

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** APP 2015-0001 and APP 2015-0002  
Appeals of the Planning Commission's  
Decision to Approve the Conditional Use for  
South Cooper Mountain High School with  
Conditions (CU 2015-0003)

**FOR AGENDA OF:** 08-18-15 **BILL NO:** 15175

**Mayor's Approval:** *Jay Dale*

**DEPARTMENT OF ORIGIN:** CDD *CF*

**DATE SUBMITTED:** 08-07-15

**CLEARANCES:** City Attorney *PL*  
CAO *RMI*  
Planning *SM*

**PROCEEDING:** PUBLIC HEARING

**EXHIBITS:** Appeal Staff Report dated 08-06-15  
and Exhibits thereto

**BUDGET IMPACT**

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$0	BUDGETED \$0	REQUIRED \$0

**RECOMMENDED ACTION:**

Affirm the Planning Commission's decision to approve with conditions as stated in Order No. 2407, thereby denying both appeals. Staff also recommend amending Order No. 2407 by adding one condition that would bring the decision by Washington County for Street Vacation to City Council for resolution of concurrence.

**HISTORICAL PERSPECTIVE:**

On May 27, 2015, the Planning Commission held a public hearing to consider a new high school by Beaverton School District. The hearing was continued to June 24, 2015, where the Commission considered revised plans and received additional testimony. On request that the record remain open for seven days, the Commission acted on July 1, 2015, approving all four land use applications for South Cooper Mountain High School. On July 17, 2015, the decision approving the Conditional Use application (Planning Commission Order No. 2407, case file CU 2015-0003) was appealed.

The proposed school, at approximately 320,000 square feet in size, is located on the northwest corner of SW Scholls Ferry Road and SW 175<sup>th</sup> Avenue. The proposed school includes athletic fields, landscaping, parking and vehicle circulation. The proposed school is also located within the South Cooper Mountain Community Plan (SCMCP). The two appellants, Ed Bartholemey and Tualatin Riverkeepers, have submitted separate appeals specific to Conditional Use approval for South Cooper Mountain High School. Written statements received from both appellants identify objections related to partial wetlands encroachment. The statement from Ed Bartholemey identifies additional objections.

**INFORMATION FOR CONSIDERATION:**

On May 13, 2015, the city issued separate land use approval for an early grading proposal that includes tree removal. The Notice of Decision associated with this land use approval (Case Files TP 2015-0001 and DR 2015-0002) identifies 338 trees to be removed for mass grading purposes. Conditions of early grading approval require no grading within portions of the property identified as Wetlands A and B by the applicant's wetland biologist. Conditions of approval also require all fencing and erosion control where wetlands and respective buffers have been identified. The early grading and tree approval decision was subject to a Type 2 procedure and was not appealed. Early grading and tree removal activity has now commenced.



## STAFF REPORT

HEARING DATE: August 18, 2015

TO: City Council

STAFF: Scott Whyte, Senior Planner <sup>SW</sup>

PROPOSAL: **APP2015-0001** and **APP2015-0002** Appeals of the Planning Commission decision to approve the Conditional Use for South Cooper Mountain High School with conditions (case file CU 2015-0003).

SUMMARY: At approximately 320,000 square feet in size, the proposed high school is to be constructed on property located at the northwest corner of SW Scholls Ferry Road and SW 175<sup>th</sup> Avenue. The proposed school includes athletic fields, landscaping, parking and vehicle circulation. The proposal also includes a plan for wetland encroachment and mitigation.

APPELLANTS: **Ed Bartholemy** (APP2015-0001)  
18485 SW Scholls Ferry Road, Beaverton OR 97007  
**Tualatin Riverkeepers** (APP2015-0002)  
11675 SW Hazelbrook Road, Tualatin, OR 97062

APPLICANT: **Beaverton School District**  
16550 SW Merlo Road, Beaverton OR 97007

DECISION CRITERIA: Appeal of the Planning Commission's decision is reviewed under Section 50.70 and Sections 50.85 through 50.88 of the Development Code. Conditional Use approval criteria are identified in Section 40.15.15.3.C of the Development Code. Facilities Review approval criteria are identified in Section 40.03.

RECOMMENDATION: Affirm the Planning Commission's decision to approve with conditions as stated in Order No. 2407, within amendment that adds one condition identified herein.



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<b>BACKGROUND</b>	<b>SR 2</b>
<b>ATTACHMENTS</b>	
<b>A Analysis and Findings related to Appeal of Conditional Use approval for South Cooper Mountain High School</b>	<b>TA1-TA17</b>
Analysis and Findings, Summary	TA1-TA16
Recommendation	TA-17
<b>EXHIBITS (1 through 10)</b>	
1. Appellant Statement of Appeal from Ed Bartholemy dated July 17, 2015	
2. Appellant Statement of Appeal from Tualatin Riverkeepers dated July 17, 2015	
3. Memorandum from Leslie Imes, Beaverton School District, dated July 31, 2015, responding to the Appellant's Statement of Appeal.	
4. Planning Commission Order No. 2407 approving the Conditional Use for South Cooper Mountain High School, together with Orders No. 2408, 2409 and 2410 *	
5. Section from OAR 141-086-0185 (Oregon Department of State Lands - Local Wetlands Inventory Standards and Guidelines).	
6. Overarching Policies of the SCMCP	
7. Written public comments received in response to <u>Notice of Appeal</u> received by August 4, 2015 **	
8. Planning Commission Minutes from May 27, June 24 and July 1, 2015 hearings	
9. Planning Commission Staff Reports and Memorandums dated May 20, 2015, June 12, 2015, June 17, 2015, July 1, 2015, together with and PowerPoint presentations (staff and applicant) for May 27 and June 24 hearing dates.	
10. All written public testimony to the record (received in time for Planning Commission deliberation prior to decisions on July 1, 2015)	
<b>(11 – 12 full sets given to Council members and available on request to public)</b>	
11. Plans and applicant's combined materials package, provided for Planning Commission consideration (includes the Wetland Delineation and Natural Resource Assessment prepared by Pacific Habitat for Wetland A) ***	
12. Beaverton School District Response to Planning Commission Topics – document dated June 10, 2015 (which includes additional information on Wetland A). <u>Available on Request:</u> Local Wetland Inventory prepared by David Evans and Associates dated December 2013 for the SCMCP (not part of record)	
* Only Order No. 2407 approving Conditional Use application is subject to appeal, other associated land use decisions are not.	
** Notice of Appeal (issued on July 21, 2015) identified <u>July 31, 4:00 p.m.</u> as a deadline for written comments to be made part of the Staff Report. The attached includes written comments received through the date of <u>August 4, 2015</u> .	
*** Council set includes full 11 x 17 plan set that was subject to Planning Commission consideration on May 27, 2015 and June 24, 2015 for public hearings. Staff Report dated May 20, 2015 summarizes contents of applicant materials. Due to size this info is not posted to city website but is available for viewing in the office of the City Recorder and the Community Development Dept., Beaverton City Hall, 12725 SW Millikan Way, Beaverton OR.	

**ANALYSIS AND FINDINGS**  
**APP2015-0001 & APP2015-0002 South Cooper Mountain High School Appeal**

In considering the matter of appeal, Section 50.70.1.2. of the Development Code (Item E) instructs the appellant to identify the specific approval criteria, condition, or both being appealed, the reasons why a finding, condition, or both is in error as a matter of fact, law or both, and the evidence relied on to allege the error.

The appellant contentions are identified in the appeal forms and written statements received. **Exhibit 1** is the Appeal Form and Statement from Ed Bartholomy dated July 17, 2015. **Exhibit 2** is the Appeal Form and Statement from Tualatin Riverkeepers dated July 17, 2015. Below are ten contentions that staff found in review of both statements as received:

- Contention No.1 – **Wetland encroachment** proposal is inconsistent with certain natural resource policies identified in the City Comprehensive Plan (effective prior to the South Cooper Mountain Community Plan or SCMCP for short).
- Contention No.2 – **Wetland encroachment** proposal is inconsistent with certain natural resource policies specific to the SCMCP.
- Contention No.3 – **Wetland encroachment** proposal violates City ordinance amending the Local Wetland Inventory (LWI) identified for SCMCP (misinterpretation of OAR 141-086-0185)
- Contention No.4 – **Wetland encroachment** approval mistakenly relies on Clean Water Services and other agencies to enforce Beaverton’s wetland protection policies and regulations.
- Contention No.5 – **Wetland encroachment** is not required for Federal Title IX compliance.
- Contention No.6 – **Wetland encroachment** approval errs in finding that an off-site location for athletic facilities is not a reasonable alternative.
- Contention No.7-- **Wetland encroachment** proposal does not protect inventoried natural resources, for consistency with Criterion No. 4 of Conditional Use approval (in part referring to natural features)
- Contention No.8 --**Wetland encroachment** proposal is inconsistent with a Design Guideline in Section 60.05.45.10 of the Development Code.
- Contention No. 9 –**Street vacation** proposal necessitates approval from both the Washington County Board of Commissioners and the Beaverton City Council.
- Contention No. 10 **School District boundary (between Beaverton and Hillsboro)** is significant to the decision, relative Overarching policies and Main Street policies of the SCMCP.

Staff extracted specific statements from the appellant’s documents referred to above. Following the contention is the staff response thereto.

**Appellant Contention No. 1 – Wetlands encroachment proposal is inconsistent with certain natural resource policies identified the City Comprehensive Plan** (effective prior to the South Cooper Mountain Community Plan)

Below is a summary list of Comprehensive Plan policies identified in both appeal statements received from appellant Ed Bartholemy (referred to herein as Bartholemy, **Exhibit 1**) and appellant Tualatin Riverkeepers (referred to herein as Riverkeepers, **Exhibit 2**). These policies are found in Chapter 7 of the Comprehensive Plan (*Natural, Cultural, Historic, Scenic, Energy & Groundwater Resources Element*) and predate adoption of the SCMCP.

Summary:

In part, the appeal statement received from Bartholemy identifies Policy “b” found under Goal 7.1.1 of the Comprehensive Plan. For reference, the Goal and Policy “b” read:

*7.1.1 Goal: Balance development rights with natural resource protection.*

*Policy b: Where adverse impacts to Significant Natural Resources cannot be practicably avoided, require mitigation of the same resource type commensurate with the impact, at a location as close as possible to the impacted resource site.*

In response to Policy “b”, page 3 of the Bartholemy appeal claims (in part)

*“...The District’s plan to fill that wetland are [is] unnecessary, when the Appellant has informed the District that he will sell sufficient adjacent upland to the District to construct the ball fields, enabling the District to avoid filling the wetland.”*

Bartholemy’s and Riverkeepers’ appeals also identify two policies (“a” and “c”) under Goal 7.3.1.1 of the Comprehensive Plan. For reference the Goal and Policies “a”, “b”, “c” and “d” read:

*7.3.1.1 Goal: Conserve, protect, enhance or restore the functions and values of inventoried Significant Natural Resources.*

*Policy a: Inventoried natural resources shall be conserved, protected, enhanced or restored:*

- to retain the visual and scenic diversity of our community;*
- for their educational and recreational values;*
- to provide habitats for fish and wildlife in our urban area.*

*Policy b: Conserve, protect and enhance natural resource sites and values through a combination of programs that involve development regulations, purchase of land and conservation easements, educational efforts, and mitigation of impacts on resource sites.*

*Policy c: Inventoried natural resources shall be incorporated into the landscape design of development projects as part of a site development plan, recognizing them as amenities for residents and employees alike.*

*Policy d: The City shall rely on its site development permitting process as the mechanism to balance the needs of development with natural resource protection.*

In response to Policy “a”, page 3 of the Bartholemy appeal claims (in part)

*“The wetland on the subject parcel is inventoried as significant by the South Cooper Mountain Community Plan. This section requires the wetland to be conserved, protected, enhanced, or restored. ...”*

In response to Policy “c”, page 3 of the Bartholemy appeal claims (in part)

*“...The District’s proposed plan does not incorporate the wetland into the new school design. Rather, it simply fills the wetland. ...”*

Riverkeepers’ letter of July 1, 2015 (included by reference in the appeal) also identifies policies “a” and “c” (above) but does not explain the basis for contention.

Riverkeepers’ appeal statement (p. 3) also identifies Action statement No. 1 under Policy (d) of the same Goal and states that there is no hardship and therefore no hardship variance should be granted.

Both appeal statements also identify policy a under Goal 7.3.3.1 of the Comprehensive Plan. For reference the Goal and Policy “a” read as follows:

*7.3.3.1 Goal: Protect or enhance wetlands adopted as Significant Wetlands in the Local Wetland Inventory.*

*Policy a: Significant Wetlands in the Local Wetland Inventory shall be protected for their filtration, flood control, wildlife habitat, natural vegetation and other water resource values.*

In response to Policy “a”, the Bartholemy appeal (page 3) claims (in part):

*“The District proposes to fill the wetland on the subject property, which has been identified as a wetland on the City’s Local Wetland Inventory...”*

In response to Policy “a”, the Riverkeepers appeal (page 3) claims (in part):

*“Filling 2.52 acres of wetland is not protection, thus the approval of this Conditional Use Permit is in error and contrary to the Comprehensive Plan as amended by Ordinance 4651.”*

The Riverkeepers appeal (page 2) also identifies Policy “a” under Goal 8.2.1., claiming (in part):

*“Dismissal of policy 8.2.1.a is an error. The policy, [All water resources within the City shall be enhanced, restored or protected to the extent practicable] is applicable to the wetlands on the site.”*

### **Staff Response to Contention No. 1**

The Staff Report dated May 20, 2015 (pages CU-2 to CU-7) identifies and responds to applicable policies of the City Comprehensive Plan, under Chapter 7 and other Chapters. Policy applicability and response correlates to Criterion No. 3 of Conditional Use approval which states: *The proposal will comply with the applicable policies of the Comprehensive Plan.*

The applicant also identifies and responds to several Comprehensive Plan policies in the narrative document prepared by Angelo Planning Group dated April 2015 submitted as part of the combined materials package subject to Planning Commission consideration on May 27 and June 24, 2015 (Exhibit 11). The applicant and city staff identified and responded to several policies including those specific to natural resources and wetlands as contained in Chapter 7 of the Comprehensive Plan.

In response to the Bartholemy statement referring to Policy "b" of Goal 7.1.1, staff observe that the policy addresses mitigation and not the use of an alternative site as the appellant contends. As to suitability of the Bartholemy for athletic field purposes (as an alternative site) staff notes that the zoning of appellant's property (Washington County - Agriculture-Forestry or AF-20) would not allow it to be used for a sports field; the zoning does not permit the same use (*Educational Institutions*) sought by the School District for Conditional Use approval.

In the future, staff anticipates Bartholemy's property will have a city zoning designation consistent with the newly applied SCMCP land use designation. However, the new city zone must first be approved through a *Quasi-Judicial Zoning Map Amendment* application and process as described in Sections 40.97.15.1 and 50.45 of the Development Code, respectively. Staff confirms Bartholemy's property to be located within the city. Section 10.40 of the Development Code explains what the city is to do in the interim period following annexation for the purpose of zoning. In short, Section 10.40 states that uses allowed by the former jurisdiction (Washington County) apply until the zone is changed by the city. Accordingly, the Bartholemy property is not a viable alternative for a sports field, because use as a sports field is not permitted by the current zoning, which generally allows only agriculture and forestry.

Additionally, the Bartholemy property cannot be considered for a use that is incidental to the proposed high school. On this topic, interpretation of Development Code (specific to uses identified in Chapter 20) is governed by Section 10.20.5 where it states: *Uses of land not expressly allowed or not incidental to a Permitted or Conditional Use are prohibited.* Applying Section 10.20.5 to the Bartholemy property, the current Washington County zoning (AF-20) does not expressly allow *Educational Institutions*. The use is therefore prohibited. The use is also not part of the Conditional Use under consideration and is therefore prohibited even if found to be incidental to the use.

Finally, staff notes that the applicant has no control of Bartholemy's property and that the city cannot compel the applicant to acquire this property, apply to rezone it, and then make it part of the development proposal. To ask the city to require the sale of other property to the District (to construct the same ball fields elsewhere and avoid fill of the wetland) goes far beyond the scope of review, which is specific to properties acquired by the School District or within its control. Property owner consent is required before land use applications are deemed complete and the city can initiate review. Additionally, if Bartholemy's property were made part of the development plan, it would also need to be evaluated against the same criteria identified for land use approval. In this case, Bartholemy's property has not been evaluated in response to the applicable approval criteria because it was not part of the development plan at the time of application.

In response to the Riverkeepers appeal statement referring to Action No. 1 under Policy d of Goal 7.3.1.1, staff finds the applicant to have submitted all necessary land use applications. No other land use applications are required.

For reference, Policy “d” and Action 1 of 7.3.1.1 read:

*Policy d. The City shall rely on its site development permitting process as the mechanism to balance the needs of development with natural resource protection.*

*Action 1: For properties located within significant natural resource areas, the City shall consider relaxation of its development standards where necessary to accomplish protection of riparian and wetland areas. Such standards include, but are not limited to, setbacks, building height, street width, location of bike paths, etc. Where the combination of riparian, wetlands, and other requirements would result in an unbuildable lot, such a situation may be relevant to a decision that may grant a hardship variance.*

According to the Riverkeepers appeal, there is no hardship associated with development on the District property as a consequence of the wetlands, and therefore no hardship variance should be granted (referring to the last sentence under Action 1). Riverkeepers apparently misunderstand the Commission’s decision, which alludes to hardship due to wetlands, but does not apply variance criteria and does not grant a variance (*de facto* or otherwise) on the basis of hardship.

Action statements in the Comprehensive Plan are not approval criteria. Staff understands the Action statement (from Policy “d” above) as policy direction for amendments to the Development Code or as policy guidance for a land use decision maker. The Commission considered Policy d as it evaluated testimony in favor of and opposed to the project. The Commission deliberated and weighed the evidence, balancing the needs of development against those of natural protection, before voting 4-2 in favor of the Conditional Use application.

As noted above, both appellants also identify two policies (“a” and “c”) under Goal 7.3.1.1 of the Comprehensive Plan (cited above). In response to these statements, staff confirms that natural resources of the SCMCP (inclusive of wetlands) have been inventoried through the planning process. The inventory prepared by David Evans and Associates (DEA) dated December 2013 was developed according to rules administered by the Oregon Department of State Lands (DSL) for wetlands inventory described under Oregon Administrative Rules (OAR) 141-086 for the purpose of planning the entire SCMCP. The applicant’s materials include a separate wetland delineation and natural resource assessment (prepared by Pacific Habitat Services Inc., Exhibits/Tabs J and K, respectively), which are included as part of the applicant’s combined materials package (Exhibit 11). The reports by Pacific Habitat further describe natural resources specific to the properties subject to development.

Plan Policy “a” under 7.3.1.1 states that *Inventoried natural resources shall be conserved, protected, enhanced or restored.* In this case, the applicant’s natural resource assessment (Pacific Habitat) describes the degraded conditions of that portion of the wetland subject to encroachment, in addition to a plan for enhancing and mitigating the resource (both on-site and off-site). Pages 5 and 6 of the Planning Order No. 2407 for Conditional Use approval (in part) acknowledge the mitigation plan and restoration from a historical perspective, stating:

*“As part of the on-site mitigation plan, recognized as a condition of Design Review approval, the District is to plant 1,494 trees and 7,470 shrubs and small trees in the wetland and the surrounding buffer, for a total of 8,964 trees and shrubs in 3.43 acres of degraded habitat. The mitigation area (which includes upland and wetland areas) is over 36% larger than the size of the agricultural wetland proposed for impact. These plantings will restore the type of forested habitat that was historically present within the area and will enhance the quality and size of the wildlife corridor.”*

As noted above, both appellants also identify policy “a” under Goal 7.3.3.1 of the Comprehensive Plan (cited above). In response to these statements, staff refers to page 2 of Order No. 2407 that finds Policy “a” to be not applicable. As explained in the Staff Memorandum to the Commission dated June 17, 2015, the Department of State Lands has yet to approve the wetland inventory prepared by DEA for the SCMCP which is inclusive of the school property. Staff explains this further in response to Contention No. 3 addressed below.

Staff response to the Riverkeepers contention that Policy “a” under Goal 8.2.1 has not been addressed (from page 2 of the Riverkeepers’ appeal) is the same as that stated in response to policies “a” and “c” under Goal 7.3.1.1 above. Staff confirms that the applicant’s materials identified water resources as part of their natural resource assessment for the proposed development. A degraded portion of the wetland on-site (specifically, eastern portion of Wetland A identified to the development site) is the subject of proposed encroachment and is also subject to conditions of approval that require extensive enhancement and mitigation, on-site and off-site.

Conclusion: For the reasons explained above, the Bartholemy property is not a feasible location for an athletic field in lieu of partial wetland encroachment as proposed. Also, alternative location analysis is not required for Conditional Use approval. Contrary to Riverkeepers’ statements, the applicant’s partial wetland encroachment and mitigation proposal has been found to be consistent with applicable policies of the Comprehensive Plan. Extensive wetland enhancement and mitigation is to be provided on-site and off-site as conditioned by land use approval. Therefore, the challenges of both appellants (related to Comprehensive Plan Policy compliance) are meritless. Appellants have not shown the Commission erred in finding compliance with Policy d of Goal 7.3.11. of the Comprehensive Plan.

### **Appellant Contention No. 2 – Wetlands encroachment proposal is inconsistent with certain natural resource policies specific to the South Cooper Mountain Community Plan.**

Both appeal statements identify natural resources policies specific to the SCMCP. The appeal statement by Bartholemy (page 2) identifies Overarching Policy 7 of the SCMCP (referring to natural resources). For reference, Overarching Policies of the SCMCP are provided as an exhibit to this report (Exhibit 6). In part, the Bartholemy appeal (page 2) states in reply to Overarching Policy 7:

*“Filling a wetland identified and delineated in the Community Plan neither protects or enhances...”*

Both appeal statements also identify Natural Resource Policy No. 1 of SCMCP. This policy reads:

*“Locally significant wetlands and protected riparian corridors within the Community Plan area shall be protected and enhanced, consistent with local, state and federal regulations.”*

In response to this policy, the Riverkeepers appeal (p. 5) claims that Order No. 2407 approving the high school Conditional Use is not consistent with local regulations.

The Bartholemy appeal (page 2) also responds to Natural Resource Policy 1, stating (in part):

*“The South Cooper Mountain Community Plan identifies the wetlands on the subject property as locally significant. ...”*

### **Staff Response to Contention No. 2**

Staff refer to the Staff Report dated May 20, 2015 (specifically page CU-7 identifying Plan Policies of the SCMCP). Staff also refers to applicant's written response to several SCMCP Plan Policies contained within the applicant's combined materials package (Exhibit 11), pages 66-70. The applicant's response to Natural Resource Policy 1 is found on page 69. Below are findings in response to Policy 1 from page 7 of Order No. 2407 approving the Conditional Use:

*"In response to Policy 1, the Commission finds that the proposal to encroach and mitigate wetlands is addressed through permitting requirements of the U.S. Army of Corps of Engineers (for federal) in addition to the Department of State Lands (for state) and Clean Water Services, as identified herein for local. The City of Beaverton has no separate hardship variance criteria of its own to evaluate wetland encroachment. ..."*

The Staff Memorandum dated June 17, 2015 further explains how the City of Beaverton and all other local governments of Washington County recognize the lead role of CWS in the initial review of development proposals where grading and development activity are shown to impact sensitive areas, including wetlands. In oral testimony to the Commission on June 24, staff identified Chapter 60, Section 60.67 of the Development Code and explained how city standards that govern proposals for wetland encroachment would be located in this part of Code (if they existed).

Staff also explained how provisions in Section 60.67 refer to development activities and significant wetlands, but direct readers back to relevant procedures and requirements specified in Chapter 50. In Chapter 50 there are no city requirements related to wetlands. However, Section 50.25.1.F requires applicants to obtain documentation from CWS stating that water quality will not be adversely impact by the proposal. The applicant has obtained this document from CWS. The role of CWS and its required documentation (e.g. the Service Provider Letter) is a matter of procedure and is discussed further in response to Contention No. 4 herein. Staff's written response to Section 60.67 is found in the Staff Report dated May 20, 2015 (page FR-9).

Conclusion: In response to the claim that Order No. 2407 is not consistent with local regulations (referring to Natural Resource Policy 1) staff has clarified that the city has no separate hardship variance criteria of its own to evaluate the impacts of wetland encroachment. The proposal to partially encroach upon the wetland and buffer, and appropriate mitigation, are addressed through the permitting requirements of the U.S. Army of Corps of Engineers, the Department of State Lands and Clean Water Services. For the reasons stated above, staff finds the appellants' contentions do not show how an error occurred as a matter of fact, law or both.

### **Appellant Contention No 3 – Wetlands encroachment proposal violates City ordinance amending the Local Wetland Inventory (LWI) identified for South Cooper Mountain Community Plan** (misinterpretation of OAR 141-086-0185)

Riverkeepers appeal (page 3) states (in part):

*"Clearly the City Council adopted the wetlands as part of the Beaverton LWI with the passage of Ordinance 4651"* (referring to the SCMCP).

Also, Riverkeepers appeal (page 1) states (in part, referring to OAR141-086-0185):

*“The rule does not state that wetland inventory products are required to be reviewed and approved by the Department (DSL) before it can be used by a city or county for Goal 5, Goal 17, or WCP (Wetland Conservation Plan) purposes. ...”*

### **Staff Response to Contention No. 3**

Staff refer to the Planning Commission Memorandum, dated June 17, 2015, that responds to the question – whether wetlands determined through the SCMCP are officially part of the City’s LWI. In part, the Staff Memorandum dated June 17 explains how the wetland inventory prepared for the SCMCP has yet to be approved by the Department of State Lands (DSL). According to OAR 141-086-0185 (7) (c), the LWI must be approved by the DSL before it is used by a city or county for Goal 5, Goal 17 or WCP purposes.

Approval by the DSL is important in determining the applicability of Policy “a” from Goal 7.3.3.1 of the City Comprehensive Plan (cited earlier in this report). Policy “a” of 7.3.3.1 specifically refers to significant wetlands in the LWI. In part, Order No. 2407 explains how Policy “a” is not applicable because the LWI prepared for the SCMCP has not been approved by the DSL.

From OAR 141-086-0185 (titled: *Local Wetland Inventory (LWI) Standards and Guidelines*) staff cites the relevant provision (under No. 7 of this rule) that reads:

*(7) All wetland inventory procedures and products are subject to review and approval by the Department before the products:*

- (a) Are incorporated into the SWI;*
- (b) Can be used in lieu of the NWI for Wetland Land Use Notification purposes; or*
- (c) Can be used by a city or county for Goal 5, Goal 17 or WCP purposes.*

Staff notes that the LWI prepared by DEA follows the DSL rules and was prepared for the entire SCMCP and for planning purposes thereof. In part, the LWI by DEA acknowledges this purpose and states how more detail wetland delineation work may be needed for compliance with local, state, or federal regulations. This is explained in page 1 of the LWI prepared by DEA, dated December 2013 which reads (in part):

*The LWI is intended to support planning level decision making and is not intended to replace more detailed site level wetland delineation work that may be needed for compliance with local, state, or federal regulations governing the protection of wetlands and surface waters. ...*

Staff also notes that Figure 3 of the DEA report identified two sample points associated with that portion of Wetland W-A located on the School District property. Comparatively, the wetland delineation report prepared by the applicant’s wetland biologist (Pacific Habitat, Exhibit J of the applicant’s combined materials package) identifies eleven sample points to the same portion of Wetland W-A on the project site. Where the DEA report was prepared for the entirety of the SCMCP, the Pacific Habitat report is focused to the School District property (a portion of Wetland W-A described in the DEA report) which is referred to in the applicant’s study as Wetland A.

Existing conditions of Wetland A are also identified as part of applicant’s natural resource assessment for South Cooper Mountain High School, also prepared by Pacific Habitat Services (Exhibit K of the applicant’s materials). In part, the Pacific Habitat report responds to the Tier 2

Alternative Analysis required by Clear Water Services, which staff addresses in response to the appellants' CWS contention herein. The Pacific Habitat report also describes the applicant's partial encroachment on Wetland A, along with the mitigation and enhancement proposal. Moreover, the report describes how the upland portion of Wetland A (eastern portion) is regularly mowed. Additional written testimony from the applicant (part of *Beaverton School District Response to Planning Commission Issues*, dated June 10, 2015) describes current conditions of the wetland (Page 32) and distinguishes the eastern portion (subject to encroachment) from the western portion (to remain and where mitigation is proposed). From page 32, the applicant describes the eastern portion of Wetland A as follows:

*The remaining approximately 38% (3.33 acres) of the wetland is dominated by non-native pasture grasses and has been in agricultural use for decades. This portion of the wetland is degraded. It contains only 3 trees and no shrubs. The dominant hydrology of the wetland is groundwater driven. This means that the area quickly dries out in the spring. Washington County's stormwater facility, located along SW 175<sup>th</sup> Avenue to the east, flows in a shallow generally undefined drainage through the wetland. This is the only seasonal surface water source within the wetland.*

In part, Commission Order No. 2407 acknowledges the separate east-west differences to Wetland A identified by the applicant's wetland biologist which is not described in review of the comprehensive LWI prepared by DEA for the SCMCP. Page 1 of applicant's response to the appellant's statements (titled: *Beaverton School District Response to Appeal of Conditional Use for New High School*, dated July 31, 2015) provides a graphic description of Wetland W-A as part of the SCMCP (Figure 12 thereof). This graphic shows the western forested portions of the wetland which are not proposed for encroachment.

Conclusion: City Council, in adopting the SCMCP through Ordinance No. 4651 has also adopted the LWI prepared by DEA (referred to above for the SCMCP). However, to date, the LWI for SCMCP has yet to be approved by the DSL. It is therefore not part of the city's LWI and cannot be used by the city for Goal 5, Goal 17 or WCP purposes. Plan policies that refer to the city's LWI are therefore not applicable in this particular case. The applicant proposes to encroach (fill) a degraded portion of Wetland W-A as inventoried through the SCMCP process by DEA. The applicant's own LWI / natural resource assessment is focused on that part of W-A subject to development and provides more detailed site level delineation work. The applicant's wetland delineation / natural resource assessment also includes a mitigation plan that is subject to DSL approval. Accordingly, staff finds the appellants' contention to be without merit, lacking facts as necessary to show how an error occurred as a matter of fact, law or both.

**Appellant Contention No. 4 – Wetlands encroachment approval mistakenly relies on Clean Water Services and other agencies to enforce Beaverton's wetland protection policies and regulations.**

Riverkeepers appeal (page 4) states (in part):

*"...To imply that a Service Provider Letter from Clean Water Services endorses the applicants compliance with Beaverton's wetland protections is erroneous."*

**Staff Response to Contention No. 4**

In response to Contention No. 4, staff is uncertain which part of the record the Riverkeepers refer to in support of their claim that Order No. 2407 is in error. Specifically, on page 4 of the Riverkeepers, state:

*“Order 2407 is in error when it relies on CWS and other agencies to enforce Beaverton’s wetland protection policies and regulations.”*

As part of the staff PowerPoint presentation to the Planning Commission on June 24 staff identified Action statements associated with two Comprehensive Plan policies (b and c of Goal 7.3.3.1 cited above) that direct the city to amend regulations, development standards and implementing ordinances as appropriate to ensure compliance with CWS Design and Construction standards for encroachment. As mentioned earlier, Chapter 50 of the Development Code (Section 50.25.1.F) requires documentation from CWS (typically the Service Provider Letter) stating that water quality will not be adversely impact by the proposal.

As a matter of procedure, the city did rely on the role and responsibility of CWS as codified in Section 50.25.1.F for initial review of the development proposal. The applicant obtained this required document from CWS before the Conditional Use application and other land use applications were deemed complete by the city. The Planning Commission decision (via separate Order issued for Design Review) incorporates the conditions identified in the applicant’s SPL which identify additional approvals by DSL and the U.S. Army Corps of Engineers (USACE).

