing Examiner Olbrechts:

Okay. Okay. Got it. All right. Yeah, just wanted... That helps. Thank you, sir.

Colleen Noronha:

That was one of the things the city requested, wasn't that? I think Jack, was it Jack? The planner was involved in some of this.

Hearing Examiner Olbrechts:

Oh, right. Yeah. Mr. Boers. Right.

Colleen Noronha:

Yeah. Yeah.

Hearing Examiner Olbrechts:

Yeah. Yeah.

Colleen Noronha:

He likes to have people be able to walk in there.

Hearing Examiner Olbrechts:

Oh, okay. All right. Got it. Yeah, that makes sense.

Felix Jacobs:

Accommodated a trail access also.

Hearing Examiner Olbrechts:

Oh, okay. Perfect. Okay, that makes sense then. Thank you.

Felix Jacobs:

And one other thing that I if could add, the groundwater mounding analysis...

Hearing Examiner Olbrechts:

Oh, right.

Felix Jacobs:

Is in the preliminary storm drainage report.

Hearing Examiner Olbrechts:

Oh, okay. That's why. So that...

Felix Jacobs:

Number 31.

Hearing Examiner Olbrechts:

31, okay. That's what I was looking for. Thank you. That helps too.

All right. And then actually, just a couple final questions Mr. Stark before we get to public comment. Is your exhibit 42, is that the public comment letters that were submitted? It says notice of hearing comments, and that's the only thing I can find that that would conceivably include the written public comments. I just want to make sure they're in the record. I mean, we have one, the comment letter from the Oakview Heights Homeowners Association, but all the other comment letters you emailed me, I don't see that in the exhibit list.

Mr. Stark:

There's the notice of application comments too.

Hearing Examiner Olbrechts:

Oh, is it the 41 then the notice of application comments. Okay. And do you, you know how many total that were received?

Mr. Stark:

Off top of my head, no, I don't.

Hearing Examiner Olbrechts:

Okay. But are they all posted at the website for this project?

Mr. Stark:

I don't see them on here currently, but maybe I write, I'm going a search for them right now, sir.

Hearing Examiner Olbrechts:

Oh, okay. Is that something you can post on there? Cause I just want to give people an opportunity to verify that their comments were put into the record and give them until tomorrow to just let you know if they don't see their letter in there. Is that something you can do?

Mr. Stark:

Yes, I can.

Hearing Examiner Olbrechts:

Okay.

Mr. Stark:

[inaudible 00:54:23] meeting or during it. If you'd like?

Hearing Examiner Olbrechts:

Okay. Yeah. Okay. So Mr. Stark is going to put all your public comment letters on the city's website and then if you're, you want to make sure that your comment letter got in, just take a look at the website to verify. And if you don't see it there, let Mr. Stark know and he'll make sure that I get it and it's made part of the record. All right.

So I'm going to give everyone a chance till 5:00 PM tomorrow, just to double check. If you don't have a computer to do web access, I'm sure Mr. Stark, they can come and visit you and ask to look or give you a call and say, "Was my letter in there?" I'm sure it got all your letters, but you never know. Every once in a while a letter gets lost in the shuffle. I want to make sure it's in there. Cause there are a lot of good comments made.

And also, Mr. Stark, while I got you here, and this is within your department, actually, there was a question, I think from Oakview Heights about, they were concerned about reduction in water pressure. And I know your department issued a certificate of water availability. I mean, did you assess impacts on water pressure, that kind of thing when you verified that there was sufficient capacity to serve with this project?

Mr. Stark:

I can address that.

Hearing Examiner Olbrechts:

Okay. Sure.

Mr. Stark:

I think there is the one possible issue of...

Hearing Examiner Olbrechts:

Oh, sir, they've asked if you could speak up a little bit. Yeah, great. There. Yeah. That's good too.

Mr. Stark:

Yeah, I think is, we've got hydraulic modeling from that area, and we can take another look at that when we're looking at the final plat. But it's connected in three different places to the grid. So that should be good for the pressure. I think the pressure issues probably are for people who are a little bit farther up and a little bit higher in elevation, and so it's an elevation issue.

Hearing Examiner Olbrechts:

Okay. So you're going to verify pressure during final plat review and make sure, okay. I mean, what if the pressure isn't high enough? Is there set, do they have to add a pumping station or something, or what's?

Mr. Stark:

We can take look at that.

Hearing Examiner Olbrechts:

What happens at that point?

Mr. Stark:

I just don't think that that, that's going to be an issue given their location.

Hearing Examiner Olbrechts:

Okay. Okay. In your professional opinion. Okay. All right. Great. Thank you.

Okay, well, oh, Mr. Lell.

Zach Lell:

Thank you Mr. Examiner. Two points of clarification. One to follow up to your inquiry to staff regarding the city's noise regulations. The Roy city code does have several codified limitations on noise that are set forth at chapter 6-2 of the RCC. And then the second point of following up on the presenter of the applicant in relation to the groundwater analysis, I believe this was mentioned, but that is set forth under exhibit number 31 together with the preliminary drainage report.

Hearing Examiner Olbrechts:

Okay, good. Yeah, thank you. Yeah, got that. And I did verify your ordinance on city council review. You got me on a footnote there, actually is what happened. I mean, the ordinance had changed the hearing examiner decision from a recommendation to the city council to a final decision, and then it added a footnote saying that the council wouldn't do any close record appeal. So as Mr. Lell clarified, my decision is final appealable to court basically. The city council's out of it.

So let's jump, I'll take a small break at 10:30, 10 minutes, but until then, why don't we get started on public comments. Let's see, Mr. Stark, do you have the sign-in sheet available? I can go through the sign-in sheet first, and then if you didn't sign in, I'll just ask if anyone else wants to speak after I'm done going through the list.

Speaker 1:

Do you need this on right now?

Hearing Examiner Olbrechts:

No, you can take it off. Sure. Yeah. All right. No, thanks.

Speaker 2:

[inaudible 00:58:05].

Hearing Examiner Olbrechts:

Okay. Sticky there. All right. So like I said, I'm going to go... Let's see. See, I'm going to go through the list just to ask if you want to speak, and then once I'm done with the list, I'll just ask in general.

So I got Camille. Can't read the last name. Sorry. Does Camille want to say anything? How about Mary Erbeck?

Oh, sorry.

Camille:

I'm an applicant.

Hearing Examiner Olbrechts:

Oh, okay. All right. Mary Erbeck, is that also part of the applicant team?

Mary Erbeck:

Yeah, Mary Erbeck for Bethel School District.

Hearing Examiner Olbrechts:

Oh, okay.

Mary Erbeck:

And council for the applicant has been discussing with Bethel School District regarding the mitigated determination of non-significance condition number nine.

Hearing Examiner Olbrechts:

Okay.

Mary Erbeck:

And could you present first and...

Counselor:

Sure.

Mary Erbeck:

Then I'll comment.

Counselor:

We just thought it might make sense to address this before the public comments.

Hearing Examiner Olbrechts:

Oh, sure. Okay.

Counselor:

So there is a mitigated determination of non-significance in the staff report. A condition of that, that's condition number nine is the fee for schools. The school fee is a [inaudible 00:59:15] mitigation here. It's not under the GMA 820250 because the city does not have a provision for that.

Hearing Examiner Olbrechts:

Okay. Oh sir, let me just stop real quick. Mr. Stark microphone's going to pick them up, you think from being that far away or?

Counselor:

I can go to the second.

Hearing Examiner Olbrechts:

Yeah, maybe, yeah. Yes, it might be helpful. You want to make sure it gets recorded. I'm recording it as well as a backup, but yeah. Nice they pick up. Okay, great. Go ahead.

Counselor:

So the fee that was contemplated, the \$4,400 is modeled on the GMA fee that's currently in place in Pierce County. The applicant does not have an issue with that dollar amount, and we are not challenging that here. I don't believe that it's in front of the examiner in any case. But we do...