Conclusion: Riverkeepers appeal does not provide sufficient detail in their claim for staff to respond. For this reason the appellant’s statement is lacking facts as necessary to show how an error occurred as a matter of fact, law or both. The city relies on CWS for initial review of the development plan and subsequent issuance of the SPL, as do all other cities in Washington County. Conditions adopted by the Planning Commission (in the Design Review Order) recognize required approvals by other governmental agencies.

**Appellant Contention No. 5 – Wetland encroachment is not required for Federal Title IX compliance.**

The Riverkeepers appeal (page 4) states (in part):

*“...There is no mandate in Title IX to fill wetlands. There is no mandate in Title IX to have athletic fields on the site of the high school. Title IX mandates equal access...”*

**Staff Response to Contention No. 5**

As mentioned above, the applicant’s wetland biologist, Pacific Habitat Services, prepared a natural resource assessment dated February 12, 2015. In part, this document responds to the Tier 2 Alternative Analysis required by CWS. Tier 2 Alternative Analysis require findings that explain how there is no practicable alternative to the location of the development and also require findings that explain how the proposed encroachment provides public benefits. The applicant identifies Federal Title IX compliance as part of the response provided to CWS Tier 2 Alternative Analysis (see Exhibit K of the applicant’s materials, by Pacific Habitat Services).

The Staff Memorandum of June 17 (and page FR-9 of the Staff Report dated May 20, 2015) explain how the SPL issued by CWS for development of the school recognizes Tier 2 Alternative Analysis. Compliance with Federal Title IX is not relevant to meeting applicable city approval criteria or development standards in the Development Code or the Comprehensive Plan. Also, Conditional Use approval criteria does not require alternative analysis. In response to opposition testimony received during the first hearing (May 27), staff commented on how the Title IX justification for partial wetland encroachment is unique. Staff also commented that the Title IX justification will not apply to future residential and commercial projects subject to land use review within the SCMCP (p-4 of the Staff Memorandum dated June 17). These statements were issued in response to opposition testimony that claimed the District's Title IX justification for wetland encroachment/mitigation would set a precedent. Staff maintains that it will not because future residential and commercial projects are not expected to provide public athletic facilities.

Staff acknowledges reference to Title IX that is part the Commission Order No. 2407. This part of the Order is described below:

*The Commission reviewed the alternative field layouts that were included as part of the applicant's plans and materials package. These alternative field layouts, in concert with Federal Title IX mandates for equal access, together with dimensional and specification requirements for fields as required by the Oregon Department of Education, demonstrate how it is impracticable to preserve that portion of Wetland A identified for encroachment according to the applicant's development plan.*

To the above, staff also notes that the Commission acknowledged other Comprehensive Plan policies that recognized the needs of the applicant for developing school facilities. The Staff Report dated May 20, 2015, identifies several policies from the Comprehensive Plan. These include policies under Goal 5.7.1 (Chapter 5) which (under policy g of Goal 5.7) *encourage the District and Tualatin Hills Park and Recreation District (THPRD) to continue their excellent level of cooperation in the joint acquisition, development and use of facilities for educational and recreational purposes.*

Additional oral testimony was received from representatives of THPRD at the May 27 and June 24 hearings. THPRD representatives explained to the Commission how the proposed school would provide athletic facilities for programed recreation and team events in the future. The Commission also received testimony as to the cooperation between the applicant and THPRD staff for shared use of these facilities. Testimony provided by the applicant and THPRD indicate that athletic field facilities are designed to accommodate various sports, accessible for all age groups and gender. Testimony also indicates that athletic field space in Beaverton is at a premium.

As the applicant's Memorandum dated July 31, 2015 explains (page 3) various Comprehensive Plan policies are applied in evaluating specific development proposals. In the same Memorandum, the applicant identifies two policies from Goal 7.3.1 (d and g) under Significant Natural Resources which acknowledge the needs of development, relative to protecting natural resources. These policies read:

*d. The City shall rely on its site development permitting process as a mechanism to balance the needs of development with natural resource protection.*

*g. Limited alteration or improvement of Significant Natural Resource areas may be permitted so long as potential losses are mitigated and "best management practices" are employed.*

Conclusion: The applicant's response to CWS Tier 2 Alternative Analysis, identifies compliance with Title IX requirements as the basis for partial wetland buffer encroachment associated with a degraded portion of Wetland A. CWS criteria are not subject to further review by the city and the same type of analysis is not required separately by the city for Conditional Use approval. Commission Order No. 2407 that approves the Conditional Use acknowledges the applicant's need to comply with requirements under Federal Title IX along with other requirements. The decision to approve the development, inclusive of the wetland encroachment/mitigation proposal, also accounts for the needs expressed by the applicant and THPRD. In this case, the loss of the natural resource is limited and will be mitigated as Policy g describes above. The city's development permitting process, subject to a public hearing in this case, is the mechanism by which to weigh and balance the needs of development with natural resource protection, as Policy d describes. For the reasons stated above, staff finds the appellant's statement to be without merit, lacking facts as necessary to show how an error occurred as a matter of fact, law or both.

**Appellant Contention No. 6 – Wetlands encroachment approval errs in finding that off-site location for athletic facilities is not a reasonable alternative.**

Riverkeepers appeal (page 4) states (in part):

*"...Clearly it is reasonable for baseball, softball, lacrosse, and any other high school athletic team to practice and compete at an off-site facility, particularly when land for such facilities is available near and adjacent to the school."*

**Staff Response to Contention No. 6**

Staff refer to the findings in stated above in response to Contention No. 5. Alternative analysis (location) is not part of the submittal requirements, standards or relevant criteria for Conditional Use approval. However, as explained in response to Contention No. 5, it is necessary as part of CWS's Tier 2 Alternative Analysis which is not subject to further review by the city. Staff also refer to the findings as stated above in response to Contention No. 1, in reply to the Bartholemey claim (as to feasibility of the appellant's property as an alternative location for the sports field as proposed).

Conclusion: For the reasons stated herein, in reference to the response provided for Contentions 1 and 5, the appellant's statement is without merit, lacking facts as necessary to show how an error occurred as a matter of fact, law or both.

**Appellant Contention No. 7 – Wetlands encroachment proposal does not protect inventoried resource resources for consistency with Criterion No. 4 of Conditional Use approval** (referring to natural features).

Riverkeepers appeal (page 5) identifies Criterion No. 4 of Conditional Use approval and states (in part):

*"The proposal does not protect inventoried natural resources..."*

**Staff Response to Contention No. 7**

For reference, Criterion No. 4 of Conditional Use approval reads:

- 4. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.*

Staff refer to the findings in response to Criterion No. 4 in the Staff Report dated May 20, 2015. Staff also refer to the applicant's findings prepared in response to Criterion No. 4 found on page 18 of the document prepared by Angelo Planning Group which is part of the applicant's combined materials package (Exhibit 11).

The subject property is approximately 48 acres, is loosely shaped like a rectangle (curved to one side) and has rolling topography. In response to Criterion No. 4, the applicant explains how the site is designed to accommodate a school building, associated parking, circulation systems and athletic fields. In response to Criterion No. 4, the applicant also explains how a large portion the existing wetland on site can also be preserved.

Staff refer to the findings as stated in response to Contention No. 5 above. Also, on visiting the site, staff observed tire ruts to eastern portions of Wetland A. Page 1 on the applicant's natural resource assessment (Pacific Habitat, Exhibit K) describes how this part of the wetland is regularly mowed. The extent to which the subject property has been used for agricultural purposes is unknown. However, in response to Conditional Use criterion No. 4, staff notes that man-made features may also include conditions attributable to regular mowing of the wetland (historically so) possibly for agricultural purposes.

Conclusion: Criterion No. 4 of Conditional Use approval does not refer to inventoried natural resources. However it does give natural and man-made features equal standing. The approval criteria for Conditional Uses has been evaluated by the Planning Commission. Order No. 2407 finds the applicant's proposal to satisfy these criteria. For the reasons stated herein, the appellant's statement is without merit, lacking facts as necessary to show how an error occurred as a matter of fact, law or both.

**Appellant Contention No. 8 – Wetlands encroachment is inconsistent with a Design Guideline in Section 60.05.45.10 of the Development Code.**

Bartholemey appeal (page 3) states (in part):

*"This section requires preservation and maintenance of City identified natural resource features, including wetlands. ..."*

**Staff Response to Contention No. 8**

Staff refer to the findings as contained in the Staff Report dated May 20, 2015, prepared in response to applicable Design Guidelines. The staff response to Section 60.05.45.10 (related to Natural Areas) is found on page DR-15 of the Staff Report and has been incorporated by reference to the Order approving the applicant's Design Review 3 application (case file DR2015-0029). The applicant's findings prepared in response to 60.05.45.10 are found on page 33 of the document prepared by Angelo Planning Group (Exhibit 11).

Because the Design Review 3 application has not been appealed, the contention cannot be considered as part of this appeal. Design Review Guidelines are evaluated as part of the separate Design Review application. Even assuming the Design Guideline were applicable, the appellant fails to explain how or why an error occurred.

Conclusion: Applicant's Design Review application has not been appealed. Therefore, the appellant's Contention No. 8 cannot be considered as part of this appeal. It is also without merit, lacking facts as necessary to show how an error occurred as a matter of fact, law or both.

**Appellant Contention No. 9 – Street vacation necessitates approval from both the Washington County Board of Commissioners and the Beaverton City Council.**

Bartholemy appeal (page 3) states (in part):

*“Although the public right-of-way is owned by Washington County, vacation of the road requires approval of both the Washington County Board of Commissioners and the Beaverton City Council. See ORS 368.361. ...”*

Bartholemy appeal (page 4) also states (in part):

*“The Council should condition site development and building permits upon a demonstration that the right of way has been vacated in accordance with the requirements of ORS 368.361 and BDC Section 40.75.15.”*

**Staff Response to Contention No. 9**

Staff refer to the applicant's Memorandum dated July 31, 2015 (Exhibit 3 hereto) explaining (on page 5) how the District submitted its petition for vacation of old 175<sup>th</sup> right-of-way (running north – south through the property) in March 2015 to the County Engineer. The same Memo explains how this petition has 100% of the property ownership in support and that Beaverton School District is the only property owner affected by this petition. The applicant also reports on the Street Vacation status, explaining how it will be scheduled for a Board of Commissioners meeting when the required County Engineering Report is complete.

In response to the appellant's contention above, staff has reviewed provisions under ORS 368.361 to determine that a separate Street Vacation process through the city is unnecessary if the Council, by resolution or order, concurs with the findings of Washington County in the vacation proceedings as described above. In short, staff sees the following steps that remain:

1. Street Vacation of Old 175<sup>th</sup> is subject to Washington County application and proceedings.
2. Washington County issues a decision.
3. After the decision is final, staff forwards to City Council for review on the Consent Agenda.
4. The City Council would then need to concur with the findings of this decision, by resolution or order.

As vacation proceedings have yet to occur, it is premature for staff to provide further analysis on this topic. However, the record associated with this development proposal describes existing conditions of old 175<sup>th</sup> right-of-way. In summary, old 175<sup>th</sup> is not shown on the Street Framework plan (Figure 10 of the SCMCP) which identifies proposed/future roads. Also, old 175<sup>th</sup> is unimproved and bounded on two sides by the properties owned by the applicant.

In the May 20 Staff Report, staff found the high school building to be set back at a sufficient distance to meet minimum building setback standards of the R-1 zone, whether the right-of-way is vacated or not. However, staff also determined that extending private utilities across property lines would be problematic for the applicant if the right-of-way were to remain. This concern is not dependent on issuance of city site development or building permits. Accordingly, Condition No. 58 (of Order No. 2408) is structured in a way that allows the applicant to move forward with site construction. Condition No. 58 requires the applicant to provide a copy of the final vacation order from Washington County prior to Final Plat approval.

Staff disagrees with the appellant as to the applicability of a condition that would restrain issuance of the site development and building permits prior to a demonstration that old 175th has been vacated. As the appellant has not explained how the vacation proposal violates a city development standard, there is no immediate need for the vacation. However, staff agrees with the applicant that to comply with ORS 368.361, a Council resolution on the matter of vacation is necessary. For this reason, staff recommends a condition hereto where the final decision by Washington County (as to street vacation of Old 175<sup>th</sup>) is forwarded to City Council for resolution, prior to the City issuing Final Plat approval.

Conclusion:

The appellant's contention, specific to due process under ORS 368.361, merits a condition of approval that staff proposes hereto. However, staff disagrees with the appellant as to the necessity of requiring a final decision on the Street Vacation prior to issuance of site development and building permits.

**Appellant Contention No. 10 – School District boundary (between Beaverton and Hillsboro) is significant to the decision, relative overarching and main street policies of SCMCP.**

Bartholemey appeal (top of page 2) refers to and responds to certain overarching policies of the SCMCP. In response to Overarching Policy #2 of the SCMCP, the Bartholemey appeal states (in part):

*“The proposed development will not create a walkable, family-friendly community, as a majority of the properties in the South Cooper Mountain community are within the Hillsboro School District, and cannot attend the new school.”*

Bartholemey appeal (page 2) also refers to SCMCP Main Street Plan Policy No. 3 and states (in part)

*“The school does not complement the commercial development stated for the Appellant's property. ...”*

**Staff Response to Contention No. 10**

Staff refer to the applicant's Memorandum dated July 31, 2015, explaining (on page 4) how the two districts (Beaverton and Hillsboro) have initiated the conversation envisioned in the land use policy of the SCMCP. This policy (Land Use Implementation Policy No. 7) is cited in the applicant's Memorandum and is considered aspirational, not mandatory. The applicant's Memorandum also explains how on-going discussions between the two districts will address a

number of technical and policy issues and how these discussions are to be open and transparent and subject to broader community discussion. Staff concurs.

Conclusion: Land Use Implementation Policy No. 7 is considered aspirational. The applicant describes on-going discussions with Hillsboro School District to adjust the boundary. Staff examination of policies identified in the Bartholemy appeal found nothing that compels the boundary change at this time. Therefore, the appellant's statement is without merit, lacking facts as necessary to show how an error occurred as a matter of fact, law or both.

## SUMMARY

Criteria for Conditional Use approval specifically refer to "applicable" Comprehensive Plan policies and compliance thereto. For the reasons explain herein, staff disagrees with contentions expressed by both appellants in response to the applicant's wetland encroachment and mitigation proposal. Staff finds the development proposal to be consistent with applicable natural resource policies identified in Chapters 7 and 8 of the City Comprehensive Plan including applicable natural resource policies identified in the South Cooper Mountain Community Plan.

For the reasons explained above, the Bartholemy property is not a feasible alternative for relocating an athletic field in-lieu of partial wetland encroachment as proposed. Also, alternative location analysis is not required for Conditional Use approval. For the reasons explained above, CWS criteria is not subject to further review by the city and the same type of analysis (Tier Two) is not required separately by the city for Conditional Use approval.

Commission Order No. 2407 approving the Conditional Use acknowledges the applicant's need to comply with requirements under Federal Title IX along with other requirements and the demonstrated public need as presented in testimony by the applicant and THPRD staff. In this case, the loss of natural resource is limited but will be mitigated both on and off site. In this case that limited part of Wetland A subject to fill is degraded but its remaining portion near existing forested and riparian areas will be enhanced. Through the hearing process, the Commission considered the needs of development and the need for protecting natural resources. Where policies d and g of Goal 7.3.1 explain how the city is to rely on its site development permitting process as a mechanism to balance the needs of development with natural resource protection, the Commission acted accordingly.

The appellant's contention, specific to due process under ORS 368.361, merits a condition of approval that staff proposes hereto. However, staff disagrees with the appellant as to the necessity of requiring a final decision on the Street Vacation prior to issuance of site development and building permits. For the reasons stated above, staff finds the appellant's statement to be without merit, lacking facts as necessary to show how an error occurred as a matter of fact, law or both.

## RECOMMENDATION

Staff recommends that Council affirm the Planning Commission's decision to approve the Conditional Use for South Cooper Mountain High School with conditions as stated in Order No. 2407. Staff also recommends that Council amend Order No. 2407 by addition of the following condition:

13. Final decision by Washington County as to street vacation of Old 175<sup>th</sup> is to be forwarded to City Council for resolution, prior to the City issuing Final Plat approval associated with the Preliminary Partition application.

Staff also notes that a final written decision on this proposal must be issued within the 120 day period as mandated by the Development Code under Section 50.25.9, referring to State law. In this case, the 120-day deadline is September 3, 2015. With no other regular Council meetings scheduled for the remainder of August this year, staff does not recommend continuance of the hearing to a later date, unless voluntarily requested by the applicant (in concert with a partial waiver of 120-days). Staff notes that the appellant's representative (for Bartholemy) has twice requested that the record remain open for period of seven day (in accordance with statute). The City Attorney interprets the statute to allow two requests for the record to remain open which has since transpired. Honoring requests to keep the record open does not extend the 120-day clock.

APP 2015-0001/APP 2015-002  
BSD HIGH SCHOOL  
SOUTH COOPER MOUNTAIN

# EXHIBIT 1

## APPELLANT STATEMENT OF APPEAL FROM ED BARTHOLEMY DATE JULY 17, 2015

RECEIVED

JUL 17 2015



City of Beaverton  
Planning Services  
**Beaverton**  
O R E G O N

CITY OF BEAVERTON

Community Development  
Department

Planning Division

4755 SW Griffith Drive  
PO Box 4755

Beaverton, OR 97076

Tel: (503) 526-2420

Fax: (503) 526-3720

www.Beavertonoregon.gov

EXHIBIT 1

OFFICE USE ONLY

FILE #: APP2015 -

FILE NAME: Appeal of Santa Cooper Mountain  
High School

TYPE: 3 - Appeal RECEIVED BY: SW

FEE PAID: 31,472 CHECK/CASH: 4211

SUBMITTED: 7-17-15 NAC: Neg. SW

APPEAL LAND USE DECISION

Revised 07/2011

PLEASE SELECT THE SPECIFIC TYPE OF APPEAL FROM THE FOLLOWING LIST:

- APPEAL OF A TYPE 1 DECISION
- APPEAL OF A TYPE 3 DECISION
- APPEAL OF A TYPE 2 DECISION
- OTHER

APPELLANT NAME(S):

ED BARTHOLEMV

SIGNATURE(S): (Original Signature(s) Required)

EB

EACH APPELLANT MUST HAVE PROVIDED EVIDENCE TO THE DECISION MAKING AUTHORITY THAT WAS CONTRARY TO THE DECISION.

APPELLANT REPRESENTATIVE: All pre-hearing contact will be made solely to this person.

IF MORE THAN ONE APPELLANT, APPELLANTS MUST DESIGNATE A SINGLE APPELLANT REPRESENTATIVE.

NAME: DAVE HUNNICUTT COMPANY:

ADDRESS: 46 OREGONIANS FOR ACTION, P.O. Box 230637

CITY, STATE, ZIP TILLAMOOK, OR 97121

PHONE: 503 630 0258 FAX: 503 639 6891

SIGNATURE: [Signature] (Original Signature Required)

REQUIRED INFORMATION

SITE ADDRESS: TL 205+800, Ubi Co Assessor Map CASE FILE NO. UNDER APPEAL: SEE ATTACHMENT

SPECIFIC APPROVAL CRITERIA / CONDITION BEING APPEALED: SEE ATTACHMENT

SPECIFIC REASON(S) WHY A FINDING / CONDITION IS IN ERROR AS A MATTER OF FACT, LAW OR BOTH:

SEE ATTACHMENT

(Attach additional sheets if necessary)

SPECIFIC EVIDENCE RELIED ON TO ALLEGE ERROR: SEE ATTACHMENT

(Attach additional sheets if necessary)

HOW DID THE APPELLANT(S) PROVIDE EVIDENCE TO THE DECISION-MAKING AUTHORITY? WHERE IN THE OFFICIAL RECORD IS SUCH EVIDENCE?: SEE ATTACHMENT

(Attach additional sheets if necessary)

CASE FILE NOS. UNDER APPEAL:

CU 2015-0003

DR 2015-0029

LD 2015-0004

ADJ 2015-0004

*E-mail from Dave Hennick  
representing Ed Bartholmey (7/17)  
clarifies that appeal is limited  
to Conditional Use approval (CU2015-0003)  
- SW*

RECEIVED

JUL 17 2015

City of Beaverton  
Planning Services

SPECIFIC APPROVAL CRITERIA/CONDITION BEING APPEALED: Appellant challenges approval of the four applications sought by the Beaverton School District (District). The record does not demonstrate that the District's proposal satisfies the following approval criteria:

- South Cooper Mountain Community Plan Overarching Policy #2
- South Cooper Mountain Community Plan Overarching Policy #3
- South Cooper Mountain Community Plan Overarching Policy #6
- South Cooper Mountain Community Plan Overarching Policy #7
- South Cooper Mountain Community Plan Overarching Policy #11
- South Cooper Mountain Community Plan Main Street Policy #3
- South Cooper Mountain Community Plan Natural Resource Policy #1
- South Cooper Mountain Community Plan Implementation Policy #7
- City of Beaverton Comprehensive Plan §7.1.1(b)
- City of Beaverton Comprehensive Plan §7.3.1.1(a)
- City of Beaverton Comprehensive Plan §7.3.1.1(c)
- City of Beaverton Comprehensive Plan §7.3.3.1(a)
- Beaverton Development Code §60.05.45.10
- Beaverton Development Code §40.75.15

Appellant further challenges the failure of the Planning Commission to condition a site development permit upon vacation of the public right of way for the old alignment of SW 175<sup>th</sup> Ave., which is owned by Washington County and dedicated for public use.

**SPECIFIC REASON(S) WHY A FINDING/CONDITION IS IN ERROR AS A MATTER OF FACT, LAW OR BOTH:**

South Cooper Mountain Community Plan Overarching Policy #2: The proposed development will not create a walkable, family-friendly community, as a majority of properties in the South Cooper Mountain community are within the Hillsboro School District, and cannot attend the new school.

South Cooper Mountain Community Plan Overarching Policy #3: Placing a new high school across the street from a new residential area in another school district does not minimize negative environmental, social, and economic impacts. New residents on adjacent parcels, which are zoned for residential development, will be negatively impacted by the new school which their children cannot attend, and the filling of the wetland.

South Cooper Mountain Community Plan Overarching Policy #6: Placing a new high school at the edge of the District's boundary does not promote options for all forms of travel, and makes it more difficult for students and parents to walk and bike to the new school.

South Cooper Mountain Community Plan Overarching Policy #7: Filling a wetland identified and delineated in the Community Plan neither "protects" nor "enhances" the South Cooper Mountain identified natural resources, particularly when the Appellant has offered to provide land sufficient to the District to construct its ball fields and avoid filling the wetland.

South Cooper Mountain Community Plan Overarching Policy #11: The new school cannot become a center of community activity for the South Cooper Mountain area when the majority of new residents in the area will not be able to attend the new school, as they are within the Hillsboro School District boundaries.

South Cooper Mountain Community Plan Main Street Policy #3: The design of the new high school does not complement the commercial development slated for Appellant's property. Primary access to the new high school will be on SW 175<sup>th</sup>, not the new collector street abutting Appellant's property. Primary traffic in and out of the high school will not use the collector street, making commercial uses on Appellant's property less viable.

South Cooper Mountain Community Plan Natural Resource Policy #1: The South Cooper Mountain Community Plan identifies the wetlands on the subject property as locally significant. Filling these wetlands, as proposed by the District, does not "protect" or "enhance" them.

South Cooper Mountain Community Plan Implementation Policy #7: Hillsboro School District has made significant progress and effort into adjusting the district boundaries to include the entire South Cooper Mountain Community Plan area within the Beaverton School District. The District has not taken similar steps, and has not complied with this requirement.

City of Beaverton Comprehensive Plan §7.1.1(b): The South Cooper Mountain Community Plan identifies the wetland on the subject property as a significant natural resource. The District's plan to fill that wetland are unnecessary, when Appellant has informed the District that he will sell sufficient adjacent upland to the District to construct the ball fields, enabling the District to avoid filling the wetland.

City of Beaverton Comprehensive Plan §7.3.1.1(a): The wetland on the subject parcel is inventoried as significant by the South Cooper Mountain Community Plan. This section requires the wetland to be conserved, protected, enhanced, or restored. Filling the wetland is not consistent with this requirement.

City of Beaverton Comprehensive Plan §7.3.1.1(c): The wetland on the subject parcel is inventoried as significant by the South Cooper Mountain Community Plan. The District's proposed plan does not incorporate the wetland into the new school design. Rather, it simply fills the wetland. Appellant has offered to provide adjacent upland to the district for the construction of new ball fields, which are a permitted use on Appellant's property, rather than a conditional use.

City of Beaverton Comprehensive Plan §7.3.3.1(a): The District proposes to fill the wetland on the subject property, which has been identified as a wetland on the City's Local Wetland Inventory. Filling a portion of Wetland W-A cannot be considered "protection" of that wetland, particularly when reasonable alternatives to filling the wetland exist.

Beaverton Development Code §60.05.45.10: This section requires preservation and maintenance of City identified natural resource features, including wetlands. The South Cooper Mountain Community Plan identifies Wetland W-A on the subject property as a natural resource feature. The District plans to fill with wetland, rather than preserve or maintain it, despite Appellant's stated willingness to transfer adjacent upland to the district for its fair market value, and the District's ability to acquire that property from Appellant, or another neighboring property owner, by eminent domain. The District has ignored alternatives to filling the wetland in its rush to obtain quick development approval.

Beaverton Development Code §40.75.15: The District is required to obtain a street vacation permit prior to vacating the existing public right of way on the subject property. It has not applied for this permit. Although the public right of way is owned by Washington County, vacation of the road requires approval of both the Washington County Board of Commissioners and the Beaverton City Council. See ORS 368.361. This section contains the application process for vacating the street. The District plans to eliminate the public right of way. They cannot do so until following this process.

Condition of Approval #58, Design Review Approval: The public right of way on the subject property is owned by Washington County, and has not been vacated by either the County or the City, in the manner required by ORS 368.361 and BDC §40.75.15. Until the right of way is

vacated, the public has the right to access the right of way for pedestrian and vehicular traffic. The Planning Commission decision conditions approval of the final plat upon the District submitting evidence that the right of way has been vacated. Presumably, the approval will allow site development and building permits to issue without proof that the right of way has been vacated, thus interfering with the public's ability to access the right of way for its intended purpose. The Council should condition site development and building permits upon a demonstration that the right of way has been vacated in accordance with the requirements of ORS 368.361 and BDC §40.75.15.

**SPECIFIC EVIDENCE RELIED UPON TO ALLEGE ERROR:**

South Cooper Mountain Community Plan Overarching Policy #2: Appellant's letter dated June 2, 2015, South Cooper Mountain Community Plan.

South Cooper Mountain Community Plan Overarching Policy #3: Appellant's letter dated June 2, 2015, South Cooper Mountain Community Plan.

South Cooper Mountain Community Plan Overarching Policy #6: Appellant's letter dated June 2, 2015, South Cooper Mountain Community Plan.

South Cooper Mountain Community Plan Overarching Policy #7: Appellant's letters dated June 2, 2015, June 24, 2015, and July 1, 2015, South Cooper Mountain Community Plan.

South Cooper Mountain Community Plan Overarching Policy #11: Appellant's letter dated June 2, 2015, South Cooper Mountain Community Plan.

South Cooper Mountain Community Plan Main Street Policy #3: Appellant's letter dated June 2, 2015, South Cooper Mountain Community Plan.

South Cooper Mountain Community Plan Natural Resource Policy #1: Appellant's letters dated June 2, 2015, June 24, 2015, and July 1, 2015, South Cooper Mountain Community Plan.

South Cooper Mountain Community Plan Implementation Policy #7: Appellant's letters dated May 27, 2015, June 2, 2015, South Cooper Mountain Community Plan.

City of Beaverton Comprehensive Plan §7.1.1(b): Appellant's letters dated June 2, 2015, June 24, 2015, and July 1, 2015, Beaverton Comprehensive Plan.

City of Beaverton Comprehensive Plan §7.3.1.1(a): Appellant's letters dated June 2, 2015, June 24, 2015, and July 1, 2015, Beaverton Comprehensive Plan.

City of Beaverton Comprehensive Plan §7.3.1.1(c): Appellant's letters dated June 2, 2015, June 24, 2015, and July 1, 2015, Beaverton Comprehensive Plan.

City of Beaverton Comprehensive Plan §7.3.3.1(a): Appellant's letters dated June 2, 2015, June 24, 2015, and July 1, 2015, Beaverton Comprehensive Plan.

Beaverton Development Code §60.05.45.10: Appellant's letters dated June 2, 2015, June 24, 2015, and July 1, 2015, Beaverton Development Code.

Beaverton Development Code §40.75.15: Appellant's letters dated June 2, 2015, June 24, 2015, and July 1, 2015, Beaverton Development Code, ORS 368.361.

Condition of Approval #58: Appellant's letters dated June 2, 2015, June 24, 2015, and July 1, 2015, Beaverton Development Code, ORS 368.361.

**HOW DID THE APPELLANT PROVIDE EVIDENCE TO THE DECISION-MAKING AUTHORITY? WHERE IN THE OFFICIAL RECORD IS SUCH EVIDENCE?**

Appellant appeared before the Planning Commission, and provided both oral and written testimony. Appellant submitted letters dated May 27, 2015, June 2, 2015, June 24, 2015, and two letters on July 1, 2015. Appellant has no idea where the evidence is in the official record, because Appellant is not aware that an official record has been produced, much less transmitted to the City Council or numbered in a manner that would allow Appellant to point to the specific location of his testimony. Since Appellant and his counsel followed all proper procedures for transmitting his written testimony into the record and for testifying at the hearings, and since a recording of all oral testimony at each hearing was taken, Appellant's evidence is required to be included in the record.

## Scott Whyte

---

**From:** Dave Hunnicut <dave@oia.org>  
**Sent:** Friday, July 17, 2015 2:52 PM  
**To:** Scott Whyte  
**Cc:** Peter Livingston; Steven Sparks; Cheryl Twete  
**Subject:** RE: Appeal Fee \$1,472.00 - singular

Scott:

Mr. Bartholemy will limit his appeal to an appeal of the Conditional Use Permit (CU2015-003). Pursuant to our telephone call this morning, you indicated that we will not need to submit a new appeal form.

Dave Hunnicutt  
President  
Oregonians In Action  
(503) 620-0258  
dave@oia.org

---

**From:** Scott Whyte [mailto:swhyte@beavertonoregon.gov]  
**Sent:** Friday, July 17, 2015 11:03 AM  
**To:** 'Dave Hunnicut'  
**Cc:** Peter Livingston; Steven Sparks; Cheryl Twete  
**Subject:** Appeal Fee \$1,472.00 - singular

Hi Dave. As a follow-up to our telephone conversation today, we received your appeal form and written statement. The fee amount shown to the check (via Ed and Kathy Bartholemy) shows a total of \$1,472. This amount is consistent with the current fee schedule. However, in the case of multiple land use decisions, the fee is multiplied accordingly. See page 2 of the Notice of Decision (cover sheet dated July 7) where we explain how the fee amount depends on the number of appeals being filed. In this case, your written statement identifies all four land use applications associated with High School subject to appeal.

In reviewing Section 50.60 of the Development Code (Appeal of a Type 3 Decision) I see nothing describing a case where one appeal fee applies to multiple land use decisions. If you found something on our website that indicates otherwise, please let me know before 4pm today and I'll take a look.

Appeal deadline is 4pm today. If your client intends to appeal all four land use decisions, the fee amount would be \$5,888. If just one of the four, no additional \$ is necessary. However, I will need to know which case file is subject to appeal (before 4pm).

After today, your appeal is forwarded to the Director (Cheryl Twete copied hereto) who will determine whether the appeal contains all required information identified in Section 50.70.2 of the Development Code. The appeal fee is among the list of required information.

If you have any questions, feel free to contact me at (503)526-2652.

Scott Whyte  
Senior Planner

APP 2015-0001/APP 2015-002  
BSD HIGH SCHOOL  
SOUTH COOPER MOUNTAIN

# EXHIBIT 2

## APPELLANT STATEMENT OF APPEAL FROM TUALATIN RIVERKEEPERS DATE JULY 17, 2015

RECEIVED  
JUL 17 2015



City of Beaverton  
Planning Services

**Beaverton**  
OREGON

**CITY OF BEAVERTON**  
Community Development  
Department  
**Planning Division**  
4755 SW Griffith Drive  
PO Box 4755  
Beaverton, OR 97076  
Tel: (503) 526-2420  
Fax: (503) 526-3720  
[www.Beavertonoregon.gov](http://www.Beavertonoregon.gov)

EXHIBIT 2

OFFICE USE ONLY	
FILE #:	APP2015
FILE NAME:	Appeal of South Cooper Mountain - Riverkeepers
TYPE:	3-APR RECEIVED BY: SW
FEE PAID:	\$1,472.00 CHECK/CASH: #3575
SUBMITTED:	7-17-15 NAC: [Signature]

**APPEAL LAND USE DECISION**

Revised 07/2011

PLEASE SELECT THE SPECIFIC TYPE OF APPEAL FROM THE FOLLOWING LIST:

APPEAL OF A TYPE 1 DECISION       APPEAL OF A TYPE 3 DECISION

APPEAL OF A TYPE 2 DECISION       OTHER

**APPELLANT NAME(S):** Tualatin Riverkeepers, Brian Wegener, Advocacy & Communications Manager

**SIGNATURE(S):** (Original Signature(s) Required)  
[Signature: Brian Wegener]

EACH APPELLANT MUST HAVE PROVIDED EVIDENCE TO THE DECISION MAKING AUTHORITY THAT WAS CONTRARY TO THE DECISION.

**APPELLANT REPRESENTATIVE:** All pre-hearing contact will be made solely to this person.  
IF MORE THAN ONE APPELLANT, APPELLANTS MUST DESIGNATE A SINGLE APPELLANT REPRESENTATIVE.

**NAME:** Brian Wegener      **COMPANY:** Tualatin Riverkeepers

**ADDRESS:** 11675 SW Hazelbrook Road

**CITY, STATE, ZIP:** Tualatin, Oregon 97062

**PHONE:** 503-218-2580      **FAX:**

**SIGNATURE:** [Signature: Brian Wegener] (Original Signature Required)

**REQUIRED INFORMATION**

**SITE ADDRESS:** South Cooper Mountain High School      **CASE FILE NO. UNDER APPEAL:** CU2015-0003

**SPECIFIC APPROVAL CRITERIA / CONDITION BEING APPEALED:** Conditional Use Permit Allowing Filling of Wetland on South Cooper Mountain High School Site - Ordinance 4651 - South Cooper Mountain Community Plan, South Cooper Mountain Concept Plan, Beaverton Comprehensive Plan - 7.3.1.1, 8.2.1.a.

**SPECIFIC REASON(S) WHY A FINDING / CONDITION IS IN ERROR AS A MATTER OF FACT, LAW OR BOTH:** Filling wetland is not in compliance with Beaverton Comprehensive Plan - 7.3.1.1, 8.2.1.a., South Cooper Mountain Community Plan, ORS 197.175(2)(d), Beaverton Development Code 40.15.15.3.C  
See Attached. (Attach additional sheets if necessary)

**SPECIFIC EVIDENCE RELIED ON TO ALLEGE ERROR:** South Cooper Mountain Community Plan, Comprehensive Plan Amendment Ordinance 4651  
Beaverton Development Code 40.15.15.3.C, Local Wetland Inventory, Clean Water Services Design & Construction Standards, OAR1 41-086-0185, Beaverton Comprehensive Plan, Order 2407,  
Doob v. Grants Pass, 48, ORS 197.175(2)(d), video of planning commission hearings. See attached. (Attach additional sheets if necessary)

**HOW DID THE APPELLANT(S) PROVIDE EVIDENCE TO THE DECISION-MAKING AUTHORITY? WHERE IN THE OFFICIAL RECORD IS SUCH EVIDENCE?:** Appellant testified before planning commission on May 27, 2015 and June 24, 2015.  
Appellant submitted attached written testimony to planning commission at 3 times during the process. (Attached)  
(Attach additional sheets if necessary)

JUL 17 2015

City of Beaverton  
Planning Services

**Specific Reasons and Evidence Why Findings and Conditions in Beaverton Planning Commission Order No. 2407 are in Error - (5 Pages)**

On February 3, 2015 the Beaverton City Council approved Ordinance 4651. Ordinance 4651 adopted the South Cooper Mountain Community Plan as a comprehensive plan amendment. ORDINANCE EXHIBIT A, Comprehensive Plan Amendments, Volume III: Local Wetland Inventory Map, clearly identifies W-A on the South Cooper Mountain High School as a wetland in the inventory. The City Council has approved this addition to the Local Wetland Inventory for application of City wetland protections.

**Planning Commission Order 2407 is in error when it misinterprets Oregon Administrative Rule (OAR) 141-086-0185 when it states that this rule “requires that a local wetland inventory be approved by the Department of State Lands (DSL) before it becomes effective.”**

On the contrary, OAR 141-086-0185 (5) states, “An LWI is used by the Department, other agencies, and the public, to help determine if wetlands or other particular land or other waters are present on particular land parcels.” Using other information, such as a locally adopted comprehensive plan amendment, or the Local Wetland Inventory assessment for South Cooper Mountain prepared by David Evans and Associates is not precluded from being used to apply the City’s own wetland protection rules.

OAR 141-086-0185 (7) states

*(7) All wetlands inventory procedures and products **are subject to**<sup>1</sup> review and approval by the Department before the products:*

*(a) Are incorporated into the SWI;*

*(b) Can be used in lieu of the NWI for Wetland Land Use Notification purposes; or*

*(c) Can be used by a city or county for Goal 5, Goal 17 or WCP purposes.*

The rule **does not** state that wetland inventory products **are required to be** reviewed and approved by the Department (DSL) before it can be used by a city or county for Goal 5, Goal 17, or WCP (Wetland Conservation Plan) purposes. It says they are “subject to review and approval.” If DSL does not exercise its authority to review, Beaverton is not prohibited from protecting wetlands it has recognized.

The Local Wetland Inventory product was prepared for the City of Beaverton by David Evans and Associates in December 2013. The Department of State Lands has had ample time to review and disapprove of this product if it so desired. Nowhere does OAR 141-086-0185 state that the City of Beaverton is precluded from protecting significant wetlands as recognized by the City.

Ordinance 4651 recognizes this significant wetland and the SCM Community Plan acknowledged by the City Council through Resolution 4209 assigned the “highest preservation priority” to this wetland. The

<sup>1</sup> A commonly used definition of “subject to” is “liable to, open to, exposed to, vulnerable to, prone to, susceptible to, disposed to”. Because OAR 141-086-0185 makes it clear that the LWI is a tool for helping to identify wetlands, and not a requirement without which a wetland cannot be protected, this definition is appropriate.

South Cooper Mountain Concept Plan was acknowledged by the City Council through Resolution 4290 in January 2015. This acknowledged Concept Plan assigns the "Highest Preservation Priority" to the wetland on the north end of the high school site, of which the school district proposes to fill 2.52 acres. Thus, Planning Commission Order 2407 is in error as it does not comply with the Cooper Mountain Concept Plan priority to preserve this wetland.

In the Beaverton Comprehensive Plan, 7.3.3 SIGNIFICANT WETLANDS states: "The Local Wetland Inventory is part of the Statewide Planning Goal 5 Inventory Resource documents. Significant wetlands are found within Appendix A, Table 5 of the Local Wetland Inventory." Ordinance 4651 approved by the City Council on February 3 amended Appendix A, Table 5 of the Local Wetland Inventory to include Wetland A on the north end of the high school site.

The Staff Report dated May 27, 2015 and incorporated in Order No. 2407 by reference **found erroneously that there are no water resource area on the site and that policy 8.2.1.a) was not applicable:**

*Facts and Findings: In response to policy a, the applicant notes that subject site does not contain a water resource area and therefore the policy is not applicable.*

**8.2.1. Goal: Maintain and improve water quality, and protect the beneficial uses, functions and values of water resources. a) All water resources within the City shall be enhanced, restored or protected to the extent practicable.**

Neither the glossary for the Comprehensive Plan, nor the definitions in the Beaverton Development Code define "water resource areas". Section 8.2 of the Comprehensive Plan states: "The primary source of water quality impacts in the City is from runoff flowing into streams and wetlands from streets, parking lots, building roofs and landscaped areas." The glossary in the Comprehensive Plan states that "WATER QUALITY SENSITIVE AREA ... shall include the following: 1. Existing or created wetlands;" Section 8.2 states, "The City and the Clean Water Services (CWS) share responsibility for meeting the standards set by the Federal Clean Water Act." Section 404 of the Clean Water Act recognizes wetlands as water resources.

There is no condition in Chapter 8 of the comprehensive plan requiring the existence of a "water resource area" on a site for application of water resource protections in 8.2. The Comprehensive Plan explicitly states that wetlands are "Water Quality Sensitive Areas". Dismissal of policy 8.2.1.a) is an error. The policy, "All water resources within the City shall be enhanced, restored or protected to the extent practicable" is applicable to wetlands on the site.

**Order No. 2407 is in error with the finding that "The wetlands located on the subject site are not currently included in the City of Beaverton LWI."** Written testimony submitted on June 24, 2015 by David J. Hunnicutt clearly makes the point that for purposes of the Beaverton Comprehensive Plan this is in error:

*It is true that DSL approval is required before the LWI can be substituted for the NWI for*

*purposes of determining the location of wetlands within the City, but that hardly means that Wetland W-A is not considered a locally significant wetland for purposes of the City's comprehensive plan. In fact, as discussed above, the February 3, 2015 amendments to the comprehensive plan arising from the adoption of Ordinance 4651 have been acknowledged by LCDC, and the City is required by ORS 197.175(2)(d) to apply them to BSD's application. See Doob v. City of Grants Pass, 48 Or LUBA 245 (2004).*

**Order No. 2407 states in error** that “wetlands on the subject property have not been adopted as part of the Beaverton LWI”. Clearly the City Council adopted the wetlands as part of the Beaverton LWI with the passage of Ordinance 4651.

According to 7.3.3.1 a), “Significant Wetlands in the Local Wetland Inventory shall be protected for their filtration, flood control, wildlife habitat, natural vegetation and other water resource values.” Filling 2.52 acres of wetland is not protection, thus the approval of this Conditional Use Permit is in error and contrary to the Comprehensive Plan as amended by Ordinance 4651.

**There is no hardship and therefore no hardship variance should be granted.** Action 1 under 7.3.1.1 (d) of the Comprehensive Plan states, “Where the combination of riparian, wetlands, and other requirements would result in an unbuildable lot, such a situation may be relevant to a decision that may grant a hardship variance.” The lot is buildable if the applicant avoids all wetlands, thus there is no hardship.

Without explicitly finding that a hardship exists, Order No. 2407 states that, “The City of Beaverton has no separate hardship variance criteria of its own to evaluate wetland encroachment.” No hardship is claimed by the applicant. Order No. 2407 is in error in applying a de facto hardship variance to justify filling a wetland.

There exist readily available practicable alternatives that would allow the applicant to build desired facilities. The South Cooper Mountain Concept Plan states on page 5 of the Infrastructure Funding Plan:

One potential strategy for reducing the cost of parks infrastructure in the area is for THPRD to collaborate with the school district on shared park facilities. THPRD has noted that they have begun exploring park and recreation facilities in conjunction with the proposed new high school; this may influence the size and location of a future community park elsewhere on South Cooper Mountain.

Under Civic Uses on page 49 of the SCM Concept Plan, Figure 11 identifies 6 areas within the South Cooper Mountain Annexation Area that meet local schools criteria. Two of these are within 1000 feet of the high school site. These are suitable areas for athletic facilities. Figure 12 Concept Plan Parks Framework identifies 8 areas in the SCM Annexation Area as Areas Meeting Neighborhood Park Location Criteria. Again, these areas are suitable for athletic facilities. In testimony on June 24, 2015 before the planning commission, David Hunnicutt, representing Ed and Kathy Bartholomy, identified an available parcel owned by a willing seller **adjacent to the high school site** that is zoned appropriately for school facilities and would not require a conditional use permit to build athletic fields. Because of these available sites suitable for athletic fields, there is no hardship. Any hardship is the result of negligence

on the part of the School District for its failure to perform due diligence in identifying wetlands before purchasing the site. This failure to perform due diligence was identified by Planning Commissioner Linda Wilson at the June 24, 2015 hearing and can be found on the video of the hearing at 4:22:30 and following.

These alternatives should also be applied to encroachment on the vegetated corridors surrounding the wetland. Tualatin Riverkeepers has requested that Clean Water Services withdraw the service provider letter because practicable alternatives exist and the alternatives analysis submitted to CWS by the applicant was in error when it failed to identify these alternatives.

**Order 2407 is in error when it relies on Clean Water Services and other agencies to enforce Beaverton's wetland protection policies and regulations.** Clean Water Services is not a land use authority. They have no obligation to enforce Beaverton's rules nor the Cooper Mountain Concept and Community Plans. Their review is for the enforcement of their own design and construction standards which regulates vegetated corridors (aka buffers) around streams and wetlands. To imply that a Service Provider Letter from Clean Water Services endorses the applicant's compliance with Beaverton's wetland protection is erroneous.

**Filling of Wetland is Not Required for the School District to Comply with Federal Title IX** - Order No. 2407 is in error where it states that "...the partial wetland encroachment and fill proposal is required to meet the needs of the high school, in part identified by the District for compliance with Federal Title IX mandates for equal access...". There is no mandate in Title IX to fill wetlands. There is no mandate in Title IX to have athletic fields on the site of the high school. Title IX mandates equal access. Title IX states that "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." It does not require high schools to offer any specific sports programs including softball and baseball. It only requires equal opportunity. Equal access can be accommodated by using offsite athletic facilities. Equal access can be provided by building athletic fields on the adjacent Bartholomy property. Equal access can be provided by changing the mix of programs offered by the high school. Equal access can be provided by putting athletic fields across the street from the high school campus as is done at Beaverton High School. Equal access can be provided by putting athletic fields off-campus on nearby THPRD facilities as is done at Sunset Swim Center Park for Sunset High School.

**Order No. 2407 is in Error in finding "that providing athletic fields at an off-site location is not a reasonable alternative for the District."** The school district demonstrates that this is reasonable by the ongoing practice of using THPRD swim facilities. Every comprehensive high school in the Beaverton District has a swim team, but there is no swimming pool located on a school district site. They all use THPRD swimming pools. Westview High School Swim Team practices daily at THPRD Sunset Swim Center. Clearly it is reasonable for the high school swim team to practice and compete at an off-site location. It is also reasonable for baseball, softball, lacrosse, and any other high school athletic team to practice and compete at an off-site facility, particularly when land for such facilities is available near and adjacent to the school.

**Order No. 2407 does not comply with Natural Resource Policy 1 of the South Cooper Mountain Community Plan** which reads:

*Locally significant wetlands and protected riparian corridors within the Community Plan area shall be protected and enhanced, consistent with **local**, state and federal regulations.*

Order No 2407 is not consistent with the following **local** regulations:

1. The proposal does not meet the criteria for a conditional use permit in Beaverton Development Code 40.15.15.3.C.3: *The proposal will comply with the applicable policies of the Comprehensive Plan.*

Order No. 2407 does not comply with comprehensive plan policies under 7.3.1

a) Inventoried natural resources shall be conserved, protected, enhanced or restored:

- to retain the visual and scenic diversity of our community;
- for their educational and recreational values;
- to provide habitats for fish and wildlife in our urban area.

b) Conserve, protect and enhance natural resource sites and values through a combination of programs that involve development regulations, purchase of land and conservation easements, educational efforts, and mitigation of impacts on resource sites.

c) Inventoried natural resources shall be incorporated into the landscape design of development projects as part of a site development plan, recognizing them as amenities for residents and employees alike.

d) The City shall rely on its site development permitting process as the mechanism to balance the needs of development with natural resource protection.

**Order No. 2407 is in error in that it does not find that the proposal does not meet the criteria for a conditional use permit in Beaverton Development Code 40.15.15.3.C:**

4. *The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.*

The proposal does not protect inventoried natural resources, and, as stated by Commissioner Nye on June 24, "there is too much program on the site to reasonably accommodate both the natural and manmade features."



## TUALATIN RIVERKEEPERS.

11675 SW Hazelbrook Road • Tualatin, Oregon 97062

phone 503-218-2580 • fax 503-218-2583

[www.tualatinriverkeepers.org](http://www.tualatinriverkeepers.org)

RECEIVED

JUL 17 2015

City of Beaverton  
Planning Services

July 17, 2015

Amber Wierck  
Clean Water Services  
Environmental Review  
2550 Southwest Hillsboro Highway  
Hillsboro, Oregon 97123

Dear Amber,

Tualatin Riverkeepers requests that you withdraw the Service Provider Letter for South Cooper Mountain High School immediately.

Clean Water Services Design & Construction Standards 3.07.4.c.6 states the following as a criterion for encroachment into a vegetated corridor: *No practicable alternative to the location of the development exists that will not disturb the Sensitive Area or Vegetated Corridor.*

The Alternatives Analysis submitted by the applicant was erroneous in that it failed to identify several practicable alternatives to encroachment on the sensitive area and the vegetated corridor. Tualatin Riverkeepers has identified these alternatives in comments to the U.S. Army Corps of Engineers, Oregon Department of State Lands and the City of Beaverton. They are

- Build the athletic fields on nearby sites identified by the Cooper Mountain Plan as suitable for parks and school facilities.
- Build the athletic fields on adjacent property owned by willing sellers Ed and Kathy Bartholomy.

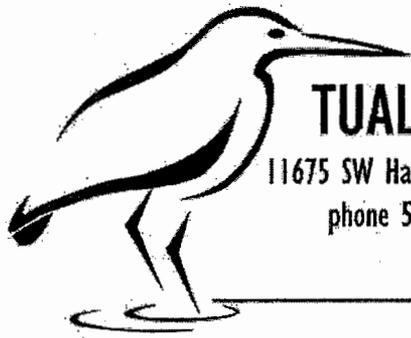
Both of these alternatives meet the strict guidelines for alternatives analysis issued by the U.S. Environmental Protection Agency and the U.S. Army Corps of engineers for wetland projects.

Thank you for your prompt action.

Sincerely,

Brian Wegener, Riverkeeper

C: Jerry Linder – CWS, Scott Whyte – City of Beaverton



## TUALATIN RIVERKEEPERS.

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RECEIVED

JUL 17 2015

City of Beaverton  
Planning Services

July 1, 2015

Beaverton Planning Commission

ATTN: Scott Whyte -

[swhyte@beavertonoregon.gov](mailto:swhyte@beavertonoregon.gov) PO Box 4755

Beaverton, OR 97076

**RE: South Cooper Mountain High School**

**Case Files: CU2015-0003, DR2015-0029, ADJ2015-0005 and LD2015-0005**

Tualatin Riverkeepers raises the following objections to approval of the Conditional Use Permit for South Cooper Mountain High School.

1. The proposal to fill the wetland on the north end of the school site inconsistent with Chapter 7.3.1.1(a), 7.3.1.1(c) and 7.3.3.1(a) of the City's comprehensive plan, which provide that "7.3.1.1(a) Inventoried natural resources shall be conserved, protected, enhanced or restored;" and "7.3.1.1(c) Inventoried natural resources shall be incorporated into the landscape design of development projects as part of a site development pion, recognizing them as amenities for residents and employees alike," and "7.3.3.1(a) Significant Wetlands in the Local Wetland Inventory shall be protected for their filtration, flood control, wildlife habitat, natural vegetation and other water resource values."
2. The proposal to fill the wetland is contrary to the South Cooper Mountain Community Plan (SCMCP) adopted on February 3, 2015 as a comprehensive plan amendment through Ordinance 4651. The SCMCP assigns this wetland the "highest preservation priority". The SCMCP states that "Locally significant wetlands and protected riparian corridors within the Community Plan area shall be protected and enhanced".
3. Contrary to comments by several Planning Commissioners, the City of Beaverton has "wetland experts". Such experts from David Evans & Associates were hired by the city to prepare the Local Wetland Inventory as part of the South Cooper Plan. This inventory was adopted as a comprehensive plan amendment when the City Council approved Ordinance 4651.

4. The Planning Commission is required by ORS 197.175(2)(d) to comply with the comprehensive plan.
5. Alternatives to filling the wetland are readily available. The adjacent Bartholomy property to the west of the school is already zoned for schools and parks, and does not require a conditional use permit to build athletic fields. The SCMCP also identified properties for parks and schools within walking distance of the high school site that are suitable for athletic fields, so no hardship exists.
6. The proposal does not meet the criteria for a conditional use permit in Beaverton Development Code 40.15.15.3.C:

*3. The proposal will comply with the applicable policies of the Comprehensive Plan.*

*4. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.*

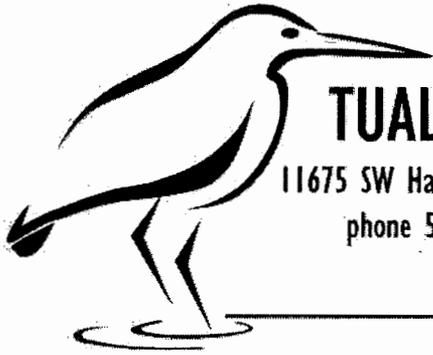
The proposal does not protect inventoried natural resources, and, as stated by Commissioner Nye on June 24, "there is too much program on the site to reasonably accommodate both the natural and manmade features."

Tualatin Riverkeepers requests that the Beaverton Planning Commission, in order to comply with Oregon Land-use Planning Laws, Beaverton's Comprehensive plan, the South Cooper Mountain Community Plan, and Beaverton's Development Code, **deny approval of the conditional use permit CU2015-0003 for South Cooper Mountain High School.**

Sincerely,



Brian Wegener, Riverkeeper  
Advocacy & Communications Manager



## TUALATIN RIVERKEEPERS.

11675 SW Hazelbrook Road • Tualatin, Oregon 97062

phone 503-218-2580 • fax 503-218-2583

[www.tualatinriverkeepers.org](http://www.tualatinriverkeepers.org)

RECEIVED

JUL 17 2015

City of Beaverton  
Planning Services

June 1, 2015

Beaverton Planning Commission

ATTN: Scott Whyte - [swhyte@beavertonoregon.gov](mailto:swhyte@beavertonoregon.gov)

PO Box 4755

Beaverton, OR 97076

**RE: South Cooper Mountain High School**

**Case Files: CU2015-0003, DR2015-0029, ADJ2015-0005 and LD2015-0005**

Tualatin Riverkeepers requests that the Beaverton Planning Commission impose the condition that **no fill of wetlands or buffer on the north end of the South Cooper Mountain High School Site** (identified as Wetland A in various documents) to approval of the South Cooper Mountain High School project. The applicant has proposed to fill 2.5 acres of wetlands, contrary to the Cooper Mountain Plan and to Beaverton regulations that protects Locally Significant Wetlands.

We also wish to clear up some confusion and misinformation that came out in the public hearing on May 27, 2015.

1. Contrary to staff's recollection, Wetland A is a significant wetland included in the Local Wetland Inventory. Wetlands in the South Cooper Mountain Annexation Area were added to the inventory as a comprehensive plan amendment by the Beaverton City Council through Ordinance 4651 in February 2015. This local wetland inventory was omitted from the Facts and Findings in the Staff Report under 7.3.
2. Athletic fields proposed for placement on Wetland A can and should be relocated to nearby areas identified as suitable by the South Cooper Mountain Plan. The South Cooper Mountain Plan identifies several areas meeting schools criteria (Fig. 10) and several areas meeting local parks criteria (Fig. 11). Beaverton School District has a long history of co-managing athletic facilities with THPRD. There is no indication in the staff report that the applicant has applied for a hardship variance described under 7.3.3.1.c.. Because suitable sites for athletic facilities exist, there is no hardship and **no hardship variance should be granted.**



Figure 10 - Schools Framework

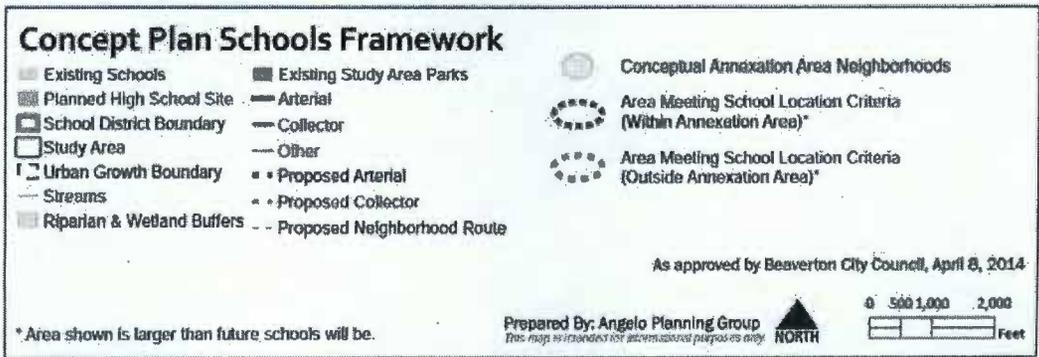
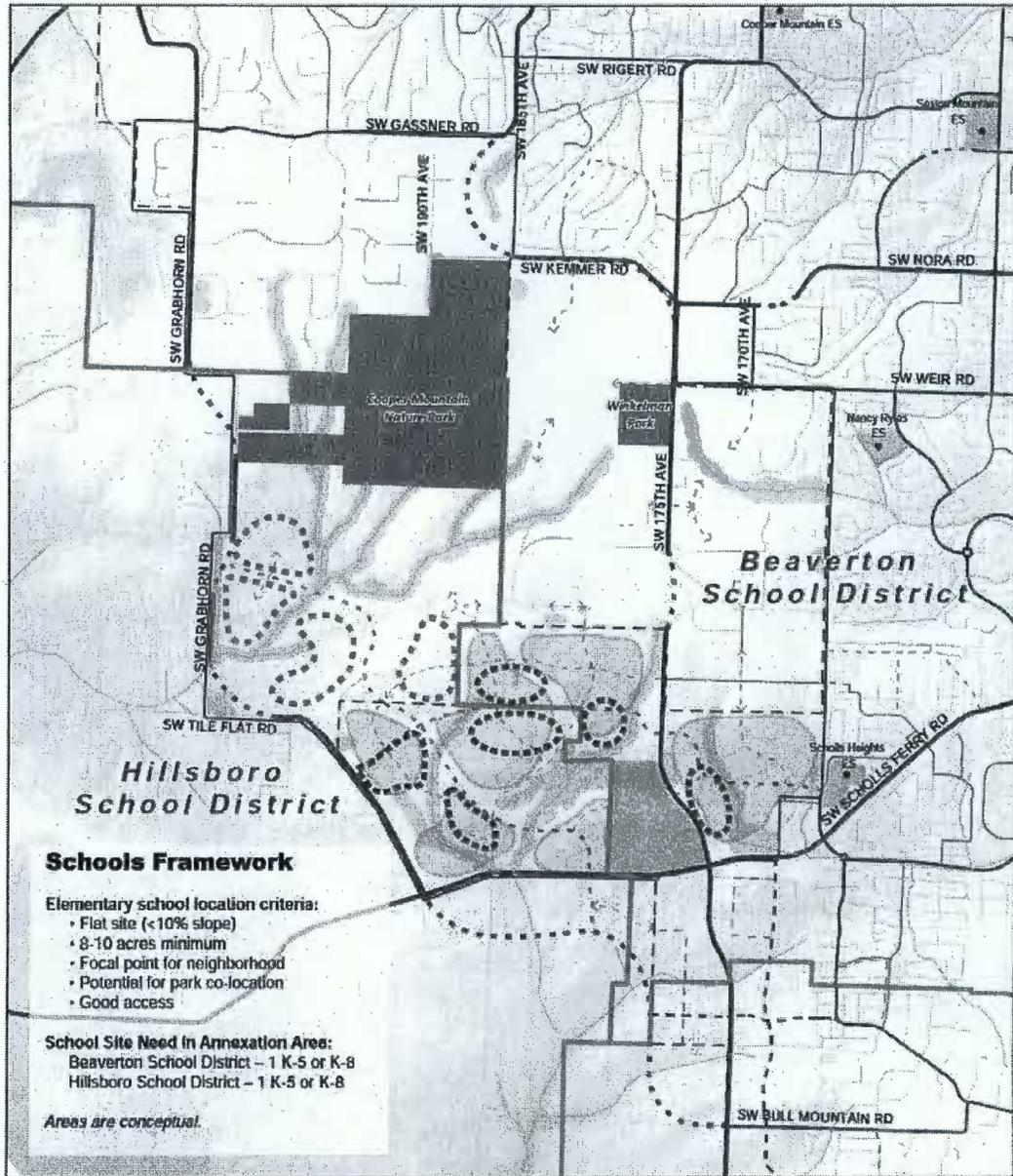
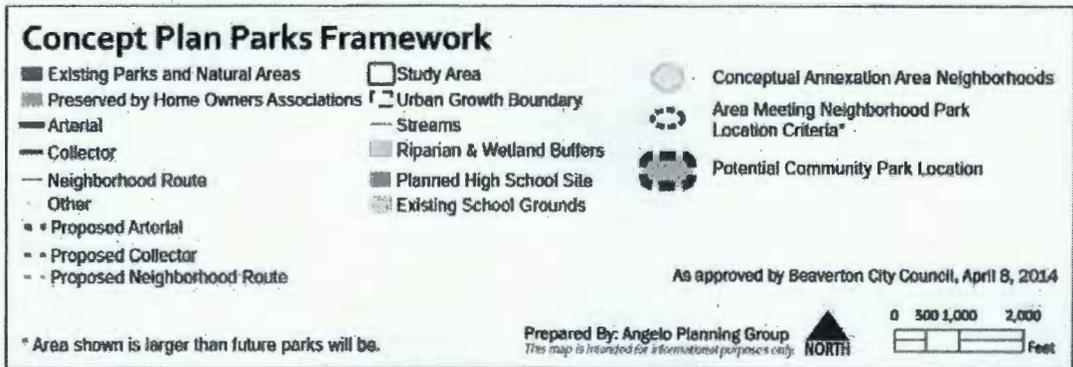
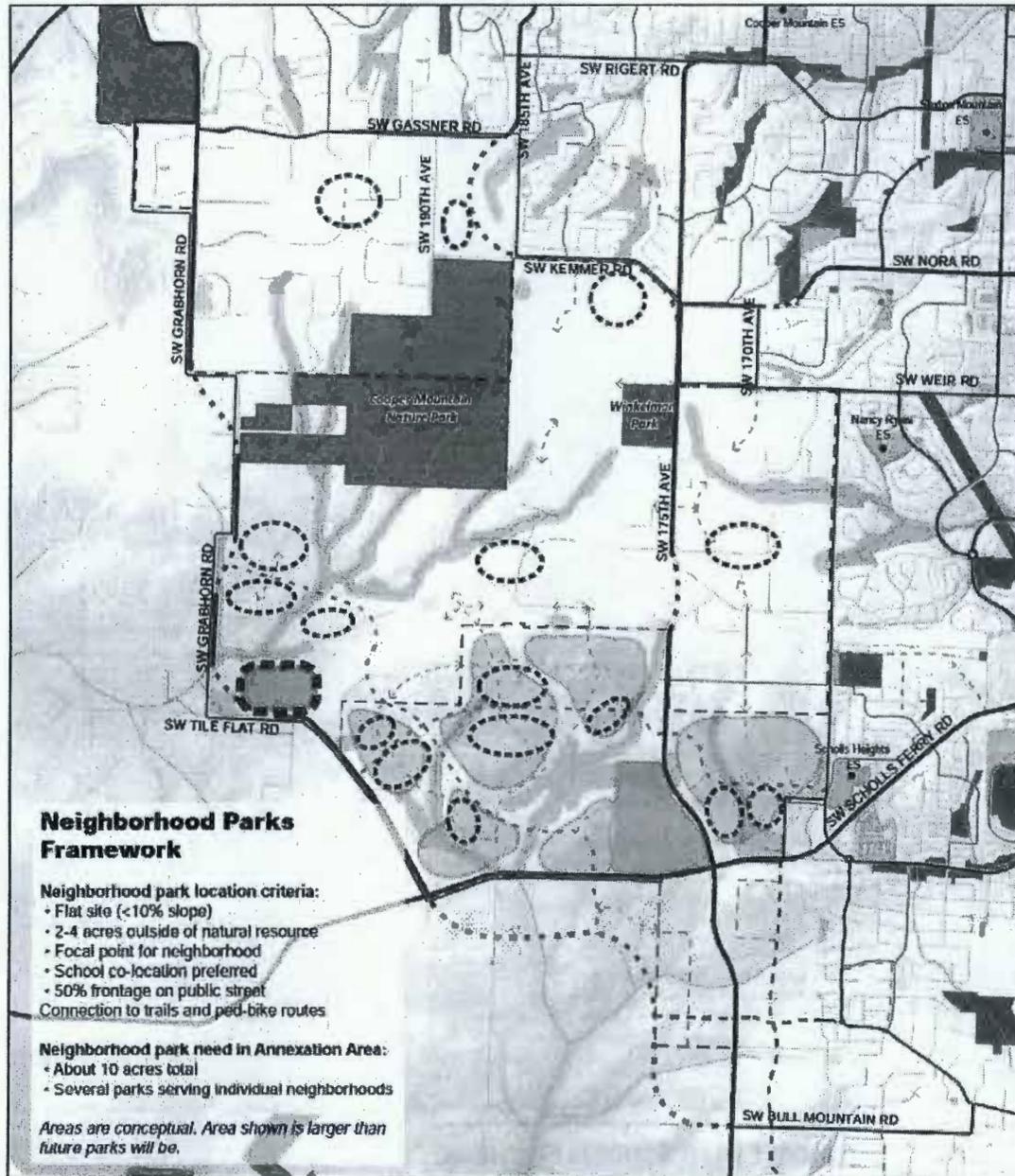
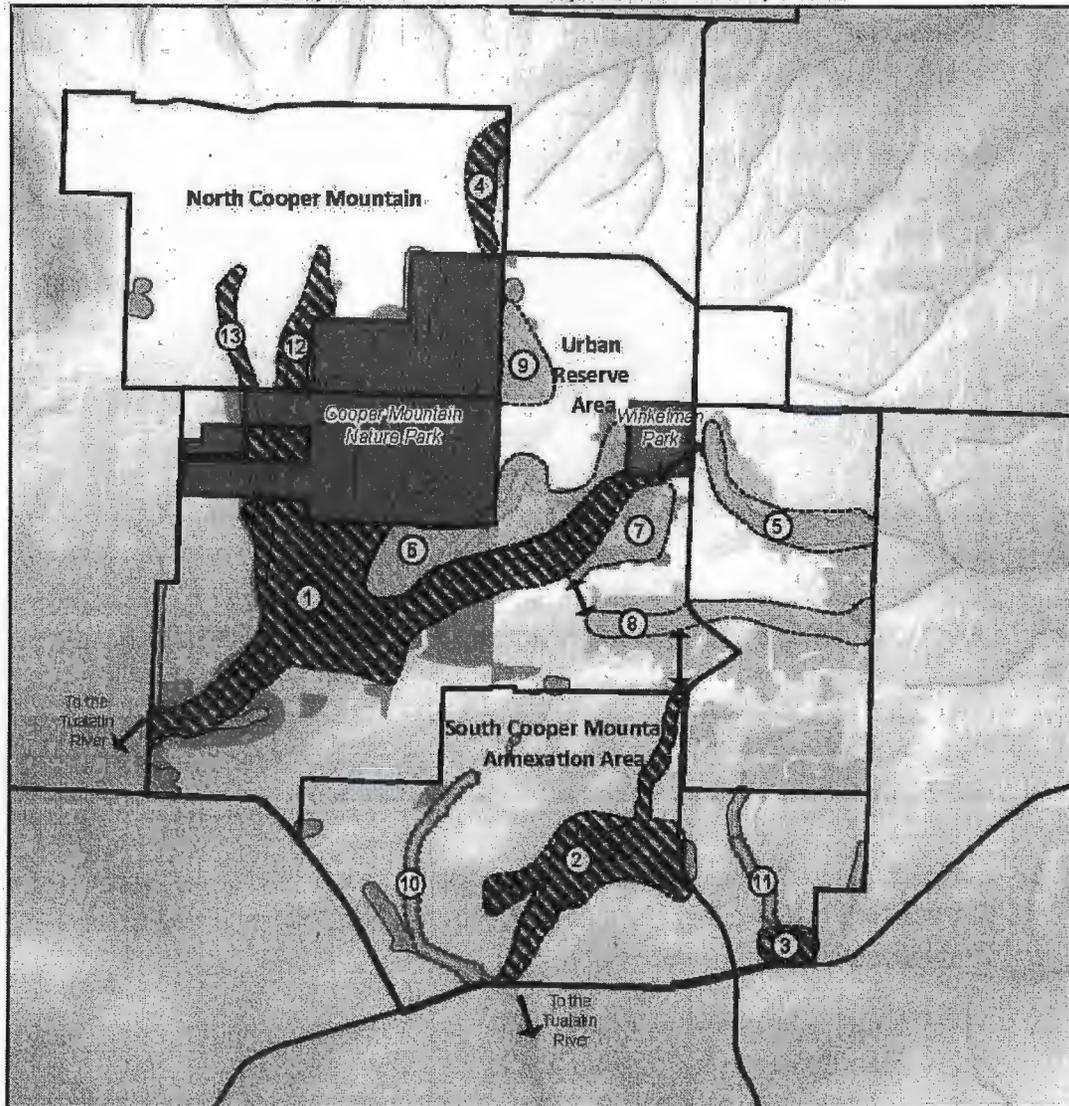