PART 2 OF 4 ENDS [01:00:04]

Counselor:

... the examiner, in any case, but we do have an issue as to timing, and so we contacted council for the city, council for Bethel Schools yesterday and discussed a deferral option. Because this is modeled on the GMA provisions in Pierce County, under the GMA there's a deferral option that the applicant can request a deferral in Pierce County. It's 18 months from the building permit issuance, or at the time of sale of the property, whichever comes first. There's a lien provision for enforcement, a 3% interest rate running from the time you're aware of the provision.

So everyone's in agreement that it makes sense to provide a provision for deferral with regard to these fees, seeing as we're tracking in Pierce County. The concern from Bethel School District is that we actually track the provisions in the Pierce County Code and we are okay with that. Speaking to Mr. Lell and counsel for the school district, we thought the best way to address this would be to keep the record open, to allow the SEPA official to do an addendum. It would not change in any way the substance of condition number nine, but just add this deferral option that tracks the Pierce County provisions.

Hearing Examiner Olbrechts:

Okay.

Counselor:

And we discussed stipulating orally, the three of us, as to that and requesting that the record remain open on that limited basis.

Hearing Examiner Olbrechts:

Yeah, I appreciate that you want to leave the record open, that's arguably not even necessary with the SEPA addendum if it's a minor enough modification, it sounds like it probably is. So by leaving the record open, so you guys would put that addendum together in the next week and then we have another couple days for people to provide responsive comments to it. Is that what you had in mind?

Mr. Stark:

We hadn't contemplated the additional opportunity for public comment. I don't know that that's technically required.

Hearing Examiner Olbrechts:

Oh, okay.

Mary Urbank:

It is an under, as an addendum, it wouldn't be-

Hearing Examiner Olbrechts:

Well, and that's what I meant, is that you could have even done it after the close of the record. So I thought since you wanted to leave the record open, was just to get it in the record. Yeah.

Mr. Stark:

Essentially that's correct, Mr. Examiner. And the concern obviously is that the examiner doesn't have the authority to change the conditions.

Hearing Examiner Olbrechts:

Yeah, the addendum. Yeah. Yeah.

Mr. Stark:

... of the MDNS, so wanted to ensure that your conditions of plat approval, which will presumably incorporate the MDNS are incorporating that accurately. We antiSEPAte having the addendum issue probably within the next few days.

Hearing Examiner Olbrechts:

Okay. Yeah, I guess my only concern is that anytime you add information to the record, even if it's something I can't address, it could still affect other portions of the project. And then there's a general preliminary plat condition saying adequate provisions for schools. So I think I would have to leave it open for some public response and then reply. I would anticipate that probably wouldn't be any or not much anyway. But we can set up a time schedule for that.

Mr. Stark:

No objection from the city on that.

Hearing Examiner Olbrechts:

Okay. All right.

Mary Urbank:

Mr. Examiner.

Hearing Examiner Olbrechts:

Uh-huh.

Mary Urbank:

Mary Urbank, if I could have a few-

Hearing Examiner Olbrechts:

Oh, sure. Yeah, yeah.

Mary Urbank:

I do have one housekeeping item, and then I do have a comment here. We have submitted the basis for our request and was February 3rd, 2023, and it's not identified specifically in the record. Exhibit 10 refers to the MDNS, but our submittal was not identified. So I'm uncertain whether it's in the record or not, and I want to make sure-

Hearing Examiner Olbrechts:

And you're talking about what was labeled as your appeal and-

Mary Urbank:

No. Actually, yes. It was a comment period and appeal.

Hearing Examiner Olbrechts:

Right. Right. Because I received a copy. I assumed it was part of the exhibit list.

Mary Urbank:

It's not specifically identified in the record.

Hearing Examiner Olbrechts:

Okay.

Mr. Stark:

But city certainly has no objection whatsoever to including that. I assumed that it was within the record.

Hearing Examiner Olbrechts:

Yeah. I thought it was, too. Like I said, I was sent that as one of the exhibits.

Mary Urbank:

It may be attached to the MDNS, but I'm not aware of that in the manner-

Hearing Examiner Olbrechts:

Yeah. Mr. Stark, do you recall? Because you emailed that to me and I thought what you emailed me were just the exhibits, in the exhibit list.

Mr. Stark:

I do not.

Hearing Examiner Olbrechts:

So, okay.

Mr. Stark:

[inaudible 01:04:13].

Hearing Examiner Olbrechts:

Well let's get it in as number 44. Yeah, exhibit 44. And could you identify the title and date of the document?

Mary Urbank:

The title of the document is Bethel School District Notice of Appeal of Mitigated Determination of Non Significance is the title.

Hearing Examiner Olbrechts:

Okay.

Mary Urbank:

And also a comment letter.

Hearing Examiner Olbrechts:

Oh, you know, that probably came in as one of the comment letters. That's probably part of Exhibit 41. Yeah. Yeah. Okay. Let's, we'll make it separate, but that's why it was sent to me, is because it was part of all the comment letters. And that's how I viewed it, but we'll see. Does anyone object to that entry of the document? Ms. Urbank just recited as Exhibit 44. Okay. Here, now that's admitted as well. All right.

Mary Urbank:

Mr. Jenner, I would like to have a date certain that the record be held open.

Hearing Examiner Olbrechts:

Oh, yeah. Well, I want to wait until the end of the hearings. Because there might be other reasons to leave the record open. So if I don't bring it up at the end of the hearing, I just, you guys bring it up. And then we'll set the date then.

Mary Urbank:

Okay. And I did hear counsel for the applicants say that they're not challenging the SEPA determination condition number nine in this hearing, which obviously would not be the appropriate location because there's no administrative process.

Hearing Examiner Olbrechts:

Right.

Mary Urbank:

I'm assuming as a matter of good faith that counsel's indicating on behalf of his client that he does not intend to challenge in court that mitigating condition and that we are going to proceed to try to breach resolution and that the mitigating condition number nine, which would otherwise stand, would be incorporated by reference into your condition of plat approval. Because you can't otherwise make appropriate provisions for schools.

Hearing Examiner Olbrechts:

Right.

Mary Urbank:

However, if it is appealed and we don't reach agreement on the language in terms of the deferral, which I understand we are in good faith working toward that. that you have to make an independent determination whether appropriate provisions have been made for school and that you can look to the level of service given the extensive comprehensive plan amendments relating to Bethel's level of service as being the adopted standard. Which would be the definition then of appropriate provisions for schools.

Hearing Examiner Olbrechts:

Right, okay.

Mary Urbank:

So I would want to reserve the ability to enter some briefing on that, in that regard, if we don't reach agreement.

Hearing Examiner Olbrechts:

Okay. So applicant's council, I mean, do you waive objection to condition I as it is, and then if there's any disagreement on the addendum, that your disagreement would be limited to the addendum issue? I think is it, is that basically, Ms. Urbank, what you're-

Mary Urbank:

Correct.

Hearing Examiner Olbrechts:

Yeah.

Mary Urbank:

Okay.

Counselor:

So I don't want to waive any rights that the applicant has at this time with regard to that. In a general sense, what we are here today to say is that we do not object to the 4,400, but we would have to appeal the MDNS if we could not agree on the timing of the payment, which [inaudible 01:07:14].

Hearing Examiner Olbrechts:

Okay.

Counselor:

And in doing so, I don't want to waive all rights without knowing the circumstances of what's going to be discussed at that time. The Bethel School District assessment that's been put in, we do not object to it being included in the record. We also do not necessarily agree with the analysis, the 4,400 tracks, Pierce County. And as I've said, we do not object to that. And on appeal, I don't expect that we'd object to that.

Hearing Examiner Olbrechts:

Okay. Well, he's saying that he doesn't object to the 4,400. That seems to be what you're asking for, Ms. Urbank? Or did you, it's okay. Yeah, preserving his option to contest the timing of when it's due.

Mary Urbank:

And it's just not clear. And you can make it clear as a matter of the record.

Hearing Examiner Olbrechts:

Yeah.

Mary Urbank:

That there is no objection to the amount. And then that will stand even if there is not agreement on the deferral.