Figure 11 - Concept Plan Parks Framework



### South Cooper Mountain Concept & Community Plans



#### Final Natural Resources Framework

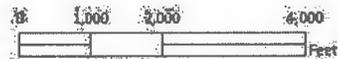
**Legend**

- |                        |                                 |                     |
|------------------------|---------------------------------|---------------------|
| Wetland & Open Water   | Highest Preservation Priority   | SCM Planning Area   |
| CWS Vegetated Corridor | Secondary Preservation Priority | Planning Area Parks |
| Class A Upland Habitat | Stream Enhancement Priority     | Streams             |
| Class B Upland Habitat | Priority Wildlife Connection    | Arterials           |

As approved by Beaverton City Council, April 8, 2014

Prepared By: Angelo Planning Group, David Evans and Associates, Inc.

This map is intended for informational purposes only.



- The South Cooper Mountain Concept Plan assigns this wetland the “Highest Preservation Priority” (see map). This fact was omitted from the Staff Report and should have been included in Facts and Findings under 7.3.1.1 and 7.3.3.1.

4. Commissioner Wilson stated some confusion as to the Planning Commission's role in protecting wetlands. In Resolution 3870 amending the bylaws of the Planning Commission, the duties of of the Planning Commission under Article II include the Application of Development Regulations:

*Except for those matters which may be delegated to the Director, the Commission shall review and take action on quasi judicial and legislative matters, and other proposals which result from the application of development regulations contained within the Development Code on specific pieces of property and uses of land, buildings, etc. The Development Code shall be followed in holding hearings and taking required action.*

The relevant regulation for the Planning Commission shall apply to this application is Beaverton Development Code 60.05.25.12 Natural Areas:

*Development on sites with City-adopted natural resource features such as streams, wetlands, significant trees and significant tree groves, shall preserve and maintain the resource without encroachment into any required resource buffer standard unless otherwise authorized by other City or CWS requirements. [ORD 4531; April 2010]*

**It is clear from the above bylaws that the Planning Commission's duty is to apply the above stated regulation and preserve and maintain Wetland A without any encroachment into the wetland or its surrounding buffer.**

5. Chair Doukas asked a question about available resources for restoration of Wetland A if the wetland is protected from encroachment. The following resources are available for voluntary wetland restoration:
  - a. The Department of State Lands is now recruiting wetland projects to be funded through the Payment in Lieu (PIL) program.
  - b. The Oregon Watershed Enhancement Board (OWEB) is a state agency that provides grants to help Oregonians take care of local streams, rivers, wetlands and natural areas. OWEB grants are funded from the Oregon Lottery, federal dollars, and salmon license plate revenue. OWEB offers a variety of grant types and programs.
  - c. Metro's Nature in Neighborhoods grants support community projects and programs across the region, from local park improvements to stream restoration to hands-on nature education for people of all ages and backgrounds.

Tualatin Riverkeepers has raised over \$1 million for wetland restoration from these sources and others. Our restoration projects have taken place on land owned by Metro, City of Tigard, City of Sherwood, and the Tualatin River National Wildlife Refuge. Tualatin Riverkeepers is eager to partner with Beaverton School District, Clean Water Services, Tualatin Hills Park and Restoration District, and the City of Beaverton for wetland restoration in the South Cooper Mountain Annexation Area.

Thank you for your consideration of these comments and conditions of approval for the Sout Cooper Mountain High School.

Sincerely,

A handwritten signature in black ink that reads "Brian Wegener". The signature is written in a cursive style with a large, looping initial "B".

Brian Wegener, Riverkeeper  
Advocacy & Communications Manager



## TUALATIN RIVERKEEPERS.

11675 SW Hazelbrook Road • Tualatin, Oregon 97062

phone 503-218-2580 • fax 503-218-2583

[www.tualatinriverkeepers.org](http://www.tualatinriverkeepers.org)

RECEIVED

JUL 17 2015

City of Beaverton  
Planning Services

April 30, 2015

Community Development Department

City of Beaverton

ATTN: Scott Whyte - [swhyte@beavertonoregon.gov](mailto:swhyte@beavertonoregon.gov)

PO Box 4755

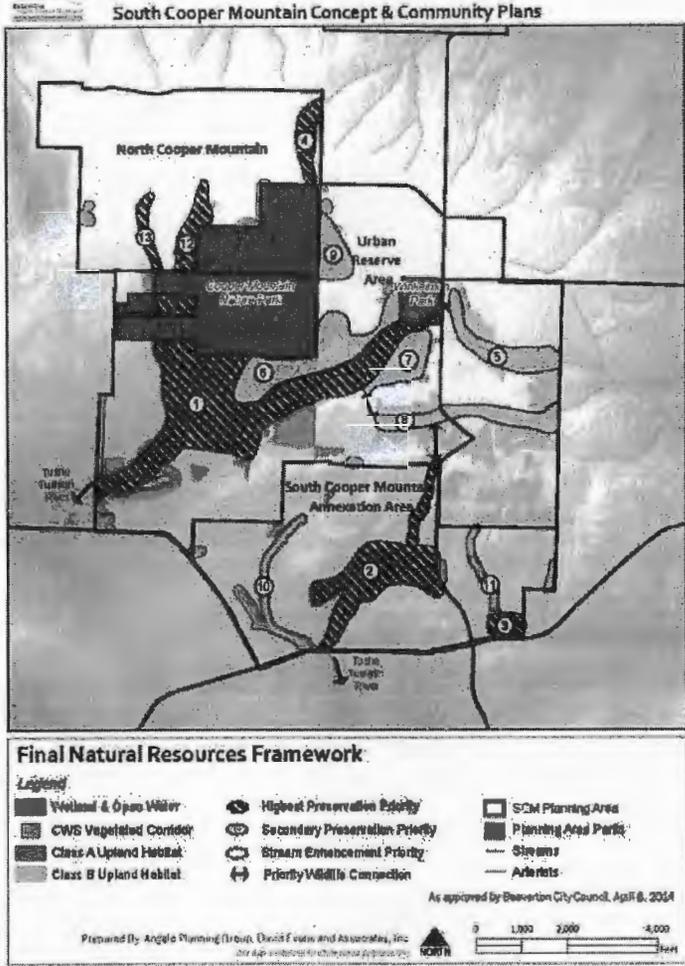
Beaverton, OR 97076

**RE: South Cooper Mountain High School**

**Case Files: CU2015-0003, DR2015-0029, ADJ2015-0005 and LD2015-0005**

Tualatin Riverkeepers offers the following comments on the development application for South Cooper Mountain High School. The application does not comply with the South Cooper Mountain Community Plan (SCMCP) in two important ways.

1. The tree plan is contrary to the South Cooper Mountain Community Plan. According to the SCMCP, "Efforts should be made to restore and maintain tree canopy throughout the Community Plan area." The proposal to remove 99.1% of the trees on site, including 150 "community trees" demonstrates that no effort was made to maintain tree canopy.
2. The wetland fill does not comply with the South Cooper Mountain Community and Concept Plans. The SCMCP states that "Locally significant wetlands and protected riparian corridors within the Community Plan area shall be protected and enhanced, consistent with local, state, and federal regulations." Filling 2.52 acres of wetland on the north end of the site is not protection and enhancement of a locally significant wetland. The South Cooper Mountain Concept Plan assigns this wetland the "Highest Preservation Priority" (see map). The applicant has not received the required wetland fill permits from the US Army Corps of Engineers or the Oregon Department of State Lands. The Corps of Engineers must deny any permit to fill this wetland because of federal regulation. Section 404 of the federal Clean Water Act states, "No discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed work, which would have less adverse impact on the aquatic ecosystem." Practicable alternatives have been identified by Tualatin Riverkeepers and shared with the Corps of Engineers.



The applicant should go back to the drawing board and submit a new development application that is consistent with the South Cooper Mountain Community Plan and the federal Clean Water Act. That plan should include efforts to protect community trees on the site and no wetland fill. Alternative sites for athletic fields, and other design modifications in order to avoid wetland impacts should be included in that new application.

Thank you for consideration of these comments.

Sincerely,

Brian Wegener, Riverkeeper  
 Advocacy & Communications Manager

APP 2015-0001/APP 2015-002  
BSD HIGH SCHOOL  
SOUTH COOPER MOUNTAIN

# EXHIBIT 3

MEMORANDUM FROM LESLIE  
IMES, BEAVERTON SCHOOL  
DISTRICT, DATED JULY 31, 2015,  
RESPONDING TO THE  
APPELLANT'S STATEMENT OF  
APPEAL.

EXHIBIT 3

# BEAVERTON SCHOOL DISTRICT

RECEIVED  
JUL 30 2015  
City of Beaverton  
Planning Commission

**Leslie Imes**  
Project Manager  
Facilities Development  
16550 SW Merlo Road  
Beaverton, OR 97003  
leslie\_imes@beaverton.k12.or.us  
Direct Line: 503.356.4575



## MEMORANDUM

**Date:** July 31, 2015

**To:** Beaverton City Council

**From:** Leslie Imes, Beaverton School District

**CC:** Richard Steinbrugge, BSD  
Steve Sparks, City of Beaverton  
Scott Whyte, City of Beaverton  
Frank Angelo, Angelo Planning Group  
Jack Orchard, Ball Janik

**Re:** Beaverton School District Response to Appeal of Conditional Use for New High School

The Beaverton Planning Commission's approval for the Conditional Use application for the Beaverton School District New High School in the South Cooper Mountain Area has been appealed by two parties. In response to the issues raised in both appeals, the School District has prepared the attached paper. We look forward to presenting this information and being available to answer questions at the Tuesday, August 18, 2015 City Council meeting.

**District Goal:** All students will show continuous progress toward their personal learning goals, developed in collaboration with teachers and parents, and will be prepared for post-secondary education and career success.

The Beaverton School District recognizes the diversity and worth of all individuals and groups. It is the policy of the Beaverton School District that there will be no discrimination or harassment of individuals or groups based on race, color, religion, gender, sexual orientation, gender identity, gender expression, national origin, marital status, age, veterans' status, genetic information or disability in any educational programs, activities or employment.

**Beaverton School District Response to Appeal of New High School Conditional Use Application: July 31, 2015**

The Beaverton School District has reviewed the two appeals submitted on the new high school in the South Cooper Mountain area. The issues raised in both appeals were discussed in great detail during the Planning Commission's public hearings on this project at three separate meetings. These issues can be placed in the following three categories:

**1. Wetlands**

Both Brian Wegener, on behalf of the Tualatin Riverkeepers, and Ed Bartholemy, property owner, have raised a number of objections related to Wetland W-A and the impact the athletic fields will have on the 2.52 acres of wetland the District proposes to fill and mitigate (both on-site and off-site). Wetland W-A in total is 8.92 acres in size, with its hydrology fed by groundwater and two streams. The portion of the wetland within the School District's property (called Wetland A and shown in light blue on the figure) is 3.33 acres and in reality is slightly smaller than the wetland boundary shown on the inventory. Construction of the athletic fields for the high school will unavoidably impact 2.52 acres of the past agricultural wetland.



The following background information is from a report prepared by Pacific Habitat Services, Inc. (July 2015) submitted to the Oregon Division of State Lands (DSL) and provides a description of the wetland that is impacted by the athletic fields:

*“Wetland W-A was designated as locally significant in the Local Wetland Inventory (LWI) report, though the City of Beaverton has yet to adopt this wetland as a Goal 5 resource into their Comprehensive Plan. As such, there is no Goal 5 protection of this wetland. Several issues relating to the proposed impact to a portion of this wetland were raised during the Planning Commission meeting. (Staff confirmed the regulatory status of this wetland).”*

**Current Condition of wetland**

*Approximately 62% of Wetland W-A is forested and dominated by Oregon ash. The forested portion is shown as dark green on the exhibit. The forested wetland contains two streams that flow through the forested wetland to the south. These streams and the forested portion of the wetland will remain intact and will not be impacted by the*

**Beaverton School District Response to Appeal of New High School Conditional Use Application: July 31, 2015**

*construction of the high school. As such, the higher value component of the wetland will remain as it is today and will not be adversely affected by construction.*

*The remaining approximately 38% (3.33 acres) of the wetland is dominated by non-native pasture grasses and has been in agricultural use for decades. This portion of the wetland is degraded. It contains only 3 trees and no shrubs. The dominant hydrology of the wetland is groundwater driven. This means that the area quickly dries out in the spring. Washington County's stormwater facility, located along SW 175<sup>th</sup> Avenue to the east, flows in a shallow generally undefined drainage through the wetland. This is the only seasonal surface water source within the wetland.*

*The construction of the athletic fields will unavoidably impact 2.52 acres of the past agricultural wetland leaving approximately 72% of the entire wetland and all of the forested portion intact. The lack of trees and shrubs within the wetland to be impacted and consequently the lack of available cover and water means that it is not a valuable wildlife corridor. The description of the wetland in the LWI report "Vegetative diversity and wildlife use in the wetland was fairly high" likely refers to the forested portions of the wetland and not the disturbed past agricultural portion."*

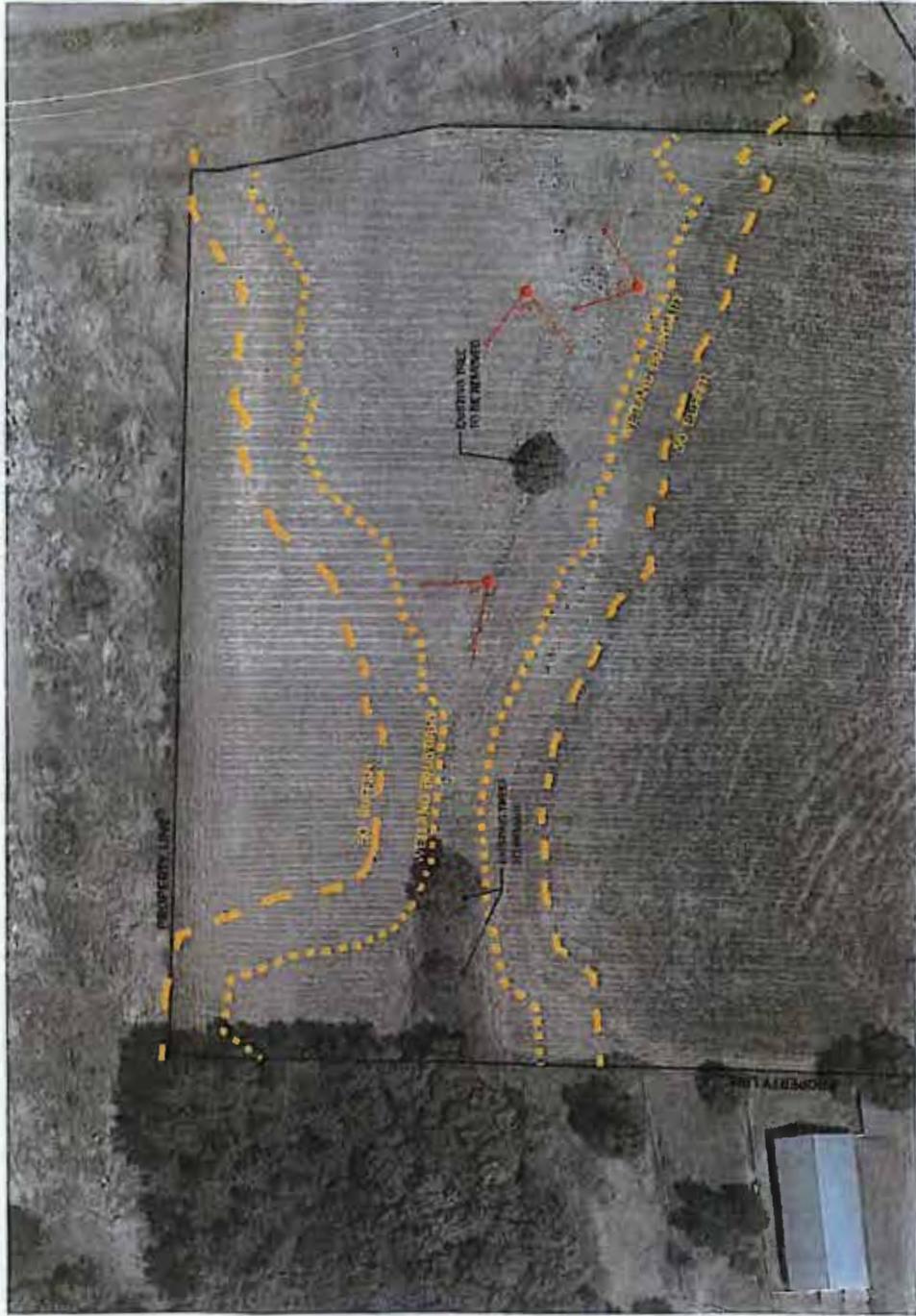
The following figures show the current condition of the wetland, how the athletic fields will be sited and the wetland enhancements that will occur.

The District has filed the necessary applications with the US Army Corps of Engineers (Corps) and the Oregon Division of State Lands (DSL) addressing the unavoidable impacts to the wetland. As of the date of this letter neither agency has released their findings and recommendations.

As a part of the new high school project, the District will be providing the following wetland mitigation steps:

- The loss of wetland at the proposed high school site will be mitigated by the purchase of credits from a wetland mitigation bank. In 2008, the US Army Corps of Engineers and the Environmental Protection Agency issued the *Compensatory Mitigation Rule for Losses of Aquatic Resources*. This Federal rule states that the first choice for wetland mitigation is through the purchase of credits from a wetland mitigation bank. The School District has complied with this rule, by purchasing credits from the W&M Butler Wetland Mitigation Bank. The bank is located to the south of SW Scholls Ferry Road along the Tualatin River, less than 2.5 miles southeast of the School District's property (see location map).

**EXISTING WETLANDS  
ON SITE**



**ENHANCED WETLANDS  
ON SITE**



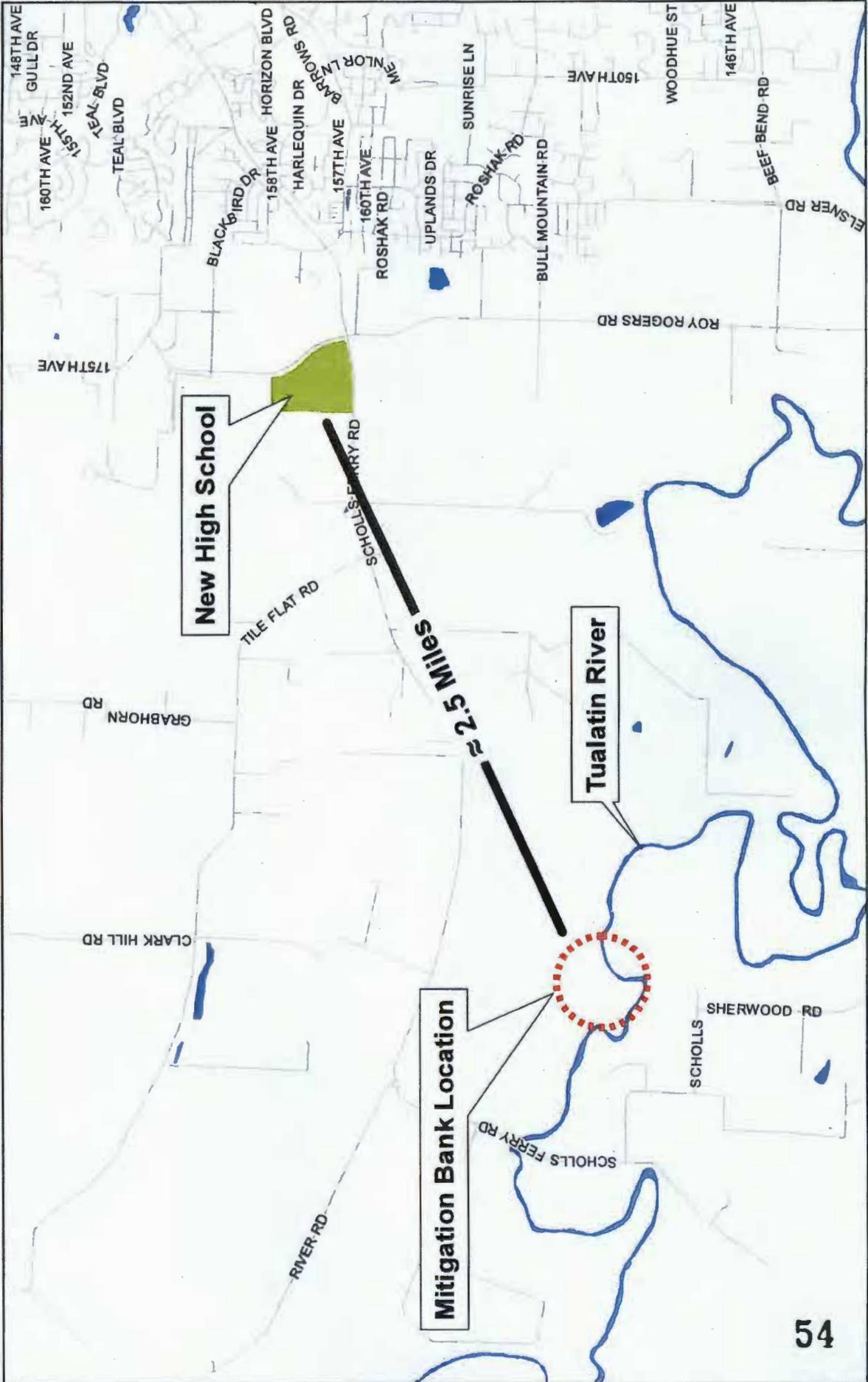
boora architects  
06-24-2015

# New High School and Mitigation Bank Location

Prepared By:  
Angelo Planning Group  
Date: 7/30/2015



-  Existing Roads
-  Water Bodies
-  Future High School Site



**Beaverton School District Response to Appeal of New High School Conditional Use Application: July 31, 2015**

- Although the wetland mitigation area is relatively close to the property, the District wanted to make sure that the functions of the wetland being impacted are more than mitigated on-site. To ensure this happens, the District is proposing to plant 1,494 trees and 7,470 shrubs and small trees in the wetland and its surrounding buffer (a total area of 8,964 trees and shrubs in 3.43 acres of degraded habitat). The mitigation area (which includes upland and wetland areas) is over 36% larger than the size of the agricultural wetland proposed for impact.
- The plantings will restore the type of forested habitat that was present historically within the area and will enhance the quality and size of the wildlife corridor. Instead of an open field, wildlife will now be able to travel in habitat that affords them cover. The multiple layers of vegetation will provide birds with nesting habitat and mammals with foraging habitat.

The regulatory status of the wetland in the City's Local Wetland Inventory and the application of the aspirational policies related to wetlands in the South Cooper Mountain Community Plan are clearly articulated in Planning Commission Land Use Order No. 2407. The District agrees with Staff's findings on this issue.

How the various Comprehensive Plan policies are applied to a site specific development proposal is best articulated in Comprehensive Plan Policies 7.3.1 (d) and (g) which state:

*d) The City shall rely on its site development permitting process as the mechanism to balance the needs of development with natural resource protection.*

*g) Limited alteration or improvement of Significant Natural Resource areas may be permitted so long as potential losses are mitigated and "best management practices" are employed.*

The City and the District have done just that – balanced the demonstrated community wide need for development of a new educational facility with the impact on a degraded wetland, with extensive mitigation provided to offset the impact through enhancement on-site and participation in a nearby wetland mitigation bank along the Tualatin River.

Finally, the District has provided clear findings regarding why off-site athletic facilities will not provide a feasible alternative to avoiding the wetland impact. And the District has provided findings that demonstrate that the athletic fields at the new high school have been designed to offer equal opportunities to all student athletes to comply with Federal Title IX requirements - again, balancing the needs of the development with natural resource protection.

**Beaverton School District Response to Appeal of New High School Conditional Use Application: July 31, 2015**

**2. School District Boundary**

The appeal filed by Ed Bartholemy asserts that having two school districts serve the South Cooper Mountain area will not promote the concept of creating a walkable, family-friendly community because some children will not attend the new high school because they are in the Hillsboro School District. The appellant suggests adjusting the school district boundaries to include the entire South Cooper Mountain area in the Beaverton School District boundary. He urges total denial of the conditional use permit until a boundary adjustment, satisfactory to him, is agreed to by the two school districts.

Planning for the South Cooper Mountain Community was based on the current location of the school boundaries and assumed from the beginning that there would be a new Beaverton School District high school on the property at SW Scholls Ferry and SW 175<sup>th</sup>. The Community Plan included the following aspirational Implementation Policy:

*7. As a matter of policy and planning for neighborhood cohesiveness, the City encourages BSD and HSD to work toward an adjustment of the boundary that would result in all of the Community Plan area being served by BSD. (SCM Land Use Implementation Policy #7, page 17)*

The statement contains no timeframe, nor any specifics. Appropriately so, because the school boundaries are unique matters left to the two school districts.

The two school districts have initiated the conversation envisioned in Land Use Implementation Policy #7. These are on-going discussions and will need to consider and assess a number of technical and policy issues such as property tax base, transportation services, school capacity at all levels, and equity between the districts and schools within each district. The discussion will also need to be open and transparent and subject to a broader community discussion with all stakeholders.

Regardless of the outcome of these discussions, the issue of location of school district boundaries is not a land use standard or regulatory issue that can be applied to the Conditional Use application for the new high school. The Planning Commission recognized this in its Land Use Order No. 2407 with the following finding:

*(c) the Commission does not recognize that the adjustment of school district boundaries as a matter for land use consideration. This issue also has no correlation to approval criteria for Conditional Use. (PC Land Use Order No. 2407, page 11 of 13).*

The District continues to agree with this finding.

**Beaverton School District Response to Appeal of New High School Conditional Use Application: July 31, 2015**

**3. 175<sup>th</sup> Street Vacation**

The appeal filed by Ed Bartholemy asserts that...*“The District is required to obtain a street vacation permit prior to vacating the existing public right of way on the subject property. It has not applied for this permit.”*

The statement is not true. The Beaverton School District submitted its petition for the 175<sup>th</sup> Street Vacation to Washington County in March, 2015 to the County Engineer. This petition is a 100% petition – that is, 100% of the property owners (the District) have requested and support this petition. The Beaverton School District is the only property owner affected by this petition. The petition is being reviewed by Washington County staff and will be scheduled for a Board of Commissioners meeting when the required County Engineer Report is complete.

APP 2015-0001/APP 2015-002  
BSD HIGH SCHOOL  
SOUTH COOPER MOUNTAIN

# EXHIBIT 4

PLANNING COMMISSION  
ORDER NO. 2407 APPROVING  
THE CONDITIONAL USE FOR  
SOUTH COOPER MOUNTAIN  
HIGH SCHOOL, TOGETHER  
WITH ORDERS NO. 2408, 2409  
AND 2410

**BEFORE THE PLANNING COMMISSION  
FOR THE CITY OF BEAVERTON,  
OREGON**

**After recording return to:**  
City of Beaverton, City Recorder:  
12725 SW Millikan Way  
P.O. Box 4755  
Beaverton, OR 97076



IN THE MATTER OF A REQUEST FOR APPROVAL OF ) ORDER NO. 2407  
A CONDITIONAL USE APPLICATION TO CONSTRUCT ) CU2015-0003 ORDER APPROVING  
A NEW HIGH SCHOOL (SOUTH COOPER MOUNTAIN ) SOUTH COOPER MOUNTAIN HIGH SCHOOL,  
HIGH SCHOOL). BEAVERTON SCHOOL DISTRICT, ) SUBJECT TO CONDITIONS  
APPLICANT. )

The matter came before the Planning Commission on May 27, 2015, June 24, 2015 and July 1, 2015, on a request for approval of a Conditional Use application to construct a new high school, approximately 320,000 square feet in size, with associated athletic fields, landscaping, parking and vehicle circulation areas. The subject property is located in the northwest quadrant of SW 175<sup>th</sup> Avenue and SW Scholls Ferry Road and is specifically identified as Tax Lots 205 and 800 on Washington County Assessor's Map 2S1-0600.

Pursuant to Ordinance 2050 (Development Code, effective through Ordinance 4649), and under Sections 50.15.2 (concurrent review of multiple application), 50.45 (Type 3 processing) and 50.55 (conduct of hearing), the Planning Commission conducted a public hearing (initially on May 27 and continued to June 24, 2015) and considered testimony and exhibits on the subject proposal. Findings herein supplement the findings as contained in the staff report

and staff memorandum prepared for South Cooper Mountain High School, dated May 20, 2015 and June 17, 2015, respectively, in addition to the applicant's written response to applicable approval criteria and the plans and materials that were subject to consideration. The Commission further adopts and incorporates these documents, plans and materials as supportive findings in response to applicable approval criteria contained in Sections 40.03 (Facilities Review) and 40.15.15.3.C (Conditional Use - New) of the Development Code. To this Order, the Commission adds the following findings in support of Conditional Use approval criteria:

Status of the on-site wetland. Opposition testimony received on May 27 and June 24, and in written testimony received for consideration on July 1, claim that the existing on-site wetland area (specifically Wetland A as identified on the development plan) is part of the adopted Local Wetland Inventory (LWI) and is therefore subject to Goal 5 protection. The Commission finds this assertion to be incorrect. The wetlands located on the subject site are not currently included in the City of Beaverton LWI. Oregon Administrative Rule (OAR) 141-086-0185 requires that a local wetland inventory be approved by the Department of State Lands (DSL) before it becomes effective. In this case, DSL has not yet approved the wetland inventory for South Cooper Mountain, including the subject site.

Therefore, the city's LWI does not include the wetlands on the subject site.

Opposition testimony also identified Comprehensive Plan policies found in Chapter 7 under Goal 7.3.3.1 which reads: *Protect or enhance wetlands adopted as Significant Wetlands in the Local Wetland Inventory.*

Policies and Action statements under Goal 7.3.3.1 read:

a) *Significant Wetlands in the Local Wetland Inventory shall be protected for their filtration, flood control, wildlife habitat, natural vegetation and other water resource values.*

b) *Development within the buffer area adjacent to a significant wetland shall be subject to restrictions on building, grading, excavation, placement of fill, and native vegetation removal.*

*Action 1: Amend the City regulations and development standards as appropriate, to ensure compliance with Clean Water Services Design and Construction Standards provisions for encroachment*

c) *Where development is constrained due to wetland protection regulations, a hardship variance may be granted if approval criteria are met.*

*Action 1: Amend the implementing ordinances as appropriate to ensure compliance with Clean Water Services Design and Construction Standards provisions for a hardship variance.*

Commission finds Policy A to be not applicable, since wetlands on the subject property have not been adopted as part of the Beaverton LWI for the reasons explained above. The Commission also observes no reference to “development” in Policy A as described in Policies B and C under the same Goal. In response to Policy B, the Commission finds that restrictions are in place for building, grading, excavation and placement of fill in the wetland buffer as applied by the Clean Water Services Agency (CWS), the DLS and the U.S. Army Corps of Engineers (USACE). The Commission further observes direction provided to the city for implementing Policy B, under Action 1 thereof, where city regulations and development standards are to be amended as appropriate to ensure compliance with *CWS Design and Construction Standards* provisions for encroachment. Similarly, the Action statement under Policy C also refers to *CWS Design and Construction Standards* and directs amendment of implementing ordinances as appropriate to ensure compliance with these standards. In cases where a

development proposal is found to be constrained due to wetland protection regulations, the city has no separate hardship variance criteria from that of CWS or other agencies to evaluate wetland encroachment. The Commission further recognizes the role of CWS as identified in Chapter 50 of the City Development Code, where applicants for development must first obtain required documentation from CWS before the application is deemed complete and can proceed forward with the review process. The Commission acknowledges the applicant's CWS Service Provider Letter in this case as required documentation. The Commission also acknowledges the District's wetland mitigation proposal recognized as part of the CWS Service Provider Letter and how the mitigation is to be accomplished as part of the development plan by condition of approval.

Opposition testimony further stated that the on-site wetland is designated as "locally significant" according to the LWI. While the LWI has not been approved, the South Cooper Mountain wetland inventory, inclusive of South Cooper Mountain Community Plan (SCMCP) does identify the subject wetland as part of a larger wetland system (Wetland W-A) and designates that system as locally significant. As demonstrated in the applicant's written response to Planning Commission dated June 10, 2015, approximately 62% of Wetland W-A is forested and dominated by Oregon ash. The forested wetland contains two streams that flow through the forested wetland to the south. These streams and the forested portion of the wetland will remain intact and will not be impacted by the construction of the high school as proposed. As such, the higher value component of the wetland will remain as it is today and will not be adversely affected by proposed construction. The remaining approximately 38% (3.33 acres) of the wetland is dominated by non-

native pasture grasses and has been in agricultural use for decades. This portion of the wetland is also degraded, containing only three trees and no shrubs. The Commission also acknowledges the applicant's response and explanation of wetland hydrology to this area as contained in the District's written response to the Planning Commission dated June 10, 2015.

Additionally, the Commission acknowledges how the proposal to partially encroach Wetland W-A will continue to provide a corridor for wildlife to travel through the forested portion of the wetland which has two streams that will not be impacted by this project. That portion of Wetland W-A subject to encroachment is also located in close proximity to SW 175<sup>th</sup> Avenue and does not provide a high quality wildlife corridor in part because of the degraded conditions as referred to herein.

The Commission recognizes that the partial encroachment of wetland at the proposed high school site will be mitigated by the purchase of credits from a wetland mitigation bank. In this case, the School District will purchase credits from the W&M Butler Wetland Mitigation Bank which is located to the south of SW Scholls Ferry Road along the Tualatin River, less than 2.5 miles southeast of the District's property. In addition to the mitigation bank credits, the District is to provide on-site mitigation of the remaining wetland area. As part of the on-site mitigation plan, recognized as a condition of Design Review approval, the District is to plant 1,494 trees and 7,470 shrubs and small trees in the wetland and the surrounding buffer, for a total of 8,964 trees and shrubs in 3.43 acres of degraded habitat. The mitigation area (which includes upland and wetland areas) is over 36% larger than the size of the agricultural wetland proposed for impact. These plantings

will restore the type of forested habitat that was historically present within the area and will enhance the quality and size of the wildlife corridor.

Testimony further stated that the partial wetland fill proposal is contrary to the South Cooper Mountain Community Plan (SCMCP). The Commission acknowledges Overarching Policies of the SCMCP, in particular Policy 7 related natural resources that reads: *Provide appropriate protection, enhancement and access to Cooper Mountain's natural resources and public lands.*

The Commission acknowledges the keyword of this policy to be “appropriate” and finds the policy to be satisfied because the partial wetland encroachment and fill proposal is required to meet the needs of high school, in part identified by District for compliance with Federal Title IX mandates for equal access, together with dimensional and specification requirements for fields as required by the Oregon Department of Education. The Commission also acknowledges Overarching No. Policy 11, also part of the SCMCP which reads:

*Plan new civic uses so they are focal points for the community. Ensure schools, parks and other civic uses are centers of community activity. Integrate the planned new high school with neighborhoods and other development within the plan.*

In response to Policy 11, the Commission acknowledges a high school as the intended use for the subject properties upon early consideration of the SCMCP and boundary now recognized through the adopted Community Plan Land Use Map (Figure 7 of the SCMCP) to an area inclusive of the wetlands portions of the same properties.

The Commission also acknowledges Natural Resource Policies of the SCMCP, in particular Policy No. 1, which reads:

*Locally significant wetlands and protected riparian corridors within the Community Plan area shall be protected and enhanced, consistent with local, state and federal regulations.*

In response to Policy 1, the Commission finds that the proposal to encroach and mitigate wetlands is addressed through permitting requirements of the U.S. Army of Corps of Engineers (for federal) in addition to the Department of State Lands (for state) and Clean Water Services, as identified herein for local. The City of Beaverton has no separate hardship variance criteria of its own to evaluate wetland encroachment. As previously stated in response provided to the policies under Goal 7.3.3.1, the Action statements of these policies refer to CWS *Design and Construction Standards* and thereby direct the city to amend implementing ordinances as appropriate to ensure compliance with these standards.

The Commission acknowledges procedural provisions as contained in Section 60.67.05.1 and.2 of the Development Code (Significant Natural Resources). These read:

1. *Development activities and uses permitted on a proposed development site identified as the possible location of a significant natural resource, including significant wetlands shall be subject to relevant procedures and requirements specified in Chapter 50 of this ordinance.*
2. *Upon the City's determination that a site contains wetland as identified on the local wetland inventory map, notice of the proposed development shall be provided to the Division of State Lands (DSL) in a manner and form prescribed by DSL pursuant to ORS requirements.*

In response to these provisions, the Commission finds Chapter 50 (procedures) to contain no separate procedural requirement for wetlands. The Commission acknowledges one procedural requirement where documentation from CWS is to be obtained (BDC Section 50.25.1) which the applicant has

satisfied. The Commission also finds criteria under No. 2 to be satisfied with the city having notified DSL in the form prescribed, as staff has testified.

The Commission also acknowledges a design review guideline, contained in Section 60.05.45.10 of the Development Code (Natural Areas) which reads:

*Natural features that are indigenous to a development site, such as streams, wetlands and mature trees should be preserved, enhanced and integrated when reasonably possible into the development plan.*

The Commission responds to this guideline in the Order approving the applicant's concurrent Design Review application (Case file DR2015-0029).

The Commission and public testimony also raised concerns regarding the number and location of athletic fields, principally focused on wetlands impact. Testimony stated that the District should consider moving the athletic fields to an off-site location in order to avoid all wetland impacts. The Commission finds a reduction in the number of fields would not be consistent with the Beaverton School District Facilities Plan and Educational Specifications, the Oregon Department of Education (ODE) physical education (PE) requirements for high schools, the Oregon School Activities Association, or Federal Title IX requirements. Information provided by the District in its June 10, 2015 response to the Planning Commission includes assessment of the above-listed requirements. In that response, the District demonstrates that the proposed number of athletic fields at the new high school has been reduced to the greatest extent possible and that the current site plan provides the minimum amount of athletic fields allowable to still be consistent with state and federal requirements, while preserving the majority and all of the quality wetland area.

The Commission reviewed the alternative field layouts that were included as part of the applicant's plans and materials package. These alternative field layouts, in concert with Federal Title IX mandates for equal access, together with dimensional and specification requirements for fields as required by the Oregon Department of Education, demonstrate how it is impracticable to preserve that portion of Wetland A identified for encroachment according to the applicant's development plan.

The Commission also finds that providing athletic fields at an off-site location is not a reasonable alternative for the District. Again, the District's June 10, 2015 response to Planning Commission demonstrates that athletic fields for the new high school must be located on the site. The Commission acknowledges and accepts the District's reasons in support for on-site athletic fields as opposed to off-site locations which have been evaluated by the District.

*On-site Vehicle and Pedestrian Circulation:* At the hearing of May 27, the Commission raised concerns regarding on-site vehicle and pedestrian circulation, particularly during special events such as football games and larger attendance events such as school concerts. The Commission acknowledges the goal to provide safe and efficient vehicle circulation to and through the site. The Commission heard from the District as to plans for signage, one-way traffic circulation in certain portions of the student parking lot, designating visitor parking spaces and removing the bollards between the student and staff parking

lots during major events in order to provide appropriate circulation to accesses on SW 175<sup>th</sup> and SW Scholls Ferry Road. The Commission agreed that, with these modifications, together with conditions that require removal bollards for events and emergencies, on-site vehicle circulation can be safely and efficiently accommodated.

*City of Tigard Request:* The Commission heard testimony from the City of Tigard requesting three additional conditions of approval related to traffic and pedestrian improvements along SW Scholls Ferry Road. The Commission finds these recommended conditions of approval to require further analysis and subsequent review by Washington County, the agency is responsible for maintaining SW Scholls Ferry Road. The record shows these conditions were not subject to Washington County review and comment prior to Commission consideration. The Commission also observes these conditions to be inclusive of off-site improvements, beyond the jurisdiction of the City of Beaverton.

*Additional testimony from property owner Ed Bartholemy:* The Commission acknowledges that the owner of the abutting property to the west, Ed Bartholemy, has raised a series of issues largely focused on three matters: (a) the alignment of the new collector street between his property and the District's; (b) the movement of the waterline serving the District property; and (c) a denial of the application because the Bartholemy property and other properties west of his have not been included within Beaverton School District boundaries.

As to (a) and (b), the Commission finds proposed street and waterline alignments meet all city standards and are supported by the City Engineer to ensure necessary connections and continuation, consistent with the SCMCP. As

to issue (c), the Commission does not recognize the adjustment of school district boundaries as a matter for land use consideration. This issue also has no correlation to approval criteria for Conditional Use.

In conclusion to the above, the Commission therefore finds the applicant's proposal to have satisfied all applicable approval criteria as contained in Sections 40.03 and 40.15.15.3.C of the Development Code.

Therefore, **IT IS HEREBY ORDERED** that **CU2015-0003** is **APPROVED**, based on the testimony, reports and exhibits, and evidence presented during the public hearing on the matter and based on the facts, findings, and conclusions found in the Staff Report dated May 20, 2015, and the Staff Memorandum dated June 17, 2015 and this land use Order, and subject to conditions of approval as follows:

1. Final decision shall expire automatically two (2) years from the effective date of decision unless the approval is enacted either through construction or establishment of use within the two (2) year time period.
2. The Conditional Use permit shall run with the land and shall continue to be valid upon a change of ownership of the site unless otherwise specified in conditions attached to the permit.
3. This staff report, these conditions and accompanying land use order shall be recorded with the Washington County Recorder's Office.
4. All outdoor field activity and events, including but not limited to games, practices and band rehearsals shall be limited to following hours:
  - o 7:00 a.m. to 10:00 p.m. seven days a week (Sunday through Saturday).
5. All luminaires intended for outdoor sport fields, including the football stadium, shall be turned off from 10:00 p.m. to 7:00 a.m., all days of the week. This condition shall not apply to pole-mounted or other luminaires intend for lighting outdoor parking or pedestrian pathways.

This condition does not apply to Friday evenings when home football games are scheduled at the high school campus.

6. To ensure on-site parking availability, the school shall not schedule other events that overlap with home football games.
7. The property owner shall not remonstrate against reconfiguration of the drive access provided to the west parking lot from the collector street. The access is to be perpendicular to the tangent of the curve of the collector street at the point of connection. The property owner shall also ensure that the driveway maintains safe and adequate visibility at the intersection of the drive aisle and the collector street.
8. The property owner shall grant a temporary access easement to the benefit of the abutting property identified as tax lot 1S060000403. The size and location of the temporary access easement shall be determined by the City Transportation Engineer and be of sufficient size and location to provide safe and efficient access to the collector street. The temporary access easement may be terminated when the collector street is in its final alignment and providing access to the same property.
9. Illumination of the high school property shall not exceed 0.5 footcandle power as measured at the lot line of residential properties surrounding the campus.
10. A six-foot vinyl-coated perimeter fence, to the location as depicted in the plan submitted for Commission consideration on June 24, is to remain in place after construction. The fence is to include a gate that shall remain locked until such time that a pedestrian trail is provided for future connection thereto. The fence is to replace existing with agreement from the abutting property owner.
11. Landscape for the school campus along western perimeter near the stadium is to be consistent with the tree planting plan titled "Exhibit for Western Edge of Property" and is to be modified to include the City Arborist recommended change where Eastern Red Bud and the Western Hemlock are changed in favor of Douglas fir and the Nyssa is changed to Western Red Cedar. To minimize the visual impact of illumination from stadium lighting, these trees are to remain as part of the approved landscape plan for posterity. If and when these trees are removed in the future, the District shall be required to replace in accordance the modified landscape plan. Tree heights at the time of planting shall be 8 to 12 feet.
12. The bollards between the student / visitor and staff parking lots shall be removed when there is a large school event which may cause overflow

of either school lot. Bollards shall be removed in the case of a traffic accident on SW 175<sup>th</sup> Avenue, or SW Scholls Ferry Road, or other emergency, requiring vehicles to depart the high school property from only one exit point.

The Order is approved by the following vote:

**AYES:** Doukas, Maks, Winter and Overhage.  
**NAYS:** Nye, Kroger  
**ABSTAIN:** None.  
**ABSENT:** Wilson

Dated this 7<sup>th</sup> day of July, 2015.

Appeal of Planning Commission decision, as articulated in Land Use Order No. 2407, must be filed on an Appeal form provided by the Director at the City of Beaverton's Community Development Department's office by no later than 4:00 p.m. on Friday, July 17, 2015.

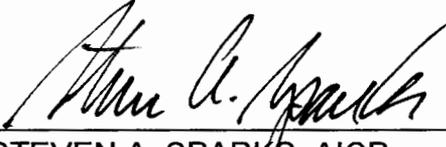
PLANNING COMMISSION  
FOR BEAVERTON, OREGON

ATTEST:

  
\_\_\_\_\_  
SCOTT WHYTE, AICP  
Senior Planner

APPROVED:

  
\_\_\_\_\_  
MIMI DOUKAS  
Chair

  
\_\_\_\_\_  
STEVEN A. SPARKS, AICP  
Planning Division Manager

**BEFORE THE PLANNING COMMISSION  
FOR THE CITY OF BEAVERTON,  
OREGON**

**After recording return to:**  
City of Beaverton, City Recorder:  
12725 SW Millikan Way  
P.O. Box 4755  
Beaverton, OR 97076

IN THE MATTER OF A REQUEST FOR APPROVAL OF ) ORDER NO. 2408  
A DESIGN REIEW THREE APPLICATION TO ) DR2015-0029 ORDER APPROVING  
CONSTRUCT A NEW HIGH SCHOOL (SOUTH ) SOUTH COOPER MOUNTAIN HIGH SCHOOL,  
COOPER MOUNTAIN HIGH SCHOOL). BEAVERTON ) SUBJECT TO CONDITIONS  
SCHOOL DISTRICT, APPLICANT.

The matter came before the Planning Commission on May 27, 2015, June 24, 2015 and July 1, 2015, on a request for approval of a Design Review Three application to construct a new high school approximately 320,000 square feet in size, with associated athletic fields, landscaping, parking and vehicle circulation areas. The subject property is located in the northwest quadrant of SW 175<sup>th</sup> Avenue and SW Scholls Ferry Road and is specifically identified as Tax Lots 205 and 800 on Washington County Assessor's Map 2S1-0600.

Pursuant to Ordinance 2050 (Development Code, effective through Ordinance 4649), and under Sections 50.15.2 (concurrent review of multiple applications), 50.45 (Type 3 processing) and 50.55 (conduct of hearing), the Planning Commission conducted a public hearing (initially on May 27, continued to June 24, 2015, with the record left open for written testimony until July 1, 2015)

and considered testimony and exhibits on the proposal. Findings herein supplement the findings in the staff report dated May 20, 2015 and staff memorandum dated June 17, 2015, which were prepared for the hearings in addition to the applicant's written response to applicable approval criteria and plans and materials that were subject to consideration. The Commission adopts and incorporates these documents, plans and materials as findings in response to applicable approval criteria contained in Sections 40.03 (Facilities Review) and 40.20.15.3.C (Design Review 3) of the Development Code. To this Order, the Commission adds findings in support of the Design Guideline identified in Section 60.05.45.10 of the Development Code (Natural Areas). This Guideline reads:

*60.05.45.10 Natural Areas: Natural features that are indigenous to a development site, such as streams, wetlands and mature trees should be preserved, enhanced and integrated when reasonably possible into the development plan.*

The Commission reviewed the alternative field layouts that were included as part of the applicant's plans and materials package. These alternative field layouts, in concert with Federal Title IX mandates for equal access, together with the dimensional and specification requirements for fields required by the Oregon Department of Education, demonstrate that it is impracticable to preserve that portion of Wetland A identified for encroachment according to the applicant's development plan. The Commission further finds in support of the guideline in 60.05.45.10 because the applicant's plans demonstrate that mitigation will be provided for the wetlands encroachment. The wetlands encroachment and proposed mitigation are contingent upon approval by the Department of State

Lands and U.S. Army Corps of Engineers through their respective permitting processes.

The Commission makes these additional findings of compliance with Design Guidelines stated in Sections 60.05.35.1 (Building Articulation and Variety) and 60.05.35.4 (Exterior Building Materials). At the first hearing of May 27, 2015, the Commission raised concerns regarding the building design (building elevations with blank walls, window treatments and the lack of distinct cornice treatments). The Commission believed that the lack of articulation would create long and repetitive façades along the southern and eastern elevations. The applicant then provided revised elevations and refined window and cornice treatments as a part of its plan revision of June 10, 2015, together with additional written and oral testimony. The Commission finds the design refinements to have sufficiently addressed the concerns identified at the May 27, 2015 hearing, thereby demonstrating compliance with Sections 60.05.35.1 and 60.05.35.4.

Therefore, **IT IS HEREBY ORDERED** that **DR2015-0029** is **APPROVED**, based on the testimony, reports and exhibits, and evidence presented during the public hearing on the matter and based on the facts, findings, and conclusions found in the Staff Report dated May 20, 2015, and the Staff Memorandum dated June 17, 2015 and this land use Order, and subject to conditions of approval as follows:

**A. Prior to issuance of a site development permit and any work beyond tree removal and site grading, the applicant shall:**

1. Submit the required plans, application form, fee, and other items needed for a complete site development permit application per the applicable review checklist. (Site Development Div./JJD)

2. Contract with a professional engineer to design and monitor the construction for any work governed by Beaverton Municipal Code 9.05.020, as set forth in Ordinance 4417 (City Engineering Design Manual and Standard Drawings), Beaverton Development Code (Ordinance 2050, 4010 +rev.), the Clean Water Services District Design and Construction Standards (June 2007, Resolution and Ordinance 2007-020), and the City Standard Agreement to Construct and Retain Design Professionals in Oregon. (Site Development Div./JJD)
3. Submit a completed and executed City Standard Agreement to Construct Improvements and Retain Design Professional(s) Registered in Oregon. After the site development permit is issued, the City Engineer and the Planning Director must approve all revisions as set out in Ordinances 2050, 4010+rev., and 4417; however, any required land use action shall be final prior to City staff approval of the engineering plan revision and work commencing as revised. (Site Development Div./JJD)
4. Have the ownership of the subject property guarantee all public improvements, additional site grading, all storm water management (quality and quantity) facilities, all required CWS plantings/mitigation, and parking lot drive aisle paving by submittal of a City-approved security. The security approval by the City consists of a review by the City Attorney for form and the City Engineer for amount, equivalent to 100 percent or more of estimated construction costs. (Site Development Div./JJD)
5. Submit any required off-site easements, executed and ready for recording, to the City after approval by the City Engineer for legal description of the area encumbered and City Attorney as to form. (Site Development Div./JJD)
6. Have obtained the Tualatin Valley Fire and Rescue District Fire Marshal's approval of the site development plans as part of the City's plan review process. (Site Development Div./JJD)
7. Submit a detailed water demand analysis (fire flow calculations) in accordance with the requirements of the Fire Code as adopted by the Tualatin Valley Fire and Rescue. If determined to be needed by the City Building Official, this analysis shall be supplemented by an actual flow test and evaluation by a professional engineer meeting the standards set by the City Engineer. The analysis shall provide the available water volume (GPM) at 20 psi residual pressure from the fire hydrant nearest to the proposed project. (Site Development Div./JJD)
8. Provide final utility plans that show construction of a minimum 24-inch diameter public waterlines as shown on the preliminary plans (crossing the site to the westerly property line and along the entire length of the 175<sup>th</sup> Avenue frontage). Water system development charge credits against new building permits can be granted for any extra-capacity improvements as

determined and administered by the City Utilities Principal Engineer. (Site Development Div./JJD)

9. Have obtained approvals needed from the Clean Water Services District for storm system connections as a part of the City's plan review process. (Site Development Div./JJD)
10. Submit a copy of the notification of proposed revisions to the Oregon Department of Environmental Quality (DEQ) for the previously issued 1200-C General Permit (DEQ/CWS/City Erosion Control Joint Permit). (Site Development Div./JJD)
11. Submit a copy of issued permits or other required approvals as needed from the State of Oregon Division of State Lands and the United States Army Corps of Engineers (prior to any work within or affecting a jurisdictional wetland). (Site Development Div./JJD)
12. Provide final construction ready plans and a full design storm water report demonstrating proposed provision of treatment and on-site detention as generally depicted on the submitted preliminary utility plan and drainage reports. The analysis shall identify all contributing drainage areas and plumbing systems on and adjacent to the site with the site development permit application. The analysis shall also delineate all areas on the site that are inundated during a 100-year storm event. On all plan sheets that show grading and elevations, the 100 year inundation level and path of system overflow shall be identified. (Site Development Div./JJD)
13. Submit a revised grading plan showing that each proposed building has a minimum finished floor elevation that is at least two feet higher than the maximum possible high water elevation (emergency overflow) of the storm water management facilities and any storm water conveyance crossing the project area. This land-use approval shall provide for minor grade changes less than two vertical feet variance to comply with this condition without additional land-use applications, as determined by the City Engineer and City Planning Director. (Site Development Div./JJD)
14. Submit to the City a certified impervious surface determination of the entire site prepared by the applicant's engineer, architect, or surveyor. The certification shall consist of an analysis and calculations determining the square footage of all impervious surfaces as a total. In addition, changes in specific types of impervious area totals, in square feet, shall be given for roofs, parking lots and driveways, sidewalk and pedestrian areas, and any gravel surfaces. Calculations shall also indicate the square footage of pre-existing impervious surfaces, the new impervious surface area created, and total final impervious surfaces areas on the entire site or individual tax lots if applicable. (Site Development Div./JJD)
15. Pay storm water system development charge (overall system conveyance) for any net, new impervious surface area created on site. (Site Development Div./JJD)

16. Have obtained the City Building Official's courtesy review approval of the proposed building plans private site plumbing plan including fire suppression systems, backflow prevention measures, and regulated utility service locations outside the proposed building pads. (Site Development Div./JJD)
17. Provide plans for LED street lights along the site's public street frontages (Illumination levels to be evaluated per City Design Manual, Option C requirements unless otherwise approved by the City Public Works Director). (Site Development Div./JJD)
18. Provide plans for the placement of underground utility lines along street frontages, within the site, and for services to the proposed new development. No utility service lines to the structures shall remain overhead on site. If existing utility poles along existing street frontages must be moved to accommodate the proposed improvements, the affected lines must be either undergrounded or a fee in lieu of undergrounding paid per Section 60.65 of the Development Code. (Site Development Div./JJD)
19. Provide plans showing a City standard commercial driveway apron at the intersection of any private, common driveway and a public street. (Site Development Div./JJD)
20. Land use approvals shall expire after two (2) years from the date of approval unless prior to that time a construction permit has been issued and substantial construction pursuant thereto has taken place, or an application for extension is filed pursuant to Section 50.93, or that authorized development has otherwise commenced in accordance with Section 50.90.3.B. (Planning/SW)
21. Provide plans that show dedication of right-of-way (ROW) and half-street improvements for 5-lane arterial streets to the Washington County A-2 standard for the area between the curbs. The ROW areas outside of the curbs shall be designed to City of Beaverton Arterial Street standards, as modified to include an on-street regional trail, as required.(Transportation / KR)
22. Provide plans that show dedication of right-of-way and street improvements for a new collector street along the west edge of the property with sufficient width to accommodate two 12' travel lanes, and a 5' bike lane between the curbs, and a 6.5' stormwater swale and 6' sidewalk outside of the curb on the school side of the new street. (Transportation / KR)
23. Provide plans that show that the LIDA facilities will include suitable street trees. (Transportation / KR)
24. Provide plans that show that the vehicular cross-connection between the parking lots can support the weight of a fire fighting apparatus (not less

than 12,500 pounds point load or wheel load, and 75,000 pounds live load or gross vehicle weight.) Additionally, the plans need to show that the sections of curbs immediately adjacent to the cross-connection are standard mountable curbs, as shown in Drawing # 201 of the City's Engineering Design Manual (Transportation / KR)

25. Provide a modified site plan that shows pavement differentiation where pedestrian pathways cross drive aisles per Beaverton Development Code, Section 60.05.20.3.E. Note that ADA ramps may be required where pathways cross drive aisles as determined by the Building Official. Revise pedestrian crossings through the student/visitor parking area (Sheet L211) to show pathway and connections constructed with scored concrete or modular paving patterns or raised crosswalks, in addition to providing student/visitor crossing signs. Vehicle directional signage to the student/visitor parking lot perimeter drive aisle shall accommodate oneway counter-clockwise directional flow adjacent to the school building and shall accommodate two-way flow in areas away from the school building. (Transportation/KR)
26. Provide plans that show the installation of a new traffic signal at the intersection of the new collector street with SW Scholls Ferry Rd. (Transportation / KR)
27. Provide plans that show the installation of a new traffic signal at the new school access on SW 175<sup>th</sup> Avenue. (Transportation / KR)
28. Provide plans that shows the modification of the traffic signal on SW Scholls Ferry Road and 175<sup>th</sup> Avenue to accommodate the roadway improvements. (Transportation / KR)
29. Provide plans showing walkways along the north side of the stadium to accommodate the Beaverton Police Department Tactical Response Vehicle. For the pathway shown as an ambulance route on Sheet L101, the applicant shall provide an opening in the fence that will adequately accommodate a standard ambulance and ensure that the pavement is designed to support the load of an ambulance's weight. (Transportation/KR)
30. Ensure compliance with necessary fire access, firefighting water supplies including hydrants. Plans for Site Development are to show the location of all necessary improvements related to fire apparatus access, firefighting water supplies, hydrants and other emergency service features are provided as directed in the document prepared by Tualatin Valley Fire & Rescue dated April 22, 2015 (TVF&R/JF)
31. The required fire flow for the building shall not exceed 3,000 gallons per minute (GPM) or the available GPM in the water delivery system at 20 psi, whichever is less as calculated using IFC, Appendix B. A worksheet is available from the Fire Marshal's Office (OFC B105.3). Please provide a

current fire flow test of the nearest fire hydrant demonstrating available flow at 20 psi residual pressure as well as fire flow calculation worksheets. Please forward copies to both TVF&R as well as the City of Beaverton Building Services. (Fire / JF)