Hearing Examiner Olbrechts:

Okay. That's what I hear you saying, counselor, is the applicant does not object to the amount. It's just how it's collected, when and how. Is that correct?

Counselor:

That's correct.

Hearing Examiner Olbrechts:

Okay. All right. So that's where the record stands.

Mary Urbank:

So as I understand Mr. Examiner, we're going to wait till the end of-

Hearing Examiner Olbrechts:

Right. Yeah, because there might be another reason we have to keep the record open, and so I just want to consider the timing. Put everything together at that point.

Mary Urbank:

And that there's no limitation, then. On submittals, then, if there is an agreement on that deferral language, then.

Hearing Examiner Olbrechts:

Yeah, that's what I would anticipate. But we can hash that out at the end of the hearing. And if it turns out that there are some limitations and you need to put in some additional evidence, I'll let you do that at that point.

Mary Urbank:

Okay. Thank you.

Hearing Examiner Olbrechts:

All right, so we're done with the lawyers? Okay. So let's move on to the public now. How about Lenny Blackman? Mr. Blackman, did you want to say or miss? Nope. Okay. Let's see. Colleen Nover. That's the applicant I think, right? Yeah. Mr. Jacobs? I can't read the first name. Jacobs? Oh, got you there. Okay. I bet Eyesight and I, it's, let's see, the Jays. Did they want to say anything? No? Bob Croft Carland? No? Let's see. Ray Burn? Do you want to say something sir?

Ray Burn:

I do.

Hearing Examiner Olbrechts:

Okay. Come on up. Or you can stay. I think you can sit there if it's a problem for you to walk or-

Ray Burn:

Oh, it's really not.

Hearing Examiner Olbrechts:

Okay. All right, cool. Let me swear you in real quick. Do you swear or affirm to tell the truth and nothing but the truth this proceeding?

Ray Burn:

I do.

Hearing Examiner Olbrechts:

Okay, great.

Ray Burn:

I guess I'll go back in history a little bit.

Hearing Examiner Olbrechts:

Sure.

Ray Burn:

20 years ago, I was the bear. Rush Porter and I chatted a lot back then.

Hearing Examiner Olbrechts:

Uh-huh.

Ray Burn:

And back then he had then, my property adjoins the new one. So I get to look at, right now I have a great view and now I'm going to have houses in progress. But back 20 years ago, it was at the recommendation of Grant Osborn that we put a water tower up there for the pump system. But now we don't have that, and I don't know how that changed. Up there, we have lower water pressure than they do here in lower part of the city. We don't want it to affect our water pressure. To us, it's just kind of minimal. Last I checked, mine was between 40 and 45 pound waters per inch. So it's just my question, why did we not need a tower, Russ?

Mr. Stark:

Well, I'd have to go back and look at, Tamara Neck, my predecessor, was the one who was kind of involved in those early discussions. The minimum requirement for water systems per DOH regulations, state DOH regulations is 30 psi. And so if you've got 40 to 45, that's more than adequate. I think the bigger issue at the time back then was storage. And I think we looked at interim fire flow requirements that brought the total storage down in the last water system plan, if I recall. But I'd have to go back and kind of look through that as well to-

Ray Burn:

It's just a question on my mind that-

Mr. Stark:

Sure.

Ray Burn:

I don't want to have to get down the road 10 years in this project and find out that, whoops, we've made a mistake.

Mr. Stark:

Sure.

Ray Burn:

It's just, that's all I got.

Hearing Examiner Olbrechts:

Okay. Thanks, mayor. Appreciate that. All right. The Clingsworths?

Mr. Killingsworth:

Killingsworths?

Hearing Examiner Olbrechts:

Killingsworth. There you go. Yeah, sir. Come on up. Yeah. Let me swear you in real quick. Do you swear or affirm to tell the truth, nothing but the truth in this proceeding?

Mr. Killingsworth:

I do.

Hearing Examiner Olbrechts:

Okay, great.

Mr. Killingsworth:

Yeah, I just have a concern. We live in [inaudible 01:12:40], neighboring area. And the speed limit for the road on 507, it starts at 40 miles an hour, right at our entrance to 507. With the addition of this development, I'm wondering if it can be looked at perhaps for safety reasons to extend that 40 mile an hour speed limit a little further beyond where our entrance is to 507, or exit, whatever you want to call it. And also perhaps add a left-turn lane on that because of the increase in traffic. Because it does become a bit problematic trying to turn left from 507 into our development during peak traffic times.

Hearing Examiner Olbrechts:

Okay. Let the staff answer and applicant during their rebuttal comments. And I do realize, I think it's WSDOT that sets the speed limits, right? So you'd have to consult with them. And I don't know if you guys have done that or anything, but just like I said, we can address it when it's staff response time. So we'll get that. We'll get, if they don't fully answer your question, just let me know. Yeah.

Mr. Killingsworth:

Thank you.

Hearing Examiner Olbrechts:

All right. Thank you, sir. All right.

Mrs. Killingsworth:

I'm the other Killingsworth.

Hearing Examiner Olbrechts:

Oh, okay. Come on up. Yeah, I didn't know if both of you wanted to speak or not. Do you swear or affirm tell the truth, nothing but the truth in this proceeding?

Mrs. Killingsworth:

Yes, sir.

Hearing Examiner Olbrechts:

Okay, great.

Mrs. Killingsworth:

I just have, if I understood correctly, it said the last time the part of the gopher preserve that was part of this new tract, last time it was tested for the gophers or pocket Gophers was 2018. And that was five years ago, and a lot could happen in five years. Is there any way that could be retested again to see if the pocket gopher population has in any way increased?

Hearing Examiner Olbrechts:

Okay. Let the applicant answer that during their applicant response time.

Mrs. Killingsworth:

Thank you.

Hearing Examiner Olbrechts:

All right, let me... Speed limit... Okay. And the Bakers? Do the Bakers want to say anything? All right, sir. Do you swear or affirm to tell the truth, nothing but the truth in this proceeding?

Tim Baker:

I do.

Hearing Examiner Olbrechts:

Okay. And you're Tim Baker, is that correct?

Tim Baker:

I am.

Hearing Examiner Olbrechts:

Okay, great.

Tim Baker:

The main issue that I wanted to bring up was the issue of water. So there's two issues. There are two wells that City of Roy operates from. Issue one is the water provided by the city is brown due to high level of manganese. So there needs to be a filtration system. I mean, that's widely known that we have that problem. Second problem is, you mentioned it at the beginning, the PFAS, the Forever Chemicals in our water. So we have carcinogenic materials in some of the water that we're drinking. And I know that there are state levels that say, "Well, hey, it's dangerous here." But it doesn't remove the fact that we have those chemicals on our water. And I'm just wondering about, is it an ethical issue to put in a new subdivision knowing that we have water that's contaminated? And the City of Lakewood is doing a lot to filter their water, and I don't know what the plan is for the city.

Hearing Examiner Olbrechts:

Okay.

Tim Baker:

[inaudible 01:15:57]

Hearing Examiner Olbrechts:

Okay. Again, that's a question for staff and applicant, if they want to address it.

All right. That's it for the sign-in sheet. Is there anyone else who wanted... Oh, sorry. Did Ms. Baker want to say anything, I should ask?

Tim Baker:

No.

Hearing Examiner Olbrechts:

Oh, she's not here. Okay. All right. Does anyone else out in the audience? Okay, come on up. Ma'am, what's your name for the record?

Carolina Clark:

Carolina Clark.

Hearing Examiner Olbrechts:

Okay. C-L-A-R-K, I take it?

Carolina Clark:

Yes.

Hearing Examiner Olbrechts:

All right. Do you swear or affirm to tell the truth, nothing but the truth in this proceeding?

Carolina Clark:

Yes, I do.

Hearing Examiner Olbrechts:

Great. Okay. Go ahead.

Carolina Clark:

I actually was concerned about the gopher habitat. I didn't know anything was going to even be brought up about that, because I thought it was protected. What is the plan with the gopher habitat and those trees?

Hearing Examiner Olbrechts:

Okay. We'll let the applicant address that when they speak next, so...

Carolina Clark:

All right.