32. The minimum number and distribution of fire hydrants available to a building shall not be less than listed in Appendix C, Table C 105.1. (Fire / JF)
33. The angles of approach and departure for fire apparatus road shall not exceed eight degrees (OFC 503.2.8, NFPA 1901). (Fire / JF)
34. Submit plans showing ground cover plantings are installed at a maximum of 30 inches on center and 30 inches between rows. Rows of plants are to be staggered for a more effective covering. Ground cover shall be supplied in a minimum 4 inch size container, or a 2-1/4 inch container if planted 18 inches on-center. (Planning/SW)
35. Submit plans showing all new landscape areas are served by an underground landscape irrigation system. For approved xeriscape (drought-tolerant) landscape designs and for the installation of native or riparian plantings, underground irrigation is not required provided that temporary above-ground irrigation is provided for the establishment period. (Planning/SW)
36. Obtain a Washington County Facility Permit as directed in the document prepared by Washington County Land Use and Transportation dated May 6, 2015. A copy of issued permits or other approvals as needed from Washington County is to be provided to the city for all the proposed work within the affected County road right of ways (SW 175<sup>th</sup> Avenue and SW Scholls Ferry Road). (Site Development Div. / JJD)
37. Submit plans showing a minimum of 122 bike parking spaces and ensure that all spaces are lighted to at least the minimum standard of 0.5 footcandles, visible, and conveniently located for staff and students riding bikes. (Transportation / KR)
38. Submit plans showing designation and adequate signing for at least 3% of the total parking spaces on the site as reserved for carpool or vanpool parking. The reserved parking spaces shall be the closest spaces to the primary employee or student entrance(s), besides the ADA-compliant parking spaces. (Transportation / KR)
39. Submit plans showing all pedestrian walkways are lighted to at least the minimum standard of 0.5 foot-candles. (Transportation / KR)
40. Submit plans showing signage to mark the regional community trails on the site that complies with Tualatin Hills Park and Recreation District standards. (Transportation / KR)
41. Submit plans that show visitor parking spaces. Visitor parking spaces shall be clearly marked in the student/visitor parking lot. (Commission)

**B. Prior to building permit issuance, the applicant shall:**

42. Submit a complete site development permit application and obtain the issuance of site development permit from the Site Development Division. (Site Development Div./JJD)
43. Make provisions for installation of all mandated erosion control measures to achieve City inspector approval at least 24 hours prior to call for foundation footing form inspection from the Building Division. (Site Development Div./JJD)
44. The proposed project shall comply with the State of Oregon Building Code in effect as of date of application for the building permit. This currently includes the following: The 2009 edition of the International Building Code as published by the International Code Conference and amended by the State of Oregon (OSSC); The 2009 edition of the International Residential Code as published by the International Code Conference and amended by the State of Oregon (ORSC); 2009 International Mechanical Code as published by the International Code Council and amended by the State of Oregon (OMSC); the 2009 edition of the Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials and amended by the State of Oregon (OPSC); the 2011 edition of the National Electrical Code as published by the National Fire Protection Association and amended by the State of Oregon; and the 2009 International Fire Code as published by the International Code Council and amended by Tualatin Valley Fire and Rescue (IFC). The 2014 OSSC, OMSC and IFC will take effect July 1, 2014. Permit applications received prior to September 30, 2014 may use either 2011 or 2014 OSSC, OMSC and IFC. (Building / BR)
45. Applications for plan review must include the information outlined in the Tri-County Commercial Application Checklist. Incomplete applications will not be accepted. (City policy) (Building / BR)
46. The City offers phased permits, for foundation/slabs, structural frame, shell and interior build-out (TI). An applicant desiring to phase any portion of the project must complete the Tri-County Commercial Phased Project Matrix or each phased portion. This form is available at the Building Division counter or may be printed from the Forms/Fee Center at [www.beavertonoregon.gov](http://www.beavertonoregon.gov) Note: Except private site utilities (potable water, sanitary and storm sewer lines), Excavation and Shoring, Site Utilities and Grading are not permits issued by the Building Division and therefore area not part of part of the City's phased permit process. (Building / BR)
47. Plan submittals may be deferred as outlined in the Tri-County Deferred Submittals list. Each deferred submittal shall be identified on the building

plans. No work on any of the deferred items shall begin prior to the plans being submitted, reviewed and approved. (Building / BR)

48. Unless they are identified as a deferred submittal on the plans, building permits will not be issued until all related plans and permits have been reviewed, approved, and issued (i.e., mechanical, plumbing, electrical, fire sprinkler systems, fire alarm systems, etc. (City policy) (Building / BR)
49. Projects involving new buildings and additions are subject to System Development fees. (Building / BR)
50. A separate plumbing permit is required for installation of private on-site utilities (i.e., sanitary sewer, storm sewer, water service, catch basins, etc. If the applicant desires to install those types of private utilities during the same period as the "Site Development" work, a separate plumbing application must be submitted to the Building Services Division for approval. (Building / BR)
51. The proposed building(s) shall be accessible to persons with disabilities. (Chapter 11, OSSC) (Building / BR)
52. The minimum fire flow and flow duration for buildings other than one- and two-family dwellings shall be determined in accordance with residual pressure (OFC Appendix B Table B105.2). The required fire flow for a building shall not exceed the available GPM in the water delivery system at 20 psi. (Fire / JF)
53. Applicants shall provide documentation of a fire hydrant flow test or flow test modeling of water availability from the local water purveyor if the project includes a new structure or increase in the floor area of an existing structure. Tests shall be conducted from a fire hydrant within 400 feet for commercial projects, or 600 feet for residential development. Flow tests will be accepted if they were performed within 5 years as long as no adverse modifications have been made to the supply system. Water availability information may not be required to be submitted for every project. (OFC Appendix B) Where a portion of the building is more than 400 feet from a hydrant on a fire apparatus access road, as measured in an approved route around the exterior of the building, on-site fire hydrants and mains shall be provided. (OFC 507.5.1) This distance may be increased to 600 feet for buildings equipped throughout with an approved automatic sprinkler system.
54. The number and distribution of fire hydrants required for commercial structure(s) is based on Table C105.1, following any fire-flow reductions allowed by section B105.3.1. Additional fire hydrants may be required due to spacing and/or section 507.5 of the Oregon Fire Code.
55. A Knox Box for building access is required for this building. Please contact the Fire Marshal's Office for an order form and instructions regarding installation and placement. (OFC 506.1)

56. Include a lighting plan as part of the building plans, where the parking area under the building is illuminated consistent with City lighting technical standards in 60.05-1 of the Development Code. (Planning/SW)
57. Pay a proportional share of the cost to improve the intersection of SW 175<sup>th</sup> Ave. and SW Kemmer Rd. to Washington County. The current estimate of the cost to improve the intersection is \$2.5 million, with the high school's share estimated at \$314,379. (Transportation / KR)

**C. Prior to Final Plat approval, the applicant shall:**

58. Have submitted a copy of the final vacation order from Washington County for the old alignment of 175<sup>th</sup> Avenue. (Site Development Div./JJD)
59. Show granting of any required on-site easements, including but not limited to the temporary easement benefiting Tax Lot 1S060000403, on the partition plat, along with plat notes as approved by the City Engineer for area encumbered and County Surveyor as to form and nomenclature. The applicant's engineer or surveyor shall verify all pre-existing and proposed rights of way and easements are of sufficient width to meet current City standards in relation to the physical location of the substantially completed site development and frontage improvements. (Site Development Div./JJD)
60. Submit an owner-executed, notarized, City/CWS standard private stormwater facilities maintenance agreement, with maintenance plan and all standard exhibits, ready for recording concurrently with the final plat at Washington County. (Site Development Div./JJD)
61. Record to the final plat, as required by Washington County, the dedication of additional right-of-way to provide a minimum of 49 feet from centerline of SW Scholls Ferry Road and SW 175<sup>th</sup> Avenue, and dedication of additional right-of-way to provide adequate corner radius at the intersection of SW Scholls Ferry Road/SW 175<sup>th</sup> Avenue Road and the new Collector street.  
The final plat shall include a provision of a non-access reservation along SW 175<sup>th</sup> Avenue and SW Scholls Ferry Road frontage, except at the accesses approved in conjunction with this land use application. (Wash. Co / NV)
62. Dedicate all right-of-way shown on the approved Site Development Permit plans. (Transportation)

**D. Prior to each final building permit inspection or occupancy permit issuance, the applicant shall:**

63. Have substantially completed the site development improvements as determined by the City Engineer. (Site Development Div./JJD)
64. Have recorded the final plat in County records and submitted a recorded copy to the City. (Site Development Div./JJD)
65. Have the landscaping completely installed or provide for erosion control measures around any disturbed or exposed areas per Clean Water Services standards. (Site Development Div./JJD)
66. Have placed underground all existing overhead utilities and any new utility service lines within the project and along any existing street frontage as determined at permit issuance. (Site Development Div./JJD)
67. Install or replace, to City specifications, all sidewalks which are missing, damaged, deteriorated, or removed by construction. (Site Development Div./JJD)
68. Have obtained a Source Control Sewage Permit from the Clean Water Services District (CWS) and submitted a copy to the City Building Official if an Industrial Sewage permit is required for the specific building, as determined by CWS. (Site Development Div./JJD)
69. Ensure all site improvements, including landscaping are completed in accordance with landscape plans (L Sheets) marked "Exhibit A", except as modified by the decision making authority in conditions of approval. (On file at City Hall). (Planning/SW)
70. Ensure all construction is completed in accordance with the Materials and Finishes form and Materials Board, both marked "Exhibit B", except as modified by the decision making authority in conditions of approval. (On file at City Hall). (Planning/SW)
71. Ensure construction of all exterior lighting is completed in accordance with the approved plans (E-Sheets) marked "Exhibit C" and fixture details, except as modified by the decision making authority in conditions of approval (On file at City Hall). Public view of exterior light sources such as lamps and bulbs, is not permitted from streets and abutting properties at the property line.
72. Ensure deciduous or evergreen shrubs are installed at a minimum, using one-gallon containers or 8 inch burlap balls with a minimum spread of 12 inches to 15 inches. (Planning/SW)
73. Ensure existing landscaping (to remain on-site) is replaced if impacted by construction. (Planning/SW)

**E. Prior to release of performance security, the applicant shall:**

74. Have completed the site development improvements as determined by the City Engineer and met all outstanding conditions of approval as

determined by the City Engineer and Planning Director. Additionally, the applicant and professional(s) of record shall have met all obligations under the City Standard Agreement to Construct Improvements and Retain Design Professional Registered in Oregon, as determined by the City Engineer. (Site Development Div./JJD)

75. Submit any required on-site easements not already dedicated on the plat, executed and ready for recording, to the City after approval by the City Engineer for area encumbered and City Attorney as to form. The applicant's engineer or surveyor shall verify all pre-existing and proposed easements are of sufficient width to meet City standards. (Site Development Div.)

The Order is approved by the following vote:

**AYES:** Doukas, Nye, Maks, Winter and Overhage.  
**NAYS:** Kroger  
**ABSTAIN:** None.  
**ABSENT:** Wilson

Dated this 7<sup>th</sup> day of July, 2015.

Any appeal of this Planning Commission decision, as articulated in Land Use Order No. 2408, must be filed on an appeal form provided by the Director at the City of Beaverton's Community Development Department's office by no later than 4:00 p.m. on Friday, July 17, 2015.

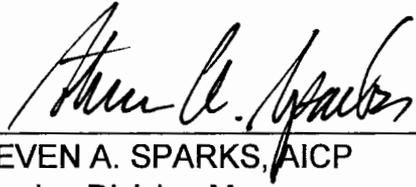
PLANNING COMMISSION  
FOR BEAVERTON, OREGON

ATTEST:

  
\_\_\_\_\_  
SCOTT WHYTE, AICP  
Senior Planner

APPROVED:

  
\_\_\_\_\_  
MIMI DOUKAS  
Chair



---

STEVEN A. SPARKS, AICP  
Planning Division Manager

**BEFORE THE PLANNING COMMISSION  
FOR THE CITY OF BEAVERTON,  
OREGON**

**After recording return to:**  
City of Beaverton, City Recorder:  
12725 SW Millikan Way  
P.O. Box 4755  
Beaverton, OR 97076



IN THE MATTER OF A REQUEST FOR APPROVAL OF ) ORDER NO. 2409  
A PRELIMINARY PARTITION APPLICATION TO ) LD2015-0004 ORDER APPROVING  
CREATE ONE PLATTED LOT FROM TWO SEPARATE ) SOUTH COOPER MOUNTAIN HIGH SCHOOL,  
PROPERTIES (SOUTH COOPER MOUNTAIN HIGH ) SUBJECT TO CONDITIONS  
SCHOOL). BEAVERTON SCHOOL DISTRICT,  
APPLICANT.

The matter came before the Planning Commission on May 27, 2015, June 24, 2015 and July 1, 2015, on a request for approval of a Preliminary Partition application associated with the construction of a new high school, approximately 320,000 square feet in size, with associated athletic fields, landscaping, parking and vehicle circulation areas. The subject property is located in the northwest quadrant of SW 175<sup>th</sup> Avenue and SW Scholls Ferry Road and is specifically identified as Tax Lots 205 and 800 on Washington County Assessor's Map 2S10600. The proposal would create one legal lot of record for the combined area of the two Tax Lots.

Pursuant to Ordinance 2050 (Development Code, effective through Ordinance 4649), and under Sections 50.15.2 (concurrent review of multiple application), 50.45 (Type 3 processing) and 50.55 (conduct of hearing), the Planning Commission conducted a public hearing (initially on May 27, continued to

June 24, 2015, with the record left open for written testimony until July 1, 2015) and considered testimony and exhibits on the proposal. The Commission adopts and incorporates the findings in the staff report dated May 20, 2015 and staff memorandum dated June 17, 2015, which were prepared for the hearings, in addition to the applicant's written response to applicable approval criteria contained in Sections 40.03 (Facilities Review) and 40.47.15.4.C (Preliminary Partition) of the Development Code.

Therefore, **IT IS HEREBY ORDERED** that **LD2015-0004** is **APPROVED**, based on the testimony, reports and exhibits, and evidence presented during the public hearing on the matter and based on the facts, findings, and conclusions found in the Staff Report dated May 20, 2015, and the Staff Memorandum dated June 17, 2015 and this land use Order, and subject to conditions of approval as identified in the associated Order approving Design Review 3, case file DR2015-0029.

The Order is approved by the following vote:

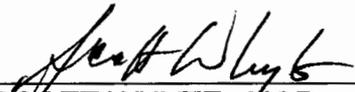
**AYES:** Doukas, Maks, Winter, Kroger, Nye and Overhage.  
**NAYS:** None.  
**ABSTAIN:** None.  
**ABSENT:** Wilson

Dated this 7<sup>th</sup> day of July, 2015.

Appeal of Planning Commission decision, as articulated in Land Use Order No. 2409, must be filed on an Appeal form provided by the Director at the City of Beaverton's Community Development Department's office by no later than 4:00 p.m. on Friday, July 17, 2015.

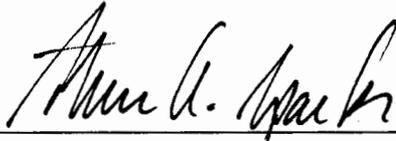
PLANNING COMMISSION  
FOR BEAVERTON, OREGON

ATTEST:

  
\_\_\_\_\_  
SCOTT WHYTE, AICP  
Senior Planner

APPROVED:

  
\_\_\_\_\_  
MIMI DOUKAS  
Chair

  
\_\_\_\_\_  
STEVEN A. SPARKS, AICP  
Planning Division Manager

**BEFORE THE PLANNING COMMISSION  
FOR THE CITY OF BEAVERTON,  
OREGON**

**After recording return to:**  
City of Beaverton, City Recorder:  
12725 SW Millikan Way  
P.O. Box 4755  
Beaverton, OR 97076



IN THE MATTER OF A REQUEST FOR APPROVAL OF ) ORDER NO. 2410  
A MAJOR ADJUSTMENT APPLICATION ALLOWING ) ADJ2015-0005 ORDER APPROVING  
ONE PORTION OF A NEW HIGH SCHOOL TO ) SOUTH COOPER MOUNTAIN HIGH SCHOOL,  
EXCEED THE CITY R-1 ZONE HEIGHT LIMIT (SOUTH ) SUBJECT TO CONDITIONS  
COOPER MOUNTAIN HIGH SCHOOL). BEAVERTON  
SCHOOL DISTRICT, APPLICANT.

The matter came before the Planning Commission on May 27, 2015, June 24, 2015 and July 1, 2015, on a request for approval of a Major Adjustment application associated with the construction of a new high school, approximately 320,000 square feet in size, with associated athletic fields, landscaping, parking and vehicle circulation areas. The subject property is located in the northwest quadrant of SW 175<sup>th</sup> Avenue and SW Scholls Ferry Road and is specifically identified as Tax Lots 205 and 800 on Washington County Assessor's Map 2S10600. Where the city R-1 zone establishes a maximum building height of 60 feet, this Order acknowledges one part of the new school building (theater/fly tower) to be constructed to a maximum height of 75 feet, nine inches.

Pursuant to Ordinance 2050 (Development Code, effective through Ordinance 4649), and under Sections 50.15.2 (concurrent review of multiple application), 50.45 (Type 3 processing) and 50.55 (conduct of hearing), the

Planning Commission conducted a public hearing (initially on May 27, continued to June 24, 2015, with the record left open for written testimony until July 1, 2015) and considered testimony and exhibits on the subject proposal. Findings herein supplement the findings in the staff report dated May 20, 2015 and staff memorandum dated June 17, 2015, which were prepared for the hearings, as well as the applicant's written response to applicable approval criteria contained in Section 40.10.15.2.C (Major Adjustment) of the Development Code.

Therefore, **IT IS HEREBY ORDERED** that **ADJ2015-0005** is **APPROVED**, based on the testimony, reports and exhibits, and evidence presented during the public hearing on the matter and based on the facts, findings, and conclusions found in the Staff Report dated May 20, 2015, and the Staff Memorandum dated June 17, 2015 and this land use Order, and subject to conditions of approval as identified in the associated Order approving Design Review 3, case file DR2015-0029.

The Order is approved by the following vote:

<b>AYES:</b>	Doukas, Maks, Winter, Nye, Kroger and Overhage.
<b>NAYS:</b>	None
<b>ABSTAIN:</b>	None
<b>ABSENT:</b>	Wilson

Dated this 7<sup>th</sup> day of July, 2015.

Appeal of this Planning Commission decision, as articulated in Land Use Order No. 2410, must be filed on an appeal form provided by the Director at the City of Beaverton's Community Development Department's office by no later than 4:00 p.m. on Friday, July 17, 2015.

PLANNING COMMISSION  
FOR BEAVERTON, OREGON

ATTEST:

  
\_\_\_\_\_  
SCOTT WHYTE, AICP  
Senior Planner

APPROVED:

  
\_\_\_\_\_  
MIMI DOUKAS  
Chair

  
\_\_\_\_\_  
STEVEN A. SPARKS, AICP  
Planning Division Manager

APP 2015-0001/APP 2015-002  
BSD HIGH SCHOOL  
SOUTH COOPER MOUNTAIN

# EXHIBIT 5

SECTION FROM OAR 141-086-  
0185 (OREGON DEPARTMENT  
OF STATE LANDS – LOCAL  
WETLANDS INVENTORY  
STANDARDS AND GUIDELINES)

# Extract from OAR 141-086-0185

## Local Wetlands Inventory (LWI) Standards and Guidelines

### 141-086-0180

#### Purpose

Pursuant to ORS 196.674 pertaining to the Statewide Wetlands Inventory (SWI), these rules establish a system for uniform wetland identification and comprehensive mapping. These rules also establish wetlands inventory standards for cities or counties developing a wetland conservation plan (WCP) pursuant to ORS 196.678. A Local Wetlands Inventory (LWI) is developed for all or a portion of a city or county according to the standards and guidelines contained in these rules (OAR 141-086-0180 through 141-086-0240).

### 141-086-0185

#### Applicability

- (1) Once approved by the Department of State Lands (Department), the LWI must be used in place of the National Wetlands Inventory (NWI) and is incorporated into the SWI.
- (2) The approved LWI must be used by cities and counties in lieu of the NWI for notifying the Department of land use applications affecting mapped wetlands and other waters (ORS 215.418 and 227.350).
- (3) An LWI fulfills the wetlands inventory requirements for Goal 5 and Goal 17 (OAR 660-015 and 660-023). An LWI that meets the additional WCP requirements specified in these rules must be used as the wetlands inventory basis for a WCP.
- (4) A wetland function and condition assessment of mapped wetlands must be conducted as part of the LWI using the *Oregon Freshwater Wetland Assessment Methodology (OFWAM)* published by the Department in 1996. An equivalent functional assessment methodology may be used or adjustments may be made to OFWAM upon written approval by the Director. The assessment results are used to determine the relative quality (functions, values, and condition) of the mapped wetlands and to designate significant wetlands (OAR 141-086-0300 through 141-086-0350) as required for Goal 5, or to assess wetland functions and values for a WCP.
- (5) An LWI is used by the Department, other agencies and the public to help determine if wetlands or other waters are present on particular land parcels.
- (6) An LWI provides information for planning purposes on the location of potentially regulated wetlands and other waters such as lakes and streams, but is not of sufficient detail for permitting purposes under the state Removal-Fill Law (ORS 196.800 through 196.990). Smaller wetlands may not be mapped, and wetlands may be missed due to lack of onsite access, tree canopy cover and other constraints. A wetland delineation or determination report may be needed for parcels without LWI-mapped wetlands. A Department-approved wetland delineation report for wetlands identified in an LWI is usually needed prior to site development.
- (7) All wetlands inventory procedures and products are subject to review and approval by the Department before the products:
  - (a) Are incorporated into the SWI;
  - (b) Can be used in lieu of the NWI for Wetland Land Use Notification purposes; or
  - (c) Can be used by a city or county for Goal 5, Goal 17 or WCP purposes.

APP 2015-0001/APP 2015-002  
BSD HIGH SCHOOL  
SOUTH COOPER MOUNTAIN

# EXHIBIT 6

## OVERARCHING POLICIES OF THE SCMCP

# From South Cooper Mountain Community Plan

## \* Overarching Policies

1. Implement the Concept Plan. Implement the South Cooper Mountain Concept Plan in a comprehensive and proactive manner, through the: Comprehensive Plan; Development Code; land use reviews; infrastructure planning; natural resource planning; coordination with service providers; capital improvement planning; community involvement, and other means as needed.
2. Create Beaverton's next great community. Create a community that is walkable, family-friendly, livable, and includes quality neighborhoods, great green spaces, community focal points, a Main Street, and well-designed development.
3. Create a sustainable community. Create a community that meets the needs of Beaverton and the South Cooper Mountain area today and tomorrow, while minimizing negative environmental, social, and economic impacts. Support low-carbon economies and lifestyles, energy efficiency and security, health and well-being, and ecosystem stewardship; and enable future residents and the broader community to meet their own needs.
4. Implement a realistic funding plan for infrastructure. Work closely with the public and private sector to implement the SCM Infrastructure Funding Plan. Coordinate with Tigard, Washington County, and all service providers to plan, fund and deliver the infrastructure needed to implement community plans on South Cooper Mountain.
5. Provide housing choices. Provide a variety of housing types and densities to provide options for a range of income levels. Provide housing choices consistent with the overall housing needs of Beaverton.
6. Provide transportation options. Provide a well-connected transportation network that promotes options for all modes of travel, and encourages walking, biking and future transit service. Address north-south, east-west, and other regional travel issues in coordination with neighboring cities, Washington County, Metro, Tri-Met and Oregon Department of Transportation.
7. Provide appropriate protection, enhancement and access to Cooper Mountain's natural resources and public lands. Avoid and minimize impacts, protect key natural resources, and design new growth so that it is integrated with natural areas and other open spaces. Provide appropriately located access to natural areas and open space.
8. Coordinate with regional requirements and plans. Coordinate with Metro, Washington County, Tigard and other governments regarding Urban Growth Boundary expansion areas and Urban Reserves. Coordinate transportation planning with the 2035 Regional Transportation Plan and Regional Transportation Functional Plan. Promote connections from South Cooper Mountain to the area's regional trails and green spaces.
9. Coordinate with other planning in the area. Coordinate with the River Terrace and South Hillsboro Community Plans. Coordinate with planning for regional water facilities. As additional planning projects in the area are identified, provide information and promote coordination with the South Cooper Mountain Concept Plan.
10. Ensure that the plan complements existing neighborhoods and commercial areas so that South Cooper Mountain is a part of greater Beaverton.
11. Plan new civic uses so they are focal points for the community. Ensure schools, parks and other civic uses are centers of community activity. Integrate the planned new high school with neighborhoods and other development within the plan.
12. Promote compatibility with adjacent rural areas. Promote compatibility between urban uses and agricultural/forestry uses outside the Urban Growth Boundary.

APP 2015-0001/APP 2015-002  
BSD HIGH SCHOOL  
SOUTH COOPER MOUNTAIN

# EXHIBIT 7

WRITTEN PUBLIC COMMENTS  
RECEIVED IN RESPONSE TO  
NOTICE OF APPEAL RECEIVED  
BY AUGUST 4, 2015



RECEIVED

JUL 28 2015

City of Beaverton  
Planning Section

July 28, 2015

Mayor Denny Doyle, Mayor  
Beaverton City Council  
12725 SW Millikan Way  
PO Box 4755  
Beaverton, OR 97076

Mayor Doyle and City Council,

**Staff**

Mike Houck, Executive Director

**Officers**

M J Cody, Chair

Goody Cable, Vice-chair

Bob Wilson, Secretary/Treasurer

**Board**

Mike Faha

Steffeni Mendoza Gray

Mel Huie

Tom Liptan

Janet Oliver

Kelly Puntenev

Jim Rapp

Ruth Roth

Judy BlueHorse Skelton

**Advisory Board**

Bill Blosser,  
Bill Blosser Consulting

Janet Cobb,  
California Oak Foundation

Patrick Condon,  
University of British Columbia

John Fregonese, President,  
Fregonese Associates, Inc.

Randy Gragg, Editor, Portland  
Spaces Magazine,

Dan Heagerty, Sr. VP/Strategic  
Officer, David Evans Enterprises

Steve Johnson, Public  
Involvement Consultant

Charles Jordan,  
The Conservation Fund

Jon Kusler, Association of  
Wetland Managers

Peg Malloy, Director,  
Portland Housing Center

Dr. Rud Platt, Ecological Cities  
Project

Dr. Joseph Poracsky  
PSU Geography

Rodolpho Ramina, Sustainability  
Consultant, Curitiba, Brazil

Ann Riley, California Department  
of Water Resources

Geoff Roach, Oregon Field  
Director, Trust For Public Land

Jennifer Thompson,  
U. S. Fish and Wildlife Service

Paddy Tillett, Architect, ZGF,  
Portland

Ethan Seltzer, Director, PSU  
School of Urban Studies and  
Planning

David Yamashita,  
Senior Planner, Long Range Planning,  
Maui, Hawaii

Dr. Alan Yeakley, PSU  
Environmental Sciences and  
Resources

Lynn Youngbar, Organizational  
Development Consultant

I am writing on behalf of the Urban Greenspaces Institute in regard to South Cooper Mountain High School proposed wetland fill. Having conducted the City of Beaverton's first Goal 5 inventory in 1984, I have a longstanding interest in the city's role in protecting natural resources, including wetlands. Cooper Mountain's natural resources, including wetlands, are of regional significance, hence Metro's acquisition there. In order for Beaverton south Cooper Mountain in a responsible and environmentally sensitive manner which was addressed in the South Cooper Mountain (SCM) Concept and Community Plans.

Approval by the Beaverton Planning Commission of filling of close to 3 acres of wetland violates both of those plans which were approved by City Council earlier this year. The Community Plan of the Local Wetland Inventory included the wetland on the north end of the high school. The wetland was assigned the "Highest Preservation Priority" and the Natural Resource Policy 1 of the South Cooper Mountain Community Plan states that "Locally significant wetlands and protected riparian corridors within the Community Plan area shall be protected and enhanced, consistent with local, state and federal regulations."

Alternatives to filling wetlands are readily available. The South Cooper Mountain Plan identified nearby sites suitable for school and park facilities that could accommodate athletic fields. Property adjacent to the high school site is already zoned for this use and would not require a conditional use permit. Please overturn the Conditional Use Permit for South Cooper Mountain High School and require that this wetland be protected and restored for the benefit of all.

Respectfully,

Mike Houck

July 28, 2015

RECEIVED  
JUL 29 2015  
City of Beaverton  
Planning Commission

Mayor Denny Doyle,  
Beaverton City Council 12725 SW Millikan Way  
PO Box 4755  
Beaverton, OR 97076  
Mayor Doyle and City Council,

Regarding the South Cooper Mountain High School proposed wetland fill, the South Cooper Mountain Concept and Community Plans provide guidance for wetlands protection. Approval by the Beaverton Planning Commission of filling nearly 3 acres of wetland violates both of those plans which were approved by City Council earlier this past May. Note that the Community Plan of the Local Wetland Inventory included the wetland on the north end of the high school. The wetland was assigned the "Highest Preservation Priority" and the Natural Resource Policy 1 of the South Cooper Mountain Community Plan states that "Locally significant wetlands and protected riparian corridors within the Community Plan area shall be protected and enhanced, consistent with local, state and federal regulations." Alternatives remain available, with willing land owners looking to sell. By vote, Beaverton adopted the Comprehensive Plan Amendment that included the wetland in the Local Wetland Inventory. Overturn the Conditional Use Permit for South Cooper Mountain High School and require that this wetland be protected.

Respectfully,

Eric Squires

17172 SW Rider Lane  
Aloha Oregon 97007-8581



Scott Whyte

*Received via email/ Address requested SW*

RECEIVED

**From:** Rick Kappler <rickk@sunsetforest.com>  
**Sent:** Wednesday, July 29, 2015 3:23 PM  
**To:** Mailbox Citymail  
**Cc:** Scott Whyte  
**Subject:** Destroying Cooper Mountain Wetland for a plastic turf sports field

JUL 29 2015

City of Beaverton  
Planning Services

Dear Beaverton,

Regarding the new high school in Beaverton by South Cooper Mountain, you need to know the truth:

Wetlands provide many ecological benefits such as pollutant removal, flood protection, ground water discharge, recreational areas, and support of natural resources.

Beaverton City Council added this significant wetland to the Local Wetland Inventory on February 3, 2015 with Ordinance 4651.

Alternatives locations for athletic fields are readily available. The Cooper Mountain Community plan identified nearby sites suitable for parks and schools that would be great for athletic fields.

A wetland next to a high school is a tremendous educational facility.

Another alternative is available for athletic fields adjacent to the High School. The property directly west of the school site has a willing seller and is zoned appropriately so that no Conditional Use Permit is required.

The South Cooper Mountain Concept Plan assigned this wetland the **Highest Preservation Priority**. Beaverton City Council approved this plan.

“The Beaverton Comprehensive plan (7.3.3.1(a)) requires that “Significant Wetlands in the Local Wetland Inventory shall be protected for their filtration, flood control, wildlife habitat, natural vegetation and other water resource values.”

The Beaverton Comprehensive Plan (8.2.1(a)) requires that “All water resources within the City shall be enhanced, restored or protected to the extent practicable.”