Hearing Examiner Olbrechts:

Okay. Thank you for the questions. All right. Anyone else? Okay, ma'am, come on up. And what's your name for the record?

Theresa Callanan:

Theresa Callanan.

Hearing Examiner Olbrechts:

Oh, okay. You'll have to spell that for me.

Theresa Callanan:

T-E-R-E-S-A C-A-L-L-A-N-A-N.

Hearing Examiner Olbrechts:

Oh, great. Thank you. Do you swear or affirm to tell the truth, nothing but the truth in this proceed?

Theresa Callanan:

I do.

Hearing Examiner Olbrechts:

Okay, great. Go ahead.

Theresa Callanan:

My concern again is with the water pressure. We have currently 35 psi. We went through our house. We replumbed our whole house two years ago. I submitted a complaint to there. I don't know who came out and double-checked it or if they even did. So my concern is, we're already almost at the minimum, and so with not having the knowledge of how it actually works, by adding 70-something more homes and everything, it's got to take away from something. And.

I've heard some other people address it, but I haven't heard anything. What's going to be done about it? I mean, I don't know if you are the people who actually do the testing or whatever, but there needs to be an answer for it, for the water pressure. And as we're not the only ones that has this issue. So that's a large concern for us. We can't run the sprinkler in the front and the back at the same time. This is our home, been there for 23 years. We've done as a homeowner everything that we can do, like I said, completely re-piping our house, thinking that could be the problem. And so we've done our due diligence, we need you to do yours.

Hearing Examiner Olbrechts:

Okay. Thank you, ma'am. All right. Yeah, I can let staff address that if they can.

A couple points though, from those comments. One is by state law and the city's code, I can't make the developer fix existing problems. But you do have staff here. So once the hearing is done, if you've got an existing issues with your pressure, feel free to approach them to talk about that. I'm sure you guys are willing to, but in terms of this project, it's like if they further reduce your water pressure, that's something I can address. But if they don't make your water pressure any worse, that's kind of a separate problem that staff has to address independently. So. All right. Anyone else want to say anything at this point? Okay, come on up. And what's your name for the record?

Lynn Setchfield:

My name is Lynn Setchfield. I live in Oakview Heights. I am more than-

Hearing Examiner Olbrechts:

Oh, couple things. Just how do you spell your last name?

Lynn Setchfield:

Setchfield?

Hearing Examiner Olbrechts:

Yeah.

Lynn Setchfield:

S-E-T-C-H-F-I-E-L-D. Just like it sounds.

Hearing Examiner Olbrechts:

Oh, great. Okay. Let me swear you in. You swear or affirm to tell the truth, nothing but the truth?

Lynn Setchfield:

I do.

Hearing Examiner Olbrechts:

Okay, great. Now go ahead.

Lynn Setchfield:

Yeah, I have one big appointment. I don't know about these other people. They're kind of old, but I have a hard time hearing.

Hearing Examiner Olbrechts:

Okay.

Lynn Setchfield:

Okay, so speak up.

Number one, sidewalks. This is the old established department. There's this new outfit coming in thinking they can change our road and whatever. Their interest is in the land to put their houses in. They need to come into us, not us go into them. They're making all these plans.

Number two is the water. I live on the other side of the hill. You don't take a shower like normal people, because you have to kind of wait for the water to come down. And so that's a big point.

Number three, do you know where these cul-de-sacs are? Have you all ever really seen a picture of Oakview Heights? We live on a hill, up here. You'll have to level that land and put more dirt down the side of the road to get those cul-de-sacs. I wouldn't live in one of those cul-de-sacs for nothing. Because you go down a hill. There is an actual hill there, and you want to turn around and cut all these trees down. The bottom of that hill is kind of like a meadow. Lots of water. When it rains, lots of water. And you're trying to put houses in here. How many trucks of dirt are you going to put in there to get these houses to be settled without cracked cements and whatever else. And so that's the only thing I have to say.

Hearing Examiner Olbrechts:

Okay.

Lynn Setchfield:

Oh, I have more points, but they don't come. Those are the one that hit me when y'all was talking.

Hearing Examiner Olbrechts:

All right. Thanks for your comments.

Lynn Setchfield:

Thank you.

Hearing Examiner Olbrechts:

Yeah, and maybe applicant can address the amount of grading that will be involved for the cul-de-sacs. Because I think that's probably already been reviewed to a certain extent for your preliminary grading plans and stormwater plans. All right. Anybody else? Okay, ma'am. Come on up, and what's your name for the record?

Kimber Ivy:

Kimber Ivy. And last name is spelled I-V-Y.

Hearing Examiner Olbrechts:

Okay. Let me swear you in. Do you swear or affirm to tell the truth, nothing but the truth in this proceeding? Okay, great. Go ahead.

Kimber Ivy:

I just wanted to bring up, it was kind of touched on a little bit of a playground maybe. And I just wanted to get more information on that. Where is it going to be? Is it going to be available for multiple community members? Because I do walk, I'm in McKenna Meadows. I do walk the other neighborhood. And I think it's really important for child development that we have a place for these kids to play outside safely.

Hearing Examiner Olbrechts:

Okay.

Kimber Ivy:

Especially, and the sidewalks is another concern. If this is going to go on, I think sidewalks are important.

Hearing Examiner Olbrechts:

Sure.

Kimber Ivy:

Because the kids need to get there safely.

Hearing Examiner Olbrechts:

Okay.

Kimber Ivy:

So, those are my points.

Hearing Examiner Olbrechts:

Great. Thank you. Yeah. Ask them. Maybe address whether you're going to have any active recreation. And that was, yeah, I was kind of wondering about that myself. All right. Anyone else? Okay, ma'am, come on up.

Vicki Myers:

I want to stay here.

Hearing Examiner Olbrechts:

Okay. Yeah. Can you bring-

Speaker 3:

I don't know how far that can reach.

Vicki Myers:

I have a big voice.

Hearing Examiner Olbrechts:

Okay. Well, if you yell it out, then we'll-

Vicki Myers:

I don't think that I need that.

Hearing Examiner Olbrechts:

There we go.

Vicki Myers:

I don't need that, I don't think.

Hearing Examiner Olbrechts:

Okay. All right, go ahead. Yeah, we have to record everything everybody says. So, sorry.

Vicki Myers:

I'm just Vicki Myers.

Hearing Examiner Olbrechts:

Okay. And that's M-Y-E-R-S, is that right?

Vicki Myers:

Yes.

Hearing Examiner Olbrechts:

Okay. Do you swear or affirm to tell the truth, nothing but the truth in this proceeding?

Vicki Myers:

Yes.

Hearing Examiner Olbrechts:

Okay, great. Go ahead.

Vicki Myers:

I just wanted to expand and understand more about the sidewalks. And I did put in five pages, so hopefully I'm on that list in the letters. And what it is is, all that, everything that's on the hill going up is all private property to the Oakview Heights homeowners. So what I was wondering is, for example, the dry wells. Does Oakview have their own dry wells as far as their draining system? They're not connecting into ours? Because we just paid in 2017 \$44,000 to rebuild all that. So if anything's destroyed, shouldn't Oakview Heights get some reimbursement for some of this?

Hearing Examiner Olbrechts:

Okay.

Vicki Myers:

And we were built in 1993, so I don't think the code, that code that Pierce County has about sidewalks came into effect until around when McKenna Meadows was built. So I don't understand why it can't be grandfathered in. Plus McKenna Meadows is completely flat. They only have a little tiny hill going on the railroad track. And Oakview Heights is a hill that is even more dangerous in the wintertime. And you guys, if you're going up that way with the sidewalk, somebody's going to get hurt someday.

Hearing Examiner Olbrechts:

Yeah.

Vicki Myers:

So who's responsible for that?

Hearing Examiner Olbrechts:

Okay.

Vicki Myers:

Because the kids want to slide down it, so I just wanted more understanding and more of a response.

Hearing Examiner Olbrechts:

Sure. Okay. I'll let the applicant address the dry wells.

Vicki Myers:

And the road's been repaired by Oakfield.

Hearing Examiner Olbrechts:

Okay. Applicants, can you address the dry well issue? Or I mean, when it's your turn to speak, but yeah. Okay, good, good. Yeah, and I will say on the sidewalks, I don't know if that was real clear from the applicant's testimony. They're actually willing to agree to put in those sidewalks if the city's willing to be a little flexible on some of the requirements there. So it looks like we have something where that's going to happen, probably. But, okay. Anyone else want to speak at this point?

Speaker 4:

Just another question.

Hearing Examiner Olbrechts:

Oh, sure. Yeah.

Speaker 4:

Are they going to have an HOA in this?

Hearing Examiner Olbrechts:

I believe that, yeah. The applicant is nodding yes. There's going to be an HOA, homeowners association. That's right. Okay. All right. Any other... Okay, sir, in the back there.

Speaker 4:

All right, sir. What's your name for the record?

Chief Chris Johnson:

Chief Chris Johnson.

Hearing Examiner Olbrechts:

Okay. Johnson, did you say?

Chief Chris Johnson:

Yes, sir.

Hearing Examiner Olbrechts:

Okay. Do you swear or affirm to tell the truth, nothing but the truth in this proceeding?

Chief Chris Johnson:

Yes.

Hearing Examiner Olbrechts:

Okay, great.

Chief Chris Johnson:

My question is kind of along with the hillside and public safety being in this field, unfortunately. There's a lot of people who live up in Oakview Heights who have to park at the bottom of the hill when it snows. Because it's not maintained by the city. It's private. So it used to be that they would park down by the railroad tracks, kind of where the entrance to the new lot is. And I didn't know if it was talked about, if they do put in the sidewalk down there, if it couldn't be a raised sidewalk. Some people are able to park there because if they're going to go attempt to go up the hill, they're going to come down and it's an embankment on the other side. So just to the northwest side of-

Hearing Examiner Olbrechts:

So are you're saying you don't want it to be a raised sidewalk?

Chief Chris Johnson:

No.

Hearing Examiner Olbrechts:

So if it's not raised, so they can park there.

Chief Chris Johnson:

They can park, yes, exactly.

Hearing Examiner Olbrechts:

Okay. I just want to make sure I understood you correctly there. Okay. Yeah, and I'll let the staff and applicant address that, one or the other.

Okay. Anybody else? All right. Well, I set a break at 10:30, but we're close to the end. So I think you're all probably anxious to get back and do whatever you do on a weekday. So I'll let staff jump right into it. And there are a lot of questions there, if you just start into it.

Speaker 5:

But just to clarify and confirm the examiner's comments with relation to the sidewalk, which are probably the most common public comment today, it sounds like that issue is likely resolved by virtue of the applicant-

Hearing Examiner Olbrechts:

The only problem I have is that the city said it's willing to consider various, but I don't know specifically what. I don't know if the applicant and the city are actually going to come to agreement on that, so that's why it's still kind of open. But yeah, it sounds like it's, like I said, likely I think that that sidewalks will be put in there. But I can't say for sure.

Speaker 5:

I think perhaps for the record, it would make sense for Mr. Porter and or Mr. Stark just to address those comments so there's a clear record.

Hearing Examiner Olbrechts:

Okay. Sure. Yeah.

Speaker 5:

All right. Comment on the speed limit by McKenna Meadow. Is it 40 or 40 miles per hour and using it?

Mr. Stark:

Yes. It requires the talking to Washout, which I have done in the past. I believe it was brought up by the Killingsworths and passed about suggesting a stop light there?

Hearing Examiner Olbrechts:

Left-turn lane, I think is what they were talking about.

Mr. Stark:

Oh, in the past about it.

Hearing Examiner Olbrechts:

Oh, okay. Sorry.

Mr. Stark:

Because it's been an issue among the citizens for a while. As far as know, they first start off with a study of the area and then they try implementing signs and other slowing conditions before actually altering the road itself or putting up stop lights.

Hearing Examiner Olbrechts:

And Mr. Stark, I mean, has WashDOT been notified about this project? Or do you have any plans to talk to them about maybe changing the speed limit because of the project? Or where are you on that?

Mr. Stark:

They haven't notified the project, as you see from one of the exhibits in about-

Hearing Examiner Olbrechts:

Oh, okay. And they didn't say anything.

Mr. Stark:

Nothing about McKenna Meadows [inaudible 01:28:37].

Hearing Examiner Olbrechts:

Okay. Okay.

Mr. Porter:

Yes. We can look into somehow trying to get the speed reduced, or another turn lane or stop light there or [inaudible 01:28:44] and see where going to go from there.

Speaker 5:

Do you know when that survey was done by WashDOT, Washington. When they surveyed that the last time, or-

Mr. Porter:

Off the top of my head, no. But I have seen them out there, and they have installed some new forty mile per hour signs there, which I think is part of their site work.

Speaker 5:

Okay, thank you.

Mr. Stark:

All right. So the filtration from the iron and manganese section of this comment. We've been working on it. We've initially started trying to get filtration or a grant four filtration before COVID started. And that kind of interrupted the whole grant process for that. So we've been trying to seek grants and money for filtration to work on the iron and manganese issue since I started working back in 2017. We're still working on it. I put into the budget to try and, whether we have grants or not, working on getting a filtration well to where the high iron and manganese [inaudible 01:29:50] system [inaudible 01:29:50]. As everyone knows on the south end of town and some in older town, the dark water and stain features and the like. As from the PFAS, I can't really speak to the moral-

PART 3 OF 4 ENDS [01:30:04]

Speaker 6:

Pass.

Speaker 7:

I can't really speak to the moral nature of what to do about that, but we are working with the department of health to find a way to mitigate this. And as I said earlier, the EPA has come out with draft documentation on proper treatment and disposal of this. So we are still working on testing, monitoring and figuring out what to actually do about PFAS. Some possible options might be two, shut down the well, install filtration there, if possible, by the contract we have since it is outside our city limits and it's property owned by another business.

Speaker 6:

Sorry. Mr. Porter hasn't been called on.

Mr. Stark:

The issue with PFAS right now is that the regulations on it are not really clear. The EPA has just proposed some new limits, but they have to go through their process before they'll be codified. They're fairly low. And so I suspect that if with the levels that you might have seen that that could be an issue, but when it gets codified, then we will have to figure out some kind of treatment.

Hearing Examiner Olbrechts:

And just to clarify, I think this is kind of a new issue and that's why EPA has been scrambling. It's the same, because I've dealt with PFAS in some other hearings and I'll just get my knowledge in the record,

but I know it's an issue for stormwater controls as well. And the part of ecology hasn't integrated water treatment for that yet because there's no known technology for stormwater treatment of PFAS, or at least there wasn't as of a year ago, I think. So this is also something they're all kind of scrambling to address and are addressing at this point. Is that kind of the status?

Mr. Stark:

I think so. I mean, with drinking water, it's been a little bit more of a known quantity and obviously the public health concern is greater and there are technologies for drinking water to treat it. But it's a cost and most communities are not going to do that until they know what the-

Hearing Examiner Olbrechts:

Actual cost is? Okay. Okay. All right. Okay. Is that everything from staff on this or... Oh, sorry, Mr. Lowe.

Felix Jacobs:

Mr. Examiner, many of the comments did address the water pressure issue-

Hearing Examiner Olbrechts:

Right.

Felix Jacobs:

... and were responded to previously by Mr. Porter, but I was curious if staff should offer additional testimony in response to those comments.

Hearing Examiner Olbrechts:

Sure. Yeah, if you have anything more.

Mr. Stark:

I mean, what we'll do is we'll take a look at the city's hydraulic model and look at the impacts of the 79 homes in the subdivision, at the peak hour demands, and see if there are decreases in pressure to the existing residents.

Hearing Examiner Olbrechts:

So and just to clarify, I mean, I'm assuming by what you're saying is then you'll model what effect this additional 79 connections we'll have, you'll estimate from your modeling what the resulting pressure will be on surrounding homes, and then do you have an adopted standard of what a minimum water pressure is?