Policy 1 of the South Cooper Mountain Community Plan states “Locally significant wetlands and protected riparian corridors within the Community Plan area shall be protected and enhanced, consistent with local, state and federal regulations.”

Wetlands filter, clean, store and cool water, acting like the kidneys for our waterways.

The Cooper Mountain Concept Plan recognizes the great potential for this degraded wetland to be restored.

According to the EPA, Wetlands contribute to the national and local economies by producing resources, enabling recreational activities and providing other benefits, such as pollution control and flood protection.

Preservation of wild spaces makes our city more livable.

Locally, partners including Clean Water Services, Tualatin Riverkeepers, Metro, Tualatin Hills Parks and Recreation District, Oregon Watershed Enhancement Board and the US Fish and Wildlife Service have tremendous success stories at restoring degraded wetlands.

Please overturn the Conditional Use Permit for South Cooper Mountain High School and require that this wetland be protected and restored for the benefit of all.

Rick Kappler

## Scott Whyte

---

**From:** Scott Whyte  
**Sent:** Thursday, July 30, 2015 7:37 AM  
**To:** 'Mandy'  
**Subject:** RE: Protect Wetlands at South Cooper Mountain High School

Mandy: Received. Your e-mail will be part of documents that the Council considers. Mailing address is appreciated if you would like to receive copy of the written decision.

Thank you,

Scott Whyte  
Senior Planner  
City of Beaverton  
(503)526-2652



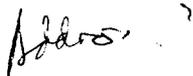
-----Original Message-----

**From:** Mandy [mailto:aaird80@gmail.com]  
**Sent:** Wednesday, July 29, 2015 6:55 PM  
**To:** Mailbox Citymail <citymail@beavertonoregon.gov>  
**Cc:** Scott Whyte <swhyte@beavertonoregon.gov>  
**Subject:** Protect Wetlands at South Cooper Mountain High School

Please do not allow the filling of wetland property for sports fields! Evidence is showing that mitigated wetlands DO NOT have the same ecological value as natural wetlands. The property is part of a school, use it for education, teach students about the important role wetlands play in cleaning water and providing habitat for the creatures dependent on them.

Sincerely,  
Amanda Aird

Sent from my iPhone



**Scott Whyte**

---

**From:** Scott Whyte  
**Sent:** Thursday, July 30, 2015 7:39 AM  
**To:** 'cockatoodowns@gmail.com'  
**Subject:** RE: Protect Wetlands at South Cooper Mountain High School

Chris: Received. Your e-mail will be part of documents that the Council considers. Mailing address is appreciated if you would like to receive copy of the written decision.

Thank you,

Scott Whyte  
Senior Planner  
City of Beaverton  
(503)526-2652



**From:** Chris Shank [mailto:cockatoodowns@gmail.com]  
**Sent:** Wednesday, July 29, 2015 7:19 PM  
**To:** Mailbox Citymail <citymail@beavertonoregon.gov>  
**Cc:** Scott Whyte <swhyte@beavertonoregon.gov>  
**Subject:** Protect Wetlands at South Cooper Mountain High School

Please protect the wetlands at So. Cooper Mtn. High School. Wetlands are incredibly important for the sustainability of the environment.

Sincerely,

--  
Chris Shank  
Dallas, OR  
<http://cockatoodowns.com>

*Address:*

15365 May Road  
Dallas, OR 97338

## Scott Whyte

---

**From:** Scott Whyte  
**Sent:** Thursday, July 30, 2015 7:36 AM  
**To:** 'Mark Wheeler'  
**Subject:** RE: Protect Wetlands at South Cooper Mountain High School

Mark: Received. Your e-mail will be part of documents that the Council considers. Mailing address is appreciated if you would like to receive copy of the written decision.

Thank you,

Scott Whyte  
Senior Planner  
City of Beaverton  
(503)526-2652

X

-----Original Message-----

From: Mark Wheeler [mailto:mark@rootsrealty.com]  
Sent: Wednesday, July 29, 2015 5:44 PM  
To: Mailbox Citymail <citymail@beavertonoregon.gov>  
Cc: Scott Whyte <swhyte@beavertonoregon.gov>  
Subject: Protect Wetlands at South Cooper Mountain High School

Thank you.

Mark Wheeler  
Roots Realty  
503-819-5336  
Principal Broker Licensed in Oregon

Address?

**Scott Whyte**

---

Handwritten notes and stamps in the top right corner, including "JUL 30 2015" and some illegible text.

**From:** Scott Whyte  
**Sent:** Thursday, July 30, 2015 7:34 AM  
**To:** 'amylynnparra.'  
**Subject:** RE: Protect Wetlands at South Cooper Mountain High School

Amy. Received. Your e-mail will be part of documents that the Council considers. Mailing address is appreciated if you would like to receive copy of the written decision.

Thank you,

Scott Whyte  
Senior Planner  
City of Beaverton  
(503)526-2652



**From:** amylynnparra . [mailto:amylynnparra@gmail.com]  
**Sent:** Wednesday, July 29, 2015 5:06 PM  
**To:** Mailbox Citymail <citymail@beavertonoregon.gov>  
**Cc:** Scott Whyte <swhyte@beavertonoregon.gov>  
**Subject:** Protect Wetlands at South Cooper Mountain High School

As an educator and concerned citizen I add my voice to the concern over filling in the wetlands at the South Cooper Mountain High School site. Wetlands are integral to the ecosystem and the ecosystem services provided to us.

Please reconsider.

~Amy Parra  
Beaverton School District educator

*Address?*

**Scott Whyte**

**From:** Scott Whyte  
**Sent:** Thursday, July 30, 2015 7:30 AM  
**To:** 'Sherry Larson'  
**Subject:** RE: Protect Wetlands at South Cooper Mountain High School

7/30/2015  
JUL 30 11:11  
City of Beaverton  
Digital Services

Sherry. Received. Your e-mail will be part of documents that the Council considers. Mailing address is appreciated if you would like to receive copy of the written decision.

Thank you,

Scott Whyte  
Senior Planner  
City of Beaverton  
(503)526-2652

**From:** Sherry Larson [mailto:s.larson59@gmail.com]  
**Sent:** Wednesday, July 29, 2015 5:06 PM  
**To:** Mailbox Citymail <citymail@beavertonoregon.gov>  
**Cc:** Scott Whyte <swhyte@beavertonoregon.gov>  
**Subject:** Protect Wetlands at South Cooper Mountain High School

I am sending this note urging Beaverton City Council to protect the wetland on the site of South Cooper Mountain High School. Approving a Conditional Use Permit allowing Beaverton School district to fill 3 acres of wetland assigned highest preservation priority violates the plan previously approved. Alternatives athletic sites are available. The proximity of a wetland to the high school would be a tremendous benefit to the students!

Sherry Larson

*Address*  
*Given in response to email*  
620 NW Lost Springs Terrace #404  
Portland, OR 97229

**Scott Whyte**

---

**From:** Kendal McDonald <kendal@aar-crm.com>  
**Sent:** Wednesday, July 29, 2015 5:00 PM  
**To:** Mailbox Citymail  
**Cc:** Scott Whyte  
**Subject:** Preserve the wetland at South Cooper Mountain HS

REC-111111  
JUL 29 2015  
City of Beaverton  
Planning Department

Dear City Council Members,

I urge you to preserve the three acres of wetland for the South Cooper Mountain HS and not fill them for sport fields. You just added this **Highest Preservation Priority** wetland to the Local Wetland Inventory on February 3, 2015.

Please keep the wetland along with the educational benefit it will provide for the high school students and the environment as a whole.

There are alternatives to the wetland location for the fields! Please place the sports fields elsewhere.

Kendal McDonald  
7720 SW Forsythia Pl.  
Beaverton, OR 97008

**Scott Whyte**

---

RECEIVED  
JUL 30 2015  
CITY OF BEAVERTON

**From:** Scott Whyte  
**Sent:** Thursday, July 30, 2015 7:23 AM  
**To:** 'Leann Bennett'  
**Subject:** RE: Protect Wetlands at South Cooper Mountain High School

Leann: Received. Your e-mail will be part of documents that the Council receives. Mailing address is appreciated if you would like to receive copy of the written decision.

Thank you,

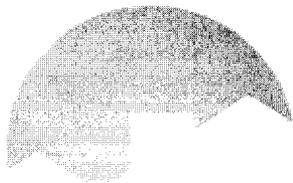
Scott Whyte  
Senior Planner  
(503)526-2652

**From:** Leann Bennett [mailto:leannrbennett@gmail.com]  
**Sent:** Wednesday, July 29, 2015 4:49 PM  
**To:** Mailbox Citymail <citymail@beavertonoregon.gov>  
**Cc:** Scott Whyte <swhyte@beavertonoregon.gov>  
**Subject:** Protect Wetlands at South Cooper Mountain High School

Please protect the wetland near the new school. Wetlands are vital to a healthy ecosystem. Wetlands are vital to wildlife. Wetlands are shrinking at an alarming rate. Mitigating or moving an existing wetland does not provide the level of current environmental quality that the existing wetland provides.

Thank you for your time and consideration.

Leann Bennett. Principal Broker  
Metro-West Realty  
[leannrbennett@gmail.com](mailto:leannrbennett@gmail.com)  
503-504-6772 cell 503-692-3050 office



**METRO WEST**  
REALTY

Address?

## Scott Whyte

---

**From:** Scott Whyte  
**Sent:** Thursday, July 30, 2015 7:44 AM  
**To:** 'Alissa C'  
**Subject:** RE: Please overturn the South Cooper Mountain H.S. Conditional Use Permit

Alissa: Received. Your e-mail will be part of documents that the Council considers. Mailing address is appreciated if you would like to receive copy of the written decision.

Thank you,

Scott Whyte  
Senior Planner  
City of Beaverton  
(503)526-2652



**From:** Alissa C [mailto:alissabeth@live.com]  
**Sent:** Wednesday, July 29, 2015 9:50 PM  
**To:** Mailbox Citymail <citymail@beavertonoregon.gov>  
**Cc:** Scott Whyte <swhyte@beavertonoregon.gov>  
**Subject:** Please overturn the South Cooper Mountain H.S. Conditional Use Permit  
**Importance:** High

Dear Beaverton City Council,

I'm writing to urge you to overturn the South Cooper Mountain High School Conditional Use Permit and protect the wetland on the site.

My husband, 1 year old daughter, and I live less than a mile from the planned South Cooper Mountain High School. We have owned our home in this area for over nine years. We are zoned for Beaverton School District, and even though the attendance boundaries haven't been set for the new high school there's a good probability that my daughter will be zoned for the new high school. Not only do the wetlands provide many ecological benefits (such as pollutant removal, flood protection, ground water discharge, recreational areas, and support of natural resources), but **preserving the wetland next to the High School offers tremendous educational benefits**. I sincerely hope that the wetland is preserved for my daughter and all the children that will be attending that high school.

The South Cooper Mountain Concept Plan assigned **this wetland the Highest Preservation Priority**, and the Beaverton City Council approved this plan. Policy 1 of the South Cooper Mountain Community Plan states "Locally significant wetlands and protected riparian corridors within the Community Plan area shall be protected and enhanced, consistent with local, state and federal regulations." The Cooper Mountain Concept Plan recognizes the great potential for this degraded wetland to be restored. Additionally the Beaverton Comprehensive plan (7.3.3.1(a)) requires that "Significant Wetlands in the Local Wetland Inventory shall be protected for their filtration, flood control, wildlife habitat, natural vegetation and other water resource values", and the Beaverton Comprehensive Plan (8.2.1(a)) requires that "All water resources within the City shall be enhanced, restored or protected to the extent practicable."

Destroying these wetlands to create athletic fields is not the only option. A healthier alternative is available adjacent to the High School. The property directly west of the school site has a willing seller and is zoned appropriately so that no Conditional Use Permit is required.

I urge you to protect these wetlands. Please use your conscience and overturn the Conditional Use Permit for South Cooper Mountain High School and require that this wetland be protected and restored for the benefit of all, especially our future generations.

Sincerely,  
Alissa Cattone

Address?

Response:

16240 SW Snapdragon Lane  
Tigard, OR 97223

## Scott Whyte

---

**From:** Cathy Jansen  
**Sent:** Thursday, July 30, 2015 8:47 AM  
**To:** Scott Whyte  
**Subject:** FW: South Cooper Mountain High School

**Importance:** High

For the record

**From:** Mailbox Mayor Mail  
**Sent:** Thursday, July 30, 2015 8:04 AM  
**To:** Cathy Jansen <cjansen@beavertonoregon.gov>  
**Subject:** FW: South Cooper Mountain High School

  
**From:** [gude6@comcast.net](mailto:gude6@comcast.net) [mailto:[gude6@comcast.net](mailto:gude6@comcast.net)]  
**Sent:** Wednesday, July 29, 2015 8:28 PM  
**To:** Mailbox Mayor Mail <[mailboxmayormail@beavertonoregon.gov](mailto:mailboxmayormail@beavertonoregon.gov)>  
**Cc:** Mailbox Citymail <[citymail@beavertonoregon.gov](mailto:citymail@beavertonoregon.gov)>  
**Subject:** South Cooper Mountain High School

RECEIVED  
JUL 30 2015  
City of Beaverton  
Planning Division

Dear Mayor Doyle,

I wanted to take the time to personally weigh in on the Tualatin River Wetland issue. Reduction of wetlands over the years is part of why the current problem with our river exists. The Tualatin River needs wetlands to purify it's waters and feed it's wildlife.

The plan to fill in the wetland at the north end of the South Cooper Mountain High School construction site is not only morally wrong, it is also against Beaverton's Comprehensive Plan and the City-approved South Cooper Mountain Concept Plan; and it defeats the property's Local Wetland Inventory status.

This is one Conditional Use Permit that never should have been issued. There is a better way to deal with this land. Please retract the C.U.P. immediately. Doing so will reflect well on you and the City.

Thank you,

Nancy Gudekunst  
10220 SW Hoodview Dr.  
Tigard, Oregon 97224

July 27, 2015

City of Beaverton  
Planning Division  
12725 SW Millikan Way  
Beaverton, OR 97076

RECEIVED

JUL 30 2015

City of Beaverton  
Planning Division

Please include the attached de novo appeal for the hearing regarding the South Cooper Mountain High School issue scheduled for August 18<sup>th</sup>, 2015.

Respectfully Submitted,



John Nichols  
17610 SW Outlook Lane  
Beaverton, OR 97005

(503)590-3541

**MEMORANDUM**

Date: July 24, 2015  
To: Beaverton City Council  
From: John Nichols, a Cooper Mountain Resident  
Re: de novo appeal - South Cooper Mountain High School - Wetlands Issue

When a body of elected officials makes a collective decision that goes against scientific evidence, the will of the public, and common sense - I become alarmed.

I become suspicious of motive. I wonder if the individuals of the Council have actually studied the pros and cons.

I lose faith in the process.

The "... conditional use ..." of 2.5 acres of proven wetlands is not conditional. Once it's developed, it's developed forever. Wetlands cannot be rebuilt.

I urge the Members of the Council to study the science, balance the wishes of the appellants with public comment, consider the long-term environmental consequences, and the legacy that the Council will scar the land with.

Respectfully submitted,

John Nichols

## Scott Whyte

---

**From:** Scott Whyte  
**Sent:** Thursday, July 30, 2015 1:27 PM  
**To:** 'June Reynolds'  
**Subject:** RE: Protect Wetlands at South Cooper Mountain High School

June: Received. Your e-mail will be part of documents that the Council considers. Mailing address is appreciated if you would like to receive copy of the written decision.

Thank you,

Scott Whyte  
Senior Planner  
City of Beaverton  
(503)526-2652



RECEIVED  
JUL 30 2015  
CITY OF BEAVERTON  
PLANNING DEPARTMENT

**From:** June Reynolds [mailto:lilly\_media@yahoo.com]  
**Sent:** Thursday, July 30, 2015 1:06 PM  
**To:** Mailbox Citymail <citymail@beavertonoregon.gov>  
**Cc:** Scott Whyte <swhyte@beavertonoregon.gov>  
**Subject:** Protect Wetlands at South Cooper Mountain High School

The mystery is solved about where the High School is going, thanks to the Tualatin Riverkeepers. I am sure that many people are un aware about the wetlands along the river. They act like a sponge to keep volumes of water from flooding the river and low fields. I have been observing this for 60 years and have seen massive flooding in the past. Filling in the wetland is not a good idea. Where oh where did land use planning go? Are they serving Big Development now???

June Reynolds

Address?

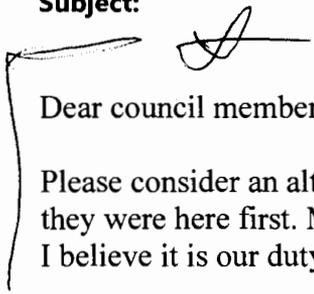
**Scott Whyte**

---

RECEIVED

**From:** Susan McFadden <suemcf@gmail.com>  
**Sent:** Thursday, July 30, 2015 10:21 PM  
**To:** Mailbox Citymail  
**Cc:** Scott Whyte  
**Subject:** Protect Wetlands at South Cooper Mountain High School

7/30/2015  
10:21 AM  
MAILBOX CITYMAIL



Dear council members,

Please consider an alternate site for the South Cooper Mountain athletic fields. We are the beaver state, because they were here first. Many of our wetlands have been filled in, and many of the beavers have moved away, but I believe it is our duty to protect the wetlands that remain.

Thank you for your consideration.

Sue McFadden, 9445 SW 171st Ave, Beaverton.

**Scott Whyte**

---

**From:** Scott Whyte  
**Sent:** Friday, July 31, 2015 2:25 PM  
**To:** 'Liles and Naomi Garcia'  
**Subject:** RE: Preserving Wetlands On Northern End of New High School--from Liles Garcia

Liles: Received. Your e-mail will be part of documents that the Council considers. Mailing address is appreciated if you would like to receive copy of the written decision.

Thank you,

Scott Whyte  
Senior Planner  
City of Beaverton  
(503)526-2652



RECEIVED  
JUL 31 2015  
City of Beaverton  
City Council

-----Original Message-----

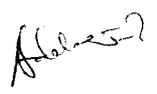
From: Liles and Naomi Garcia [mailto:landn2@frontier.com]  
Sent: Friday, July 31, 2015 1:28 PM  
To: Mailbox Citymail <citymail@beavertonoregon.gov>  
Cc: Scott Whyte <swhyte@beavertonoregon.gov>  
Subject: Preserving Wetlands On Northern End of New High School--from Liles Garcia

Good day Beaverton City Council,

I was a member of the Citizens' Advisory Committee for South Cooper Mountain, and I remember that we advised the City to preserve and restore wetlands. This concept was incorporated into the SCM Plan.

I urge your Council to preserve the wetlands on the north end of the New High School property. Please note that I am speaking for myself and not for any of the groups that I am a member of.

Best regards,  
Liles Garcia  
Chairman, CPO6  
landn2@frontier.com



July 28, 2015

Mayor Denny Doyle

Beaverton City Council  
12725 SW Millikan Way  
PO Box 4755  
Beaverton, OR 97076

RECEIVED

JUL 31 2015

City of Beaverton  
Planning Services

Mayor Doyle and City Council,

I am writing this testimony as a 25+ year resident of Cooper Mountain. I will leave the details of the wetlands laws to Mr. Wegener of Tualatin Riverkeepers and to Mr. Hunnicutt, who is representing the Bartholemy's. My objection to the approval to the fill-in of the wetlands for the new South Cooper Mountain High school is based on how we follow the ordinances already enacted. I am concerned regarding the decision by the Beaverton Planning Commission that the laws and the actions by the City of Beaverton should be, as one member of this Council has stated it, "open, fair and accountable" to everyone, equally.

There is an inconsistency in policy-setting direction and rulings thus far. The South Cooper Mountain Concept Plan and Community Plan (SCMCP) were accepted and approved in total by the Beaverton City Council and enacted as City Ordinance 4651. Now, with the very first development request, these plans are already being revisited, re-interpreted and meanings changed rather than being followed as the statement of law that the City Council has already passed. This leaves doubts for the ensuing requests for modification or re-interpretation of the Ordinance when they come from other potential developers.

On page 2 of the Planning Commission decision granting Conditional Approval of the High School application, CU2015-0003 Land Use Order, it is stated that the Concept and Community Plan Policies are not applicable because the subject property is not actually wetlands since it is not included in the Beaverton Local Wetlands Inventory (LWI). But, if everybody involved truly believed this before the whole Land Use application process began, then why did the applicant (Beaverton City School District), very likely under advice of wetlands consultants and/or Beaverton City Planners, apply for the permits to fill in wetlands in the first place? Actually, it would appear that the City of Beaverton had that answer in 2013 when they engaged their own consultants, David Evans and Associates. The report, titled "Local Wetlands Inventory," published that year stated that this area qualifies as a wetlands according to the guidelines of the Department of State Lands. The report states that this wetlands is of local significance. The mere act of applying for the fill-in permit is an acknowledgement of this area as a wetlands by all parties involved.

The above-mentioned "Local Wetlands Inventory" document, dated December 2013, published by a qualified environmental consultant hired by the city of Beaverton should be considered an instrument of the city and, despite any lack of technicalities regarding filing of paperwork, this has been documented as a wetlands in the South Cooper Mountain Community Plan's Comprehensive Plan Land Use Map Amendment. By the adoption of this SCMCP as Ordinance 4651, the City of Beaverton provides for protection of this wetlands as it stated "Significant Wetlands in the Local Wetland Inventory shall be protected for their filtration, flood control, wildlife habitat, natural vegetation and other water resource values."

In the Staff Report dated December 3, 2014 submitted to the Planning Commission where the City of Beaverton proposed the adoption of the South Cooper Mountain Community Plan for South Cooper Mountain Annexation Area, CPA2014-0011, CPA2014-00012 and TA2014-0002, the City Planners referenced this parcel of land as wetlands. This is yet another acknowledgement by the City Planners that this parcel is considered wetlands. In the application for R-1 zoning (ZMA2014-0008), it is also referred to as wetlands and states that the Local Wetlands Inventory documentation has been prepared.

In the R1-Zoning approval process, the City of Beaverton Planning Commission again acknowledged this parcel as a wetlands and still approved the Beaverton High School application, stating "... that the environmental impacts must be assessed by the applicant to demonstrate that the development will not impact the natural resources in the SCMAA and comply with the requirements in the SCM Community Plan."

Wetlands fill-in violates SCM Community Plan Natural Resource Policies. Per SCM Community Plan: *Locally significant wetlands and protected riparian corridors within the Community Plan area shall be protected and enhanced, consistent with local, state, and federal regulations.*

The Beaverton School District violates compliance with the R-1 Approval because they are impacting natural resources with this request to fill-in this wetland and remove it from the total Cooper Mountain natural resources inventory when there is a viable alternative site for the ballfields.

The SCM Community plan gives this wetland on the northern end of the site the "*highest preservation priority*". The SCM Community Plan specifically called out this particular wetland, W-A, as representative of one of the most significant areas to be protected:

"The two highest-quality natural areas within the Community Plan area are the central riparian/wetland area and the wetland area in the southeast corner of the plan area. These are shown in Figure 12 and described below.

**Central riparian/wetland area:** This area contains a diversity of native habitats, including wetland, riparian, and upland habitat. It contains the most intact stream within the Community Plan area; human disturbance throughout this resource area appears to be relatively minimal, with the exception of an existing dam (removal of which should be evaluated for feasibility and environmental impacts). The area is home to a diverse mix of vegetation and frequented by migratory birds. This area includes wetlands identified as W-A and W-C in the Local Wetlands Inventory (LWI) prepared for the Community Plan area, both of which were found to meet locally significant wetland criteria."

I have cited these many prior acknowledgments of these wetlands by City of Beaverton representatives because it is evident there was no single incident of oversight. It is clear, that leading up to the final CU2015-0003 Land Use Order by the Planning Commission, all parties had determined this was a wetlands and therefore, protected, as called out specifically in the SCM Plans and Ordinance 4651.

I have been championing equality for females in sports for more than 60 years but I have never compromised my values and I have never sacrificed the trust bestowed upon me at any time in an endeavor to move Title IX or any other cause forward. I request that you do not allow the trust bestowed upon the City of Beaverton Ordinance 4651, adopting the South Cooper Mountain Concept and Community Plans, to be sacrificed at this first test. I request that you do not allow the fill-in of wetlands A as a part of the conditional approval of the new SCM High School. When the applicant revised the school construction plans to expand into the wetlands, it was stated that the extra area was

needed to comply with Title IX. But the ballfields placed there are also practice football fields as well as for lacrosse not just the JV Softball field (the "matching TITLE IX-compliant" field). This multi-use field is in addition to the other ballfields in other areas of the campus. It also has been clearly demonstrated that there is a very proximate alternative site available to BSD for whatever amount of ballfields that the new high school might need without filling in the wetland.

At the time of this writing, the contractors, acting upon instructions from the applicants' representatives, and with the approval from the Planning Commission (TR2015-0001 and DR2015-0002) have just cleared 99+% of the trees on site, including 150 "community trees" demonstrating that no effort has been made to maintain tree canopy. We can hear the nesting hawks' painful shrieking above our home as these birds have been stripped of their cover. This wetlands is also on the documented wildlife corridor coming south from the Cooper Mountain Nature Park down to the Tualatin River.

With the clearing of all these trees and the potential wetlands fill-in, the SCM High School project has proceeded with consistent disregard for the R-1 zoning conditions as they relate to impact on natural resources. This demonstrates a disregard for the requirements in the SCM Community Plan – unless we are revisiting, re-interpreting and changing the meanings in the SCM Concept and Community Plans rather than following the Ordinance 4651 as the statement of law that the City Council has already passed. This is my case in point and the cause for concern for the citizens of Beaverton.

In conclusion, I'd like to mention that Clean Water Services has an excellent video on their website made in partnership with the Beaverton School District and I would strongly urge you to watch it. The website URL is: <https://www.youtube.com/user/CleanWaterServices>, and the video is titled, "Highland Park Middle School Swale." The Highland Park project was so uplifting for me to watch and I could only wish that the Beaverton School District would learn from this incredible experience. The students partnered with Clean Water Services to design and build a bio-swale on the school property and the enrichment results were incredible to watch. The final comment by one of the students was awesome. It is clear that here in the South Cooper Mountain project we have yet another lifelong learning lab opportunity for the students where they can also walk away and say, "Hey, I helped to build that." And the City of Beaverton has a pool of future leaders and long term contributors to the community. There is an enormous opportunity to do wetlands restoration and a learning lab immediately adjacent to the new high school. So why is the Beaverton School District not taking advantage of this opportunity in this case?

Thank you for your consideration of this very important subject,



Fran Warren  
17830 SW Outlook Ln  
Beaverton, OR 97007

**ATTACHMENT A: Background Information relevant to State and Federal Decisions**

**DECISIONS PENDING – US ARMY CORPS OF ENGINEERS – excerpt from the permit request website:**  
**“P/N NWP-2015-71, Beaverton School District, Wetlands in the City of Beaverton, Beaverton, Washington County, Oregon, (Section 6 of Township 2 South, Range 1 West) (UNCLASSIFIED)**

**Waterway:** The proposed project would impact Wetlands A and B on the property. Wetland A is a 3.33 acre palustrine, emergent, seasonally flooded / saturated wetland that continues off site to the west. Wetland B is a 0.16 acre palustrine, emergent wetland that also continues off site to the west.

**Project Description:** The proposed project will discharge 35 cubic yards of rock, sand, and gravel into wetland B, permanently impacting the 0.16 acre wetland to construct an entrance from SW Scholls Ferry Road to the parking lot. The project will also discharge 77,007 cubic yards of rock, sand, and gravel into wetland A, permanently impacting 2.52 acres of the wetland to construct a mixed-use athletic field. A retaining wall will be constructed in wetland A to avoid impacting 0.81 acre of Wetland A. The remaining portion of Wetland A will be enhanced with a total of 353 native trees and 1,764 shrubs, and the adjacent upland buffer areas will also be planted with a mix of native trees and shrubs.

**Endangered Species:** Preliminary determinations indicate that the described activity may affect an endangered or threatened species or its critical habitat. Consultation under Section 7 of the Endangered Species Act of 1973 (87 Stat. 844) will be initiated. A permit for the proposed activity will not be issued until the consultation process is completed.

**DECISIONS PENDING – DEPARTMENT OF STATE LANDS:**

Current Status: Technical Review

**Guidelines from DSL:**

**Explore alternatives to avoid and minimize impacts.** Applications for removal fill permits require demonstration that the activity is the practicable alternative with the least impact to wetlands or waterways. To do this, applicants must have a clear purpose and need, a set of project criteria and explore alternative sites, alternative designs and alternative construction methods to avoid and minimize impacts to meet the project objectives.

July 31, 2015

Mayor Denny Doyle  
Beaverton City Council  
12725 SW Millikan Way  
PO Box 4755  
Beaverton, OR 97076

RECEIVED  
JUL 31 2015  
City of Beaverton  
Planning Services

Mayor Doyle and City Council,

I am writing on behalf of the residents of Beaverton who participated in the Beaverton Visioning process with regard to South Cooper Mountain High School's proposed wetland fill. In my role as an original member of the Visioning Advisory Committee, I met and talked with numerous residents. This wetland fill decision is not in line with what Beaverton residents want. They communicated quite clearly how they want things to be done in Action #99.

*Enhance Livability: Action #99: "Open Space Conservation Program"*  
*Create an open-space and natural area preservation program to fund protection and enhancement of critical habitat areas.*

*Partner notes:*

*\*Include planning for local waterways, to educate and invoke the public in preservation and restoration.*

*\*Incorporate flood and storm water control solutions aimed at reducing the frequency of flooding of structures in or adjacent to the established floodplain.*

I hope that you can reflect on the spirit of this action item and overturn this decision. Preservation of wild spaces is critical to making our city more livable.

Sincerely,

Jolene Guptill  
Beaverton Resident  
Beaverton Visioning Advisory Committee 2009-20013

Address requested - S21  
12695 SW 12th  
Beaverton, OR 97005

**Scott Whyte**

---

**From:** Carol Randell <caroljrandell@gmail.com>  
**Sent:** Friday, July 31, 2015 4:52 PM  
**To:** Mailbox Citymail  
**Cc:** Scott Whyte  
**Subject:** Protect Wetlands at South Cooper Mountain High School

RECEIVED  
JUL 31 2015  
CITY OF BEAVERTON  
PLANNING COMMISSION

July 31, 2015

Attention Mayor Doyle and City Council Members:

Please overturn the South Cooper Mountain High School Conditional Use Permit and protect the wetland on the site. The Planning Commission violated their own policies when approving this permit. The following policies need to be adhered to and followed or we will end in protracted and costly litigation.

- Beaverton City Council added this significant wetland to the Local Wetland Inventory on February 3, 2015 with Ordinance 4651.
- The South Cooper Mountain Concept Plan assigned this wetland the **Highest Preservation Priority**. Beaverton City Council approved this plan.
- “The Beaverton Comprehensive plan (7.3.3.1(a)) requires that “Significant Wetlands in the Local Wetland Inventory shall be protected for their filtration, flood control, wildlife habitat, natural vegetation and other water resource values.”
- The Beaverton Comprehensive Plan (8.2.1(a)) requires that “All water resources within the City shall be enhanced, restored or protected to the extent practicable.”
- Policy 1 of the South Cooper Mountain Community Plan states “Locally significant wetlands and protected riparian corridors within the Community Plan area shall be protected and enhanced, consistent with **local**, state and federal regulations.
- The Planning Commission made a huge error when making this decision and needs to follow their own guidelines. Please overturn the Conditional Use Permit for South Cooper Mountain High School and require that this wetland be protected and restored for the benefit of all.