Mr. Stark:

The Washington State DOH adopted standard is 30 PSI-

Hearing Examiner Olbrechts:

Okay. All right. So is there a possibility that the water pressure for adjoining homes could be lowered more, but still be above the minimum DOE standard?

Mr. Stark:

It's possible, but I would suspect it's not going to be that great because most of the issues when you're designing a system are more related towards fire flow and whatnot. So peak hour demands, usually you're not as critical in terms of pressure.

Hearing Examiner Olbrechts:

Okay. All right.

Mr. Stark:

What's more important is usually elevation.

Hearing Examiner Olbrechts:

Okay. Okay, thank you. Then there was a couple of questions about the gophers. I mean, the last study was apparently done in 2018. Is that consistent with the city's critical area review standards to use data that's that antiquated or... Because I mean, I think they said there was one gopher found at some point. I can't remember when, but yeah.

Speaker 8:

2005.

Hearing Examiner Olbrechts:

Okay.

Speaker 9:

Can I-

Hearing Examiner Olbrechts:

But-

Speaker 9:

In our gopher reserve, how do you even get down there to look?

Speaker 8:

I think they're talking about a different property. We were talking only about gophers on our property.

Hearing Examiner Olbrechts:

Yeah, we're just talking about, yeah, this is just-

Speaker 9:

Oh, okay.

Speaker 8:

Nothing about the protected gopher habitat.

Speaker 9:
Because the-

Speaker 8:
Okay.

Hearing Examiner Olbrechts:

Okay. Yeah, let's keep the exchange out. Okay. Yeah. Okay. Yeah, we just had a little discussion in case that didn't get recorded about gophers on other property, but we're just talking about this project site and I can let the applicant address that if you... Yeah. Okay. Well, I'll do that. And I take it that the drywall issue, we'll leave that to the applicant? Okay. All right. I think, those are the main ones. Oh, oh, sorry. Question back here.

Colleen Noronha:
I have a question and answer.

Hearing Examiner Olbrechts:
All right.

Colleen Noronha:
Sort of like. The HOA, when they asked about that, are we going to be combined with them or is it going to be separate?

Speaker 8:
Separate.

Hearing Examiner Olbrechts:
Okay, and the question was, that we're talking about the gopher preservation? Is that-

Colleen Noronha:
No, no. I'm talking about the HOA.

Hearing Examiner Olbrechts:
Oh, the HOA? No, the HOA... There was a question asked about whether the homeowner's association was going to be combined or separate. It's separate.

Speaker 8:
They're separate.

Hearing Examiner Olbrechts:
Yeah.

Colleen Noronha:

And my second one, what's the object putting that sidewalk up that hill when sometimes we can't even get down and or up the hill. So why don't you just let nature be its course and let the new sidewalk start at new development? Yeah. Period. End of sentence.

Hearing Examiner Olbrechts:

Okay. Did the recorder get that Mr. Stark?

Mr. Stark:

I honestly couldn't tell you.

Colleen Noronha:

Yeah.

Hearing Examiner Olbrechts:

Okay. All right. But the applicant heard the question, right?

Colleen Noronha:

Yes.

Hearing Examiner Olbrechts:

I'll let the applicant address it then. But you need to go to the microphone. Yes. Yeah.

Colleen Noronha:

Okay. I'll come up.

Counselor:

Mr. Examiner, can I address a couple of things real quick?

Colleen Noronha:

Yeah.

Hearing Examiner Olbrechts:

Okay. I guess the applicants got-

Counselor:

I'm for the applicant, and right before that.

Hearing Examiner Olbrechts:

Oh, okay. All right. Yeah, if you get to the microphone there.

Counselor:

Thanks. Just one issue is, so the record's clear-

Hearing Examiner Olbrechts:

And sir, just for the record, your name?

Counselor:

Oh, Ruben Schutz on behalf of the-

Hearing Examiner Olbrechts:

Okay. Right. Yeah. Okay. Thank you.

Counselor:

There's some discussion, and I just want to make the record clear, we prefer no sidewalk. That's our preference for the reasons that many people in the room cited the steepness, encouraging walking in the winter, not being safe, changing rural character, increasing concrete, et cetera. Understanding that there is a likelihood that sidewalks will go in. We agree with the city that a condition should be included for an alternative design process that best fits the rural character and the surrounding circumstances. Just want to make that clear.

Hearing Examiner Olbrechts:

Okay.

Counselor:

Okay?

Hearing Examiner Olbrechts:

Appreciate that.

Counselor:

Could I ask staff a couple questions? Is that a possibility?

Hearing Examiner Olbrechts:

Yeah, go ahead.

Counselor:

Okay. I just wanted to talk... Sorry, what's your name again?

Mr. Stark:

I'm Russ Porter.

Counselor:

Russ Porter. Mr. Porter, you talked about water pressure and you talked about elevation being the main factor. Could you just expand on that briefly?

Mr. Stark:

Yeah, I mean, essentially the city's water pressure is set by their tank, which is up near the school, and that sets the grade and that's sort of the maximum water pressure. And then, as you go out the elevations in town, determine that the pressure of each individual service. Now as water flows through the pipes, there are some losses. So if you're way out at the extremes, it's possible at times of high demand that your pressure might be decreased even a little bit more. But for example, in the middle of the night, your water pressure, when there isn't much use, should just be the elevation of your house subtracted from the elevation of the water in the tank.

Counselor:

Okay, and you may have just answered this, but I'll ask anyway, and you can just explain that if that's the case. You said you didn't expect that there would be a drop based on the 78.

Mr. Stark:

I haven't looked at it, but I don't think that that's going to increase the head losses that much, but we'll look at that when we do a hydraulic model.

Counselor:

And the reason why you don't think it would drop that much is because elevation is the main criteria?

Mr. Stark:

Yeah.

Counselor:

Okay. That's it. I would allow or ask Colleen to address the-

Hearing Examiner Olbrechts:

Okay. The other questions?

Counselor:

Gopher, grading-

Hearing Examiner Olbrechts:

And dry wells?

Counselor:

... recreation.

Hearing Examiner Olbrechts:

Okay.

Counselor:

Issues.

Hearing Examiner Olbrechts:

Okay, thank you. All right.

Colleen Noronha:

This is Colleen Arona speaking for the applicant, and I do know, just having read all the comments, I think sometimes there has been confusion when we've talked about the tree conservation and the gophers that they thought we were referring to other people's property. No, the gopher studies and trees have only been for the applicant's property, not anyone else's. This is not touching anybody else's. And I will say the reason that the habitat study for the gophers was not redone again in 2018 was based on the history and seeing less and less that they've gone on, combined with the fact that the habitat for a gopher really relies on the soil type, and what's on the ground, what's there. And right now, just because they've been pastureland and things like that, my understanding, having read the report and having talked to habitat technologies and WFCI, is that moles have moved in.

So there's a lot of moles on that property and there is Scotch Broom and the blackberries, which gophers do not like, and they do not usually stay in that area. So what the last time they were out in 2018, my understanding is they're like, this is not a habitat where you generally will find gophers, based on those three criteria. So that's why another one had not been completed after that. They were saying this is not... and so I think that is in the study at that point. So that kind of talks about-

Speaker 8:

It just didn't show up on your plan.

Colleen Noronha:

So yeah, because at that time, because I think what happened is the pastureland that had kind of been [inaudible 01:40:21] on, invasive species have moved in, changed the soil, changed, moles have moved in. So yeah, the gophers liked your area better than their property.

Speaker 9:

One more thing. But since 2018, on the other side of McKenna Meadows, all of those forests and everything have been taken down by that mining company?

Colleen Noronha:

Yes.

Speaker 9:

Okay. So that's like a wasteland. I don't know what the gophers do. Is there any possible way, because of that, gophers might have moved into that area? Because they were-

Colleen Noronha:

I mean, I just know that gophers and that the gophers that I'm dealing with have another project actually in Pierce County, it really relies on the soil type and it relies on basically the environment. Like they do not like those invasive species. They want the native species that are there. So I mean, I cannot address what they have or have not got if they move back in, but that is why they, at 2018, they're saying this no longer would be a habitat where the gophers would want to be. Okay. Then the tree conservation, we did receive, just so you know, a letter. I think it was Oakview Heights also, and they

kept referring to tract A and a tree conservation area. Just so you know, our tract A and their tract A are different.

Hearing Examiner Olbrechts:

Yeah.

Colleen Noronha:

So I know that had been a concern.

Speaker 9:

[inaudible 01:41:42] is a meadow, it has no trees. And yours.

Colleen Noronha:

Yes, ours has trees.

Speaker 9:

No.

Hearing Examiner Olbrechts:

Okay, let's stop the... Or at this point I'm just hearing from the applicant. Okay.

Colleen Noronha:

Right now, according to habitat technologies, the habitat is not a protected habitat. What the applicants do plan on doing with the trees is cleaning up those invasive species, planting it, and making it a habitat. So that would be a tree conservation area. So that is the plan for that area. I know somebody brought up a playground. At this time, there will be trails, there will be things inside, but there is no plan for actual playground equipment. It is going to be a conservation area.

The challenge with this property is that 292nd is a private road. So the applicant has an easement over this road, but it is a private road. It is not a public road where you would have a public park, per se. So that is a challenge to this. And I will reiterate sidewalks, for everything that people have brought up, they had not wanted sidewalks on 292nd, they will have sidewalks on the interior streets on both sides. So there will be places for children to walk and the interior. Oh, the dry wells. So anything that is done on 292nd, we would not be connecting. Everything is going to be private to the flat. They will not be touching the dry wells. Nothing is going on to their storm system. And the only other question was about the fill, and I am going to let Felix answer about the-

Hearing Examiner Olbrechts:

Okay. Mr. Jacobs come on up.

Felix Jacobs:

Felix Jacobs, again from Apex Engineering. So the question came up about grading and slopes of the roads, specifically the cul-de-sac roads. Those cul-de-sac roads have been preliminarily designed to be six and 8% in slope going down towards a tree conservation area. And those slopes do meet the standards of the city of Roy. And those slopes are due to the topography of the land. In trying to grade

the site to make the project work and meet the standards of the city of Roy, that's how we came up with those slopes. Those slopes also impacted the grading. The question came up about how much dirt was being moved, in essence. From this layout that we have right now, the preliminary calculation show about 27,000 yards of cut material, about 31,000 yards of fill material for an import of 4,000 yards. So yes, there's a lot of dirt being moved, but nearly all that dirt is being moved within the site to make the site essentially a balanced site.

Hearing Examiner Olbrechts:

So for the cul-de-sacs, is there going to be a lot of grading in those particular areas?

Felix Jacobs:

There will be grading in that area. Yes.

Hearing Examiner Olbrechts:

Okay. So it's going to create some steep slopes along the lots or... Well, I shouldn't say steep slopes, but is there going to be a lot of change in elevation from the-

Felix Jacobs:

The road-

Hearing Examiner Olbrechts:

Yeah.

Felix Jacobs:

... In elevation, but when the roads are filled, there won't be that steep edge on the roads.

Hearing Examiner Olbrechts:

Okay.

Felix Jacobs:

There will be some conform grading to grade into the lots-

Hearing Examiner Olbrechts:

Okay.

Felix Jacobs:

... not that steep.

Hearing Examiner Olbrechts:

Okay.

Felix Jacobs:

[inaudible 01:45:40].

Hearing Examiner Olbrechts:

Yeah.

Felix Jacobs:

And again, the grading was done in such a way to try to balance the site as well as not cut into the site. But again, we need to try and conform to the city of Roy street design guidelines. So there will be cut, there will be fill.

Hearing Examiner Olbrechts:

Okay. Okay. All right. Thank you Mr. Jacobs. There's a question in the back there.

Mrs. Nose:

Mrs. Nose here, railroad tracks. We pay insurance to cross the railroad tracks. If we add more people or another unit... Oh, I get up and talk.

Hearing Examiner Olbrechts:

Yeah.

Mrs. Nose:

Anyway, if we have to pay insurance, they need to put up the money to pay for their insurance or over their railroad tracks, means that there's more people to go across 79 and 83, cars going over that. Those two added together, that's going to be a lot of traffic. So I think they, as a homeowner's unit, needs to also pay insurance and or pay their own, because we have to pay insurance to cross the railroad tracks due to an accident that happened. So it just comes to mind that-

Hearing Examiner Olbrechts:

Yeah. Well, yeah, I think, your private HOA insurance company said you got to pay insurance, right? So I would think that the same thing would happen to this group.

Mrs. Nose:

Are they going to join us and we'd go together? Or are they going to be their separate entity?

Hearing Examiner Olbrechts:

Well, one or the other, but-

Colleen Noronha:

I can address that, actually.

Hearing Examiner Olbrechts:

Oh, okay. You can address that. All right.

Colleen Noronha:

I can answer that.

Hearing Examiner Olbrechts:

Okay.

Colleen Noronha:

Yes, we do have an easement. The property applicant has an easement, and this is Colleen Arona again-

Hearing Examiner Olbrechts:

Right.

Colleen Noronha:

... has an easement to cross the railroad. That easement does require that they get insurance.

Mrs. Nose:

Okay. So it would be by themselves?

Colleen Noronha:

Yes. That is a requirement of [inaudible 01:47:31] and the easement.

Hearing Examiner Olbrechts:

Yeah.

Colleen Noronha:

So they will be getting their own insurance. And then one other point I wanted to make when we were talking, the gentleman, about parking at the bottom of the hill. So Oakview Heights will also have an easement to use, well, they'll be public roads. They can use all of those roads internally, which will help at least with that hill going up. So they will be able to have a different way to bypass some of that steepness.

Hearing Examiner Olbrechts:

Oh, I guess we didn't answer the police chief's question about whether the sidewalks would be raised or not. I mean, maybe that's more of a city question.

Colleen Noronha:

It's going to be a city question because we were planning on putting six inch curb and better.

Hearing Examiner Olbrechts:

Right, right.

Colleen Noronha:

And that's per city code.

Hearing Examiner Olbrechts:

Yeah.

Colleen Noronha:

So.

Hearing Examiner Olbrechts:

Okay. Mr. Stark, do you know the answer to that or?

Mr. Stark:

I think we'd have to work with the applicant and I think I'd need to understand a little bit more about what the chief is saying in terms of people parking at the base of the hill.

Hearing Examiner Olbrechts:

Okay. I mean, my understanding chief is that if it's a raised sidewalk, you think people may not be able to park there during snow events, and then-

Police Chief:

Well, I know they're going to do it either way. So I was kind of trying to mitigate that.

Hearing Examiner Olbrechts:

Oh, okay.

Police Chief:

The issues of calling complaints because the city of Roy has MOU agreements with HOA so that I can enforce, and my officer's can enforce-

Hearing Examiner Olbrechts:

But we need you to... Sorry, get up to the mic there.

Police Chief:

Sorry. So the city of Roy, this is Chief Johnson again.

Hearing Examiner Olbrechts:

Right.

Police Chief:

The city of Roy has MOU agreements with our HOAs, and it's basically allowing us to enforce certain laws within HOAs because they're private. Whether it be speeding or parking or whatnot, and I'm basically here just asking what the plan for that might be.

Hearing Examiner Olbrechts:

Okay.

Police Chief:

So that we don't have people parking at the bottom of the hill and then having to deal with that as well.

Hearing Examiner Olbrechts:

Oh, okay. With the raised sidewalk. Yeah. Yeah. I mean, I guess that's something you guys would work out.

Mr. Stark:

Yeah. We'll take that under consideration when we see what the sidewalk-

Hearing Examiner Olbrechts:

Yeah. I mean, is the standard city requirement that the sidewalk be raised or not?

Mr. Stark:

Well, with this particular sidewalk we were going to give some consideration to the way it was going to work into-

Hearing Examiner Olbrechts:

Oh, okay. So you have the flexibility within the public works standards, you can waive standards under the-

Mr. Stark:

Yeah.