Sincerely,

Carol Randell  
8320 SW Maverick Terrace  
Beaverton, OR. 97008

[caroljrandell@gmail.com](mailto:caroljrandell@gmail.com)

**[Click to Send Email to Beaverton City Council](#)**

**Scott Whyte**

---

**From:** Catherine Carr <CatzTurn@aol.com>  
**Sent:** Saturday, August 01, 2015 10:58 AM  
**To:** Mailbox Citymail  
**Cc:** Scott Whyte; Scott Whyte  
**Subject:** Protect Wetlands at South Cooper Mountain High School

RECEIVED

AUG 04 2015

City of Beaverton  
Planning Services

Dear City Counsel members,

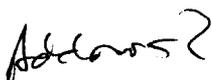
Please protect our Wetlands at South Cooper Mountain High School. There is very little area left for our animals to take refuge. And, this is a legacy for children to learn about wildlife and conservation.

I volunteer at the Tualatin River National Wildlife Refuge (Summer camp for kids, volunteer Naturalist and Rover of the land), being a steward of the Refuge, I am very concerned about the Urban Crawl that is happening. We all voted to limit the crawl before it hit Roy Rogers Road, years ago. I voted in good faith that this would be upheld.

This spring, our Refuge experienced serious water shortages for the migratory birds because we had no real winter. The farmers needed to drain their fields a month early which caused the refuge to drain a month early. This created a situation where thousands of birds were left without a resting spot, for breeding and nourishment during the height of migration. Birds don't know there won't be water or their regular breeding grounds dried up.

The wetlands are part of a system for migratory birds from Alaska to South America. We are part of four Federal North American Flyways, such systems Pacific (Beaverton - The Tualatin River Natural Wildlife Refuge and Cooper Mountain areas), The Central, The Mississippi, and Atlantic.

Regards,  
Catherine A. Carr  
Beaverton Resident  
Volunteer Naturalist at TRNWR Complex



**Scott Whyte**

RECEIVED

**From:** Lindsey Wise <lindsey@wiseidx.net>  
**Sent:** Monday, August 03, 2015 12:58 PM  
**To:** Mailbox Citymail  
**Cc:** Scott Whyte  
**Subject:** Protect Wetlands at South Cooper Mountain High School

AUG 03 2015

City of Beaverton  
Planning Services

Dear Beaverton City Council,

I am writing to ask that you overturn the South Cooper Mountain High School Conditional Use Permit and protect the wetland on the site.

While athletics are an important part of the high school experience, it is not acceptable to overrule our wetland protections in order to construct new athletic fields, particularly when other suitable locations are available nearby.

As the Metro area continues to develop and more and more people move here, it is even more important that we conserve and protect our important natural areas. Wetlands are key ecological sites that provide a wealth of benefits to plants, animals, and people.

Preserving these wetland will not only provide ecological benefits, but these wetlands will be a unique feature for the high school itself, providing educational opportunities along with the other benefits of being located next to a green space.

Thank you for your consideration,  
Lindsey Wise



**Scott Whyte**

RECEIVED

**From:** joyce phelps <phelpsjoyce@yahoo.com>  
**Sent:** Monday, August 03, 2015 10:26 AM  
**To:** Mailbox Citymail  
**Cc:** Scott Whyte  
**Subject:** Protect Wetlands at South Cooper Mountain High School

AUG 03 2015

City of Beaverton  
Planning Services

Hello,

I am writing you about my concerns building the high school off Scholl Ferry and Roy Rogers. There are wetlands in this area that need to be protected. In addition, the increased traffic will be a nightmare in the area. I realize that Scholl Ferry went through a LONG modification this past year, but I still want to air my concerns. Also, what is this going to do to our property taxes? I am extremely frustrated with the amount of levies, bonds and increase to our annual taxes. This needs to be looked at as the City is going to force us out of the city we love.

Thank you for listening to my complaint and hope you will consider these issues.

Joyce Phelps

A handwritten signature in black ink, appearing to read "Joyce Phelps" with a large, stylized flourish at the end.

APP 2015-0001/APP 2015-002  
BSD HIGH SCHOOL  
SOUTH COOPER MOUNTAIN

# EXHIBIT 8

## PLANNING COMMISSION MINUTES FROM MAY 27, JUNE 24 AND JULY 1, 2015 HEARINGS

1 **BEAVERTON PLANNING COMMISSION**  
2 **REGULAR MEETING**  
3 **MAY 27, 2015**

4  
5 **CALL TO ORDER:**  
6

7 The Regular Meeting of the Beaverton Planning Commission was called to order by Chair  
8 Mimi Doukas in The Beaverton Building City Council Chamber, 12725 SW Millikan Way,  
9 Beaverton, Oregon, On Wednesday, May 27, 2015, at 6:30 p.m.  
10

11 **ROLL CALL:**  
12

13 Present were Chair Mimi Doukas; Planning Commissioners Scott Winter, Jennifer Nye,  
14 Linda Wilson, Wendy Kroger, Dan Maks. Commissioner Kim Overhage was excused.  
15

16 Senior Planner Scott Whyte, AICP, Principal Planner Steve Sparks, Associate Planner Ken  
17 Rencher, Current Planning Manager Sandra Monsalve, City Attorney Peter Livingston,  
18 City Recorder Cathy Jansen and Recording Secretary Carmin Ruiz represented staff.  
19

20 **VISITORS:** None.  
21

22 **STAFF COMMUNICATION:**  
23

24 City Recorder Cathy Jansen introduced new Recording Secretary Carmin Ruiz.  
25

26 **NEW BUSINESS:**  
27

28 **PUBLIC HEARINGS:**  
29

30 **1. SOUTH COOPER MOUNTAIN HIGH SCHOOL**

- 31 a. CU2015-0003 – CONDITIONAL USE  
32 b. DR2015-0029 – DESIGN REVIEW  
33 c. LO2015-0004 – LAND DIVISION  
34 d. ADJ2015-0005 – MAJOR ADJUSTMENT  
35

36 Beaverton School District proposes to construct a new high school. At full enrollment,  
37 the proposed 320,000 square foot school building is designed to accommodate  
38 approximately 2,200 students and 200 staff. One vehicular access to the school is  
39 proposed from SW 175<sup>th</sup> Avenue and is intended for parents and students. Another  
40 vehicle access to the school is proposed from SW Scholls Ferry Road and is intended for  
41 buses and staff. Both vehicular access points are proposed to be signalized. The  
42 proposal includes several outdoor sports facilities and two parking lots that will provide  
43 a total of 550 parking spaces. The proposal also includes modification and  
44 enhancement of existing wetlands. The project site is located at the northwest corner

1 of SW Scholls Ferry Road and SW 175<sup>th</sup> Avenue, on Tax Lots 205 and 800 of Washington  
2 County Tax Assessor's Map 2S1-06.

3  
4 Chair Doukas opened the public hearing and read the format for hearings. There were  
5 no disqualifications of the Planning Commission members. No one in the audience  
6 challenged the right of any Commissioner to hear any of the agenda items, to  
7 participate in the hearing or requested that the hearing be postponed to a later date.  
8 Chair Doukas declared that her spouse works for the Angelo Planning Group which is the  
9 consulting team working with the school district. However, she was not the owner of  
10 the company. Chair Doukas stated this did not create conflict of interest or bias for her  
11 in deliberating on this item.

12  
13 No other commissioners declared conflicts of interest or ex-parte contacts.

14  
15 Site visits were conducted by Commissioners Wilson, Kroger, and Maks.

16  
17 The Chair briefly described the hearing process and applicable approval criteria for this  
18 proposal.

19  
20 **STAFF REPORT:** Scott Whyte Senior Planner, Ken Rencher Transportation Planner, Jabra  
21 Khasho Traffic Engineer, Wendy Prather Site Development Engineer (interim engineer),  
22 Principal Planner Steve Sparks, and Planning Manager Sandra Monsalvé participated in  
23 presenting the report and answering Commissioners' questions.

24  
25 Senior Planner Scott Whyte reviewed the application and staff report in detail (in the  
26 record) and added the following to the record:

- 27  
28 -Exhibit 9 – Public Testimony  
29 -Correspondence from Roger Stave dated May 27, 2015  
30 -Correspondence from the Tualatin Hills Park & Recreation District dated May  
31 27, 2015

32  
33 In the staff report, CUCOA-1 #9 – was corrected to read "not to exceed .5 lumineers".  
34 Staff recommendation was to approve the conditions as proposed in the staff report.

35  
36 Staff responded to Commissioners questions from the staff report covering various  
37 concerns including traffic, design and building on the wetland. (Note: Many concerns  
38 were noted with the proposed project which are summarized toward the end of this  
39 meeting.)

40  
41 **APPLICANT – Beaverton School District:**

42  
43 Representatives for the applicant were: Ron Porterfield with the Beaverton School  
44 District; Frank Angelo with Angelo Planning Group; Chris Linn with Boora Architects;

1 Peter Coffey with DKS; Janelle Brandon from Harper Hoff; Nathan Kappen – arborist;  
2 and John Van Staveren – wetland professional.

3  
4 The applicant’s representatives reviewed the location and design of the proposed  
5 project in detail. Their review covered the site layout, architectural design, and  
6 transportation. It was stated the applicant agreed with the staff recommendation. They  
7 responded to Commissioners questions.

8  
9 Chair Doukas opened the public testimony portion of the meeting.

10  
11 **PUBLIC TESTIMONY** – Testimony was received from:

- 12 1. Roger Henderson, Beaverton, South Cooper Mtn. resident, representing the 175<sup>th</sup>  
13 Neighborhood Association: asked that the Neighborhood Association be included in  
14 the City and County transportation planning issues for this project and area; stated  
15 they were not informed of any transportation planning prior to learning of this  
16 application yesterday from City Planner Ken Rencher.
- 17 2. Scott Brucker, Beaverton, Tualatin Hills Park & Recreation District (THPRD): Noted  
18 letter from THPRD General Manager Doug Menke submitted to the record. Asked  
19 that THPRD be allowed to work with the BSD on the 175<sup>th</sup> Avenue Trail. Expressed  
20 concern over limitation on hours of utilization of that field—for some tournament  
21 events, people have to arrive as early as 7:00 a.m. to setup equipment and events  
22 can run until 10:00 p.m.
- 23 3. Scott Edmonds, Beaverton, – adjacent property owner – Mr. Edmonds expressed  
24 concerns that regrading fencing along property line. Mr. Edmonds asked for a clear  
25 answer regarding property line delineation since there is some confusion to this  
26 issue. Mr. Edmonds expressed having agriculture equipment out on the property  
27 and wants to keep it well protected. Mr. Edmonds is also concerned about the  
28 proposed removal of trees on his property as they are used to contain his horses.  
29 Mr. Edmonds is asking that the sports fields not be used one day a week. He  
30 recommended switching faculty parking lot with ball field to keep it away from  
31 residential area. Proposes 6 foot fencing to go along property line preferably
- 32 4. Eric Squires, Aloha – Initial written testimony outlined concerns with wetlands. Mr.  
33 Squires is concerned that current land use was not being taken into consideration  
34 for design of the building. Mr. Squires feels that transit numbers should be  
35 considered for this project as a condition of occupancy. Requests that there be  
36 suitable options across the street for parking (example – Winkleman Park)
- 37 5. Tom Franklin, Portland – volunteer with BSD: Requested approval of the District’s  
38 application.
- 39 6. Fran Warren, Beaverton: Objected to building on the wetlands. Ms. Warren believed  
40 that building on the wetlands is in directly conflict with the South Cooper Mountain  
41 Community Plan.
- 42 7. Brian Wegener, Tualatin – Tualatin Riverkeepers – Mr. Wegener had a few  
43 corrections – local wetland inventory prepared by David Evans and Associates in  
44 2013 passed by City of Beaverton City Council as part of ordinance 46.51 signed by

1 the Mayor on February 4, 2015 shows they are in local wetland inventory. Mr.  
2 Wegener read from the findings in C7.3.3.1. Mr. Wegener stated that in the South  
3 Cooper Mountain Plan – Wetland A is given highest preservation priority and he is  
4 not sure why this information was not included in the staff report. Mr. Wegener  
5 said that there were many alternatives that have not been considered. Mr. Wegener  
6 asked that the Planning Commission include a condition to not impact Wetland A  
7 and that they put athletic fields elsewhere, taking into consideration Tualatin Hills  
8 Parks and Recreation district’s preferred park framework which outlines suitable  
9 sites which are within walking distance of the high school.

10 Mr. Wegener also touched on a comment that Mr. Van Staveren had mentioned  
11 that there was some kind of preference for mitigation banks from the Core of  
12 Engineers. He explained the difference between small and large wetlands and their  
13 sustainability and resilience. Wetland A is part of a larger 9 acre wetland which has  
14 potential to be a sustainable and resilient wetland and if it is taken out “cut-by-cut”  
15 then there is no support for the resilience. Mr. Wegener makes mention that the  
16 comment in the staff report that Wetland A is a degraded wetland are insignificant  
17 due to the fact that the South Cooper Mountain Plan identifies Wetland A by its  
18 potential not by its current status. Mr. Wegener brought up the comment made  
19 about the Planning commission not being able to protect the wetlands and it having  
20 to be done by the State and the Core or Engineers, he feels it is inconsistent with  
21 City rules.

22  
23 City Assistant City Attorney Peter Livingston commented with regard to protection of the  
24 wetlands and mentioned that although the state and federal government have the ultimate  
25 responsibility to protect wetlands, local government can also have their own restrictions  
26 protecting wetlands and they can become the basis for requiring something else.

27  
28 8. Attorney Dave Hunnicutt, Tigard King City, representing Ed and Kathy Bartholemy,  
29 asked that the record be kept open until boundary adjustment occurs between  
30 Beaverton and Hillsboro school district get resolved. Mr. Hunnicutt mentioned that  
31 as it stands now 240 acres are in the Hillsboro School District and those residents  
32 will not be able to benefit from the school or amenities due to the boundary  
33 adjustment issues. The second issue for the Bartholemy’s is the collector street and  
34 the amount of times it will take to design the collector street. Mr. Hunnicut made  
35 reference to the development code 40.03 sub 1a and 1g and 60.55.24 sub 4 with  
36 regards to the collector street. Mr. Hunnicut recommends that the application not  
37 be approved until collector street location is defined. Mr. Hunnicut asked that  
38 record be kept open under ORS 197.763 for 14 days, statute only requires 7 days  
39

40 9. Don Hanson, Portland – OTAK – was there on behalf of West Hills neighborhood  
41 development who supported the application.  
42

43 Principal Planner Steven Sparks asked that due to the length of this meeting, the public  
44 hearing be continued to a future meeting. Chair Doukas declared a recess to give staff

1 time to consult with the applicant to determine when this item could be brought back to  
2 the Commission.

3  
4  
5 **APPLICANT'S REBUTTAL**

6  
7 Applicant deferred their rebuttal to when this item would be brought back to the  
8 Commission. With written testimony coming in within 7 days so the applicant has time  
9 to review and respond.

10  
11 Commission recessed from 10:32 pm to 10:37 pm

12  
13 Mr. Sparks explained the applicant was willing to continue the hearing to the Planning  
14 Commission meeting of June 24, 2015. The record will be held open for additional  
15 written testimony until the end of the day, Wednesday, June 3, 2015.

16  
17 Mr. Sparks requested that the applicant's team respond to the list of issues raised and  
18 deliver that response and packet of information to City staff by the end of the day,  
19 Wednesday, June 10, 2015. This allows one week for staff to review and prepare a new  
20 staff report by June 17 for the continued public hearing on June 24.

21  
22 The public testimony portion of the public hearing was closed.

23  
24 The Planning Commission and staff asked that the applicant address the concerns that  
25 were raised by the commissioners and the public during earlier discussion at this  
26 meeting. Concerns raised were:

- 27  
28
- 29 • A massing and lack of articulation
  - 30 • Wetland and mitigation concerns
  - 31 • Arborist's Attachment 2 is needed
  - 32 • LED lighting step up and step down
  - 33 • Covered bike parking
  - 34 • Fencing for Mr. Edmonds
  - 35 • Circulation for one-way and confirmation that it is a one-way issue
  - 36 • Portion is missing from Appendix Q
  - 37 • Definition of overlapping parking numbers where small section of student  
parking lot is issue for fire safety
  - 38 • Clarifications on hours of operation for sporting events
  - 39 • Why so many fields
  - 40 • Avoidance question
  - 41 • Coordination on THPRD trails
  - 42 • Mr. Bartholomy's concerns
  - 43 • What schools are at what capacity right now

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- Where are they pulling students from
- Comments on questions Mr. Edmond’s made to their wetlands
- Response to small drainage issue
- Attorney’s take on boundary exchange and how it ties to SCM plan
- Attorney’s opinion on Comprehensive Plan Chapter 7 wetland piece; protection fencing – not having fencing around wetland and what is the impact if Commission does not allow building on the wetland; and having a twelve foot-wide versus ten foot-wide trail.
- Staff input on THPRD and BSD Trail – condition of approval
- Clarification on SDC’s

Commissioner Wilson MOVED, SECONDED by Commissioner Maks, to continue this public hearing on CU2015-0003 DR2015-0029, LD2015-0004, ADJ2015-0005 – South Cooper Mountain High School, to June 24, 2015, at 6:30 p.m. Motion CARRIED 6:0

**AYES:** Wilson, Nye, Maks, Kroger, Winter, and Doukas.  
**NAYS:** None.  
**ABSTAIN:** None.  
**EXCUSED:** Commissioner Overhage.

**MISCELLANEOUS BUSINESS:** None.

The meeting adjourned at 11:20 p.m.

Respectfully submitted,

Carmin Ruiz, Recording Secretary

1 **BEAVERTON PLANNING COMMISSION**  
2 **REGULAR MEETING**  
3 **JUNE 24, 2015**

4  
5 **CALL TO ORDER:**  
6

7 The Regular Meeting of the Beaverton Planning Commission was called to order by Chair  
8 Mimi Doukas in The Beaverton Building City Council Chamber, 12725 SW Millikan Way,  
9 Beaverton, Oregon, On Wednesday, June 24, 2015, at 6:30 p.m.  
10

11 **ROLL CALL:**  
12

13 Present were Chair Mimi Doukas; Planning Commissioners Scott Winter, Jennifer Nye,  
14 Linda Wilson, Wendy Kroger, Kim Overhage, Dan Maks.  
15

16 Senior Planner Scott Whyte, AICP, Principal Planner Steve Sparks, Associate Planner Ken  
17 Rencher, Current Planning Manager Sandra Monsalve, City Attorney Peter Livingston,  
18 City Recorder Cathy Jansen and Recording Secretary Carmin Ruiz represented staff.  
19

20 **VISITORS:** None.  
21

22 **STAFF COMMUNICATION:** None.  
23

24 **OLD BUSINESS:**  
25

26 **PUBLIC HEARINGS:**  
27

28 **1. SOUTH COOPER MOUNTAIN HIGH SCHOOL:**

- 29 a. CU2015-0003 – CONDITIONAL USE  
30 b. DR2015-0029 – DESIGN REVIEW  
31 c. LO2015-0004 – LAND DIVISION  
32 d. ADJ2015-0005 – MAJOR ADJUSTMENT  
33

34 Beaverton School District proposes to construct a new high school. At full enrollment,  
35 the proposed 320,000 square foot school building is designed to accommodate  
36 approximately 2,200 students and 200 staff. One vehicular access to the school is  
37 proposed from SW 175<sup>th</sup> Avenue and is intended for parents and students. Another  
38 vehicle access to the school is proposed from SW Scholls Ferry Road and is intended for  
39 buses and staff. Both vehicular access points are proposed to be signalized. The  
40 proposal includes several outdoor sports facilities and two parking lots that will provide  
41 a total of 550 parking spaces. The proposal also includes modification and  
42 enhancement of existing wetlands. The project site is located at the northwest corner  
43 of SW Scholls Ferry Road and SW 175<sup>th</sup> Avenue, on Tax Lots 205 and 800 of Washington  
44 County Tax Assessor's Map 2S1-06.

1  
2 Chair Doukas opened the public hearing which was continued from the meeting of May  
3 27, 2015, and read the format for hearings. There were no disqualifications of the  
4 Planning Commission members. No one in the audience challenged the right of any  
5 Commissioner to hear any of the agenda items, to participate in the hearing or  
6 requested that the hearing be postponed to a later date.

7  
8 Chair Doukas declared that her spouse works for the Angelo Planning Group, the  
9 consulting team working with the Beaverton School District (BSD); however, she was not  
10 the owner of the company. Chair Doukas stated this did not create a conflict of interest  
11 or bias for her in deliberating on this item.

12  
13 Commissioner Overhage stated she was the outgoing chair for the BSD Budget  
14 Committee but had no conflict of interest in considering this item. She also conducted a  
15 site visit.

16  
17 Commissioner Maks, Wilson and Kroger stated they received ex-parte contact through  
18 an email that they were all copied on by another commissioner; there was no  
19 conversation, the e-mail was asking staff questions in preparation for this meeting and  
20 was part of the record.

21  
22 No other commissioners declared conflicts of interest or ex-parte contacts.

23  
24 The Chair briefly described the hearing process and applicable approval criteria for this  
25 proposal.

26  
27 **STAFF REPORT:** Scott Whyte Senior Planner, Jabra Khasho Traffic Engineer.

28  
29 Senior Planner Scott Whyte reviewed the application and staff report in detail (in the  
30 record) and added the following to the record:

- 31  
32 -Memorandum from Senior Planner, Scott Whyte, dated June 12, 2015, which  
33 identified testimony received from May 27, 2015 to June 3, 2015  
34 -Letter from Leslie Imes, BSD, dated June 10, 2015  
35 -Memorandum – staff and applicant response dated June 17, 2015  
36 -Letter from David Hunnicut dated June 24, 2015  
37 -Tualatin Hills Park and Recreation District (THPRD) dated June 16, 2015 – Letter  
38 regarding hours of operation and 12-foot wide improvement for trail  
39 -Memorandum from Buff Brown and Susan Shanks, City of Tigard, dated June 24,  
40 2015, in which Tigard proposed conditions of approval (addressed by staff in the  
41 following staff report).  
42  
43

1 Senior Planner Scott Whyte reviewed the wetlands in relation to the South Cooper  
2 Mountain Community Plan. Major points were: 1) In relation to the wetlands in the  
3 community plan they were "consistent with local, state and federal regulations." 2)  
4 Wetlands are governed by the Army Corp of Engineers at the federal level, the  
5 Department of Stand Lands at the state level, and Clean Water Services at the local  
6 level. He described the review process between these agencies and the City. 3)  
7 Wetlands A are not recognized as part of the City's local wetland inventory. Mr. Whyte  
8 identified various changes and revisions that were made to the conditions of approval,  
9 which are reflected in the record.

10  
11 Regarding the request from the City of Tigard for sidewalks improvements to the south  
12 side of Scholls Ferry Road, this area is outside of the City's jurisdiction and the City  
13 cannot put conditions requiring improvements in an area outside of its jurisdiction.  
14 Scholls Ferry Road is a County facility. Southside development plans are unknown at  
15 this time.

16  
17 Staff responded to Commissioners questions from the staff report covering various  
18 concerns including traffic, design and building on the wetland.

19  
20 APPLICANT – Chris Linn with Boora Architects

21  
22 Representatives for the applicant were: Chris Linn with Boora Architects; Ron Porterfield  
23 with the Beaverton School District; Frank Angelo with Angelo Planning Group; Peter  
24 Coffey with DKS; Janelle Brandon from Harper Hoff; Nathan Kappen – arborist; and Amy  
25 Hawkin from Pacific Habitat Services.

26  
27 The applicant's representatives addressed revisions made to the BSD's development  
28 proposal as result of public testimony on May 27, 2015. It was noted that a high school  
29 was a significant public building that needed to stand the test of time. They reviewed  
30 the principles of school design, and project's location, site layout, architectural design,  
31 and transportation. It was stated the applicant agreed with the staff recommendation.  
32 They responded to Commissioners questions.

33  
34 Design revisions that were addressed were:

- 35 ● Revised building cornice to be taller and more noticeable
- 36 ● Brick sills to pre-cast sills in a contrasting color
- 37 ● Color of mechanical pen houses
- 38 ● Intersection on north end of 175<sup>th</sup>
- 39 ● Expose internal stair
- 40 ● Add an outdoor classroom
- 41 ● Ornamental fence as part of security plan
- 42 ● Revision to the coping
- 43 ● Changed mechanical screens

- 1           • Proposing trees that 8-12 feet tall
- 2           • Impact will be to 2.52 acres – no fragmentation of habitat plan - 3.43 acres of
- 3           wetland to be planted with 8,964 native trees and shrubs as mitigation.
- 4

5           The applicant responded to Commissioners' questions from the presentation.

6

7           The Planning Commission took a break at 9:28 p.m.

8

9           After the break, Chair Doukas opened the public testimony portion of the meeting.

10

11           **PUBLIC TESTIMONY** – Testimony was received from:

12

- 13           1. Buff Brown, Senior Transportation Planner, City of Tigard and Susan Shanks, Senior  
14           Planner with the City of Tigard and River Terrace Project Manager stated River  
15           Terrace community plan will be abutting the City of Beaverton and northern part of  
16           the development is in the Beaverton School District. Currently processing two  
17           applications for 565 new dwelling units all of which would be in the BSD. Approved  
18           four other subdivisions for a total 650 units. Concerns providing access especially  
19           with regards to street crossing at Scholls Ferry Road. Hoping the BSD would do a  
20           pedestrian plan. Recommended the City modify Condition 3.
- 21           2. Steve Golgren, THPRD, recommended that regional trails go to 12 feet and  
22           community trails go to 10 feet. Was concerned with trail system. Trail on 175<sup>th</sup> was  
23           being considered a community trail and the trail on Scholls Ferry was being  
24           considered regional.
- 25           3. Brian Wegener, Tualatin – Tualatin Riverkeepers – Believed Clean Water Service's  
26           (CWS) role has been misrepresented in approving this application. CWS does not  
27           regulate wetlands and it is not a land use authority. CWS's role is to set design and  
28           construction standards to apply buffers or vegetated corridors around wetlands as  
29           the development happens. CWS only applies buffer standards for development. To  
30           imply that the CWS was an endorsement agency on this project was incorrect.  
31           Beaverton has regulations that protect wetlands in the Cooper Mountain Plan-- that  
32           was not CWS, DSL, or the Corp of Engineers plan.
- 33           4. Scott Brucker, THPRD, Beaverton: Supported the athletic facilities and development  
34           of this site. As this South Cooper Mountain Area develops there will be a large  
35           impact specifically to Southridge High School because there currently exists a  
36           shortage of fields and space for large sports events such as football and lacrosse.  
37           Asked Commission to consider hours of operation from 8 am and to 10 pm. This will  
38           help with capacity issues. Programming would begin at 8 am during the weekends in  
39           the fall and spring.
- 40           5. Eli Plopper, representing Scott Edmonds, voiced continued concerns on behalf of the  
41           Edmonds with the fencing. Were grateful for six-foot fencing, asking that removal of  
42           the fencing be coordinated with him because of the animals they have on the  
43           property. Concerned for the impacts to the area from the lights and sounds of the  
44           stadium. Requested more technical consideration of lights and sounds for

- 1 neighborhood and Edmonds. Requested that one day a week or a weekend the  
2 neighborhood receive a reprieve from events (no events held at least one day).
- 3 6. Paul Whitney, Tigard, retired Ph.D., ecologist with specialty in wetlands and wildlife;  
4 stated this was a poor wetland application and believed the BSD was negligent in not  
5 getting a wetland consultant to do a wetland delineation up front. Secondly,  
6 wetland permit application does not have an adequate alternatives analysis that is  
7 required in section 404b1 of clean water act.
- 8 7. Dave Hunnicut, attorney representing the Bartholomy's, Tigard, asked to keep the  
9 record open for an additional seven days. Requested copies of letters of testimony  
10 the City received. Stated Bartholomy was willing to sell property so the BSD could  
11 build ball fields that do not effect wetlands. The waterline will have to be sited to  
12 the north and south of the collector street. Referred to City ordinance and ORS  
13 regulations that required the City to make all planning decisions in compliance with  
14 acknowledged comprehensive plans.

15  
16 Chair Doukas called a break from 10:35 to 10:40 p.m. to allow staff time to gather  
17 information and statutes needed to prepare for final comments that would occur after  
18 applicant's rebuttal.

19  
20 **APPLICANT'S REBUTTAL**

21  
22 Applicant responded to the City of Tigard's letter. Frank Angelo, Angelo Planning Group,  
23 explained the BSD has a Transportation Department that reviewed transportation  
24 routes for projects such as this. Bussing was considered, if they find that safety is a  
25 concern. Applicant did not agree with conditions requested by the City of Tigard but did  
26 agree with suggestions from the City of Beaverton's Transportation Engineer Jabra  
27 Khasho.

28  
29 The applicant was happy to discuss with THPRD hours of operation, as outlined in staff  
30 report dated June 17 (7 am to 10 pm, seven days a week).

31  
32 The applicant will be coordinating with the Edmonds family when it comes time to  
33 install the new fence. BSD has had many conversations with the Edmonds family and  
34 will continue that course of action. With regards to the light and sound, it was indicated  
35 light/sound were pointed inwards towards the site and not towards the Edmonds  
36 property.

37  
38 In terms to the wetlands issue, the applicant will agree with staff discussion and  
39 assessments in the staff report dated June 17. The BSD was in the process of going  
40 through Corp of Engineer and DSL process.

41  
42 With regards to Mr. Hunnicut's testimony on the waterline, the waterline is in the  
43 location that the applicant discussed with the City's Public Works staff. Sometime in the  
44 future it will be extended to the west. They were not precluding any opportunity to do

1 that as part of this project. It was consistent with City's design standards and it was  
2 coordinated with City staff. Street vacation application is being filed with Washington  
3 County; it was not yet scheduled for a public hearing. Applicant has permission from  
4 the county to work in the right-of-way. Main streets and parks are permitted uses.  
5 Applicant believes it would not be a good idea to have an athletic field in the Main  
6 Street zoning as it would run counter to the vision that has been set forth in the South  
7 Cooper Mountain Plan.

8  
9 Applicant agreed with staff conditions in staff report dated June 17<sup>th</sup>.

10  
11 Changes to conditions regarding circulation and how it can be signed were addressed  
12 following a question from Chair Doukas.

13  
14 District will not lift parking bollards at 5pm every day and will be pointing stadium  
15 speakers towards 175<sup>th</sup> to the east.

16  
17 Applicant answered questions resulting from the rebuttal.

18  
19 STAFF COMMENTS:

20  
21 Senior Planner, Scott Whyte, noted staff agreed with modification of Condition 25  
22 should the Commission choose to approve the application. He reviewed the language  
23 towards the end of Condition 25 presented in the June 17 staff report - "vehicle  
24 directional signage for student visitor parking lot should accommodate one way counter  
25 clockwise directional flow directly adjacent to the school building and should  
26 accommodate two way flow in areas away from the school building." Raised sidewalks  
27 and paving patterns were also added. Staff accepted the added text.

28  
29 City Engineer Wendy Prather addressed the public water line, sewer and construction  
30 access. The design set in the BSD application meets the City's standards and does not  
31 preclude any future development. The road will not need to be torn up and  
32 reconstructed as result of this proposed project; a small portion will need to be adjusted  
33 at the northern end. She reviewed the various locations where the sewer and water  
34 lines could be located, which are dependent on location, cost, size and access factors.  
35 The design options were wide open. Regarding the construction access along the right-  
36 of-way on 175<sup>th</sup>, if there is construction occurring in that area, the construction zone will  
37 not have public access because of safety.

38  
39 Principal Planner Steven Sparks explained City staff will not support inclusion of any of  
40 the conditions recommended by the City of Tigard. The Beaverton City budget was  
41 approved last night--which included funds to do an active transportation plan (including  
42 pedestrian and bicycle traffic). If the City of Tigard wanted to participate in this plan,  
43 Beaverton would be more than happy to include them. With regard to wetlands, there  
44 has been a log of compelling testimony regarding wetlands--City was not saying that it

1 does not regulate or have a role in wetlands. There is a hierarchy of process that must  
 2 occur. Evidence