Hearing Examiner Olbrechts:

Is that kind of a discretionary thing for the city engineer or something, or public work's director that they can waive standards and conform the special circumstances?

Mr. Stark:

Yeah, I would think so.

Hearing Examiner Olbrechts:

Okay.

Mr. Stark:

In this case.

Hearing Examiner Olbrechts:

Okay. Okay. Got it. All right, I'm going to... Oh, all right. Sir, come on up. And are you part of the applicant team or.

Aaron van Aken:

Yes.

Hearing Examiner Olbrechts:

Oh, okay. And what's your name, sir?

Aaron van Aken:
Aaron van Aiken.

Hearing Examiner Olbrechts:
Oh, okay. How do you spell that?

Aaron van Aken:
Yeah, V as in Victor, A, N. Space. A, K, E, N.

Hearing Examiner Olbrechts:
Okay. Let me swear you in. Do you swear affirm and tell the truth, nothing but the truth in this proceeding?

Aaron van Aken:
I do.

Hearing Examiner Olbrechts:
All right, great. Go ahead.

Aaron van Aken:
So yeah, I just wanted to respond to the left turn lane question.

Hearing Examiner Olbrechts:
Okay.

Aaron van Aken:
So-

Hearing Examiner Olbrechts:
Are you the traffic engineer for the-

Aaron van Aken:
Yes.

Hearing Examiner Olbrechts:
Okay.

Aaron van Aken:
Yes, I already did the traffic-

Hearing Examiner Olbrechts:
Okay. All right.

Aaron van Aken:

So as part of the findings, one of the requested items was to look for a left turn lane. And under the existing conditions we found that that was warranted. So adding traffic obviously would just further increased the needs for that. So WSDOT has reviewed the traffic study. They provided preliminary comments, and part of those comments are to go through an intersection control evaluation, which is a separate document from a traffic study. So anytime you modify a state facility, they require that process. And in that process would be a good opportunity to look at the speed limits because WSDOT does control that.

Hearing Examiner Olbrechts:

Right.

Aaron van Aken:

That would be one of the items that we would be looking at.

Hearing Examiner Olbrechts:

Okay.

Aaron van Aken:

So we've recommended about a 500-foot southbound left turn lane, which would improve mobility and ingress for existing residents. But that still has to go through due diligence and the traffic light would be one of the items looked at. But based on the volumes, I don't think the traffic light would be warranted.

Hearing Examiner Olbrechts:

Okay.

Aaron van Aken:

So I just wanted to clarify that. At a minimum, we're thinking of a southbound left turn lane.

Hearing Examiner Olbrechts:

Oh, okay. Is that in the traffic report or?

Aaron van Aken:

It is.

Hearing Examiner Olbrechts:

Oh, okay. Okay. Okay. Yeah, I read that pretty fast. All right. Okay. I guess that's really good information to have. I, as a hearing examiner, I don't believe I have any authority over the WSDOT facility. It's totally up to them if they want to put in a left turn lane and anything else, so that's under evaluation and they'll figure that one out. All right, with that, I think we are ready finally to close the hearing except for leaving the record open for a couple items. One was the public comment letters. Mr. Stark, you're going to post all the public comment letters received today. Those of you who wrote something, if you want to make sure it's in the record, take a look at the website or just ask Mr. Stark if he has the letter, and if your

letter didn't get in for some reason, Mr. Stark will forward that to me and then I'll give an extra couple of days for the city and the applicant to respond to that public comment letter.

And all that will be posted at the city's website, right? Okay, so we've got that. So like I said, you have until 5:00 PM tomorrow to make sure your letters in the record and if not, to let Mr. Stark know and get that letter to him. And the other issue is with the school district. So in terms of the addendum language, you're talking about what, by this Friday, maybe 5:00 PM?

Speaker 9:

Could we have five business days? It's taking a bit longer-

Hearing Examiner Olbrechts:

Oh.

Speaker 9:

... Conversation. Would that be-

Hearing Examiner Olbrechts:

Is that okay with the applicant? Because like I said, then I'd leave it open a couple of days after for the public comment response.

Mr. Stark:

That is fine with us.

Hearing Examiner Olbrechts:

Okay. So we're, let me look at my calendar here, going to leave the record open until, one, two three, four, five, I guess that's next Tuesday at 5:00 PM. And that is for, hopefully an agreed upon addendum to the CPA condition number nine-

Speaker 8:

Or submittal of any-

Hearing Examiner Olbrechts:

Supporting materials.

Speaker 8:

Right.

Hearing Examiner Olbrechts:

Right. Yeah, that's fine. And then I'll give, let's see... let me ask parties then. So you're talking about maybe some briefing to support in case there's a disagreement over the addendum or whatever?

Speaker 9:

Just to-

Hearing Examiner Olbrechts:

Okay.

Speaker 9:

Because given the uncertainty that's before-

Hearing Examiner Olbrechts:

Okay. Are the applicant and city then going to want a chance to respond to briefing that's provided by the school district?

Speaker 9:

That doesn't happen.

Mr. Stark:

Yeah, to echo Ms. Erback's comments that it's certainly a sincere hope and expectation that that would be unnecessary.

Hearing Examiner Olbrechts:

Okay. Why don't... I'll just leave it open if the parties say they need additional time. I'll probably grant it then, but, okay. So we have those materials coming in next Tuesday, Mr. Stark, you'll have it up on the website by the next morning. Can you do that?

Mr. Stark:

Yes.

Hearing Examiner Olbrechts:

All right. And then, so I'll give the public until the following Thursday, April 6th, 5:00 PM if you want to submit any written comments on the addendum. But that would only be on that addendum. Nothing else in the project, just the addendum, which deals with the timing of when school impact fees are to be presented by the applicant. So not a big issue, but I feel that legally I have to give you a chance to respond to that. And then I'll give the applicant city and school district until the following. Well, no, sorry, I'll give the applicant a chance to respond to that just because they have final word until the following Monday. That would be April 10th, 5:00 PM. All right. Is it that clear? Sorry, question back there.

Mrs. Nose:

In the paperwork, did I understand that the people who submitted the letters will get a response from you, the hearing examiner?

Hearing Examiner Olbrechts:

Well, I'll address your issues in my decision. Yeah, yeah. That's, yeah.

Mrs. Nose:

Will it be forwarded back to us?

Hearing Examiner Olbrechts:

It'll be in the decision, and then the decision, I think in the signing sheet you said whether you wanted the decision emailed or mailed to you. And so yeah, you'll get the decision that way.

Mrs. Nose:

How do you make sure your name's on that one?

Hearing Examiner Olbrechts:

If you haven't put your name on it yet, I guess we'll put it back up on the table there. Yeah, yeah. If you want a copy of the decision, I think staff prefers email if you select that option. Just because it costs time and money to mail. But if you want to get a copy of that decision and see how your issues were addressed, make sure you're on the sign-in sheet here and we'll put that back up at the table there. Sir?

Counselor:

For the applicant. When do you think construction will start? What's your timeline? So people know. I haven't seen anything that indicates that. Do you have one?

Speaker 8:

There is no timeline.

Counselor:

There is no timeline?

Speaker 8:

No.

Hearing Examiner Olbrechts:

I mean, Mr. Low, if the project is approved, I think how many years do they have to build?

Speaker 7:

I believe it's five years.

Hearing Examiner Olbrechts:

Yeah.

Speaker 7:

That's the-

Hearing Examiner Olbrechts:

Yeah.

Speaker 7:

... But we can verify that.

Hearing Examiner Olbrechts:

Yeah. Yeah. So yeah, I mean it's up to the applicants if they have any set plans yet, but it doesn't sound like they do. But the project will expire after five years. So if it's not started. Okay. With that, I think we're done for today. I appreciate y'all sitting two hours through this. I'm sure it's not the most exciting thing to hear the lawyers' duke it out, but we're done for the day. Thanks.

Speaker 8:

You too.

Speaker 9:

What was that?

Mr. Stark:

No, I don't think so.

PART 4 OF 4 ENDS [01:57:06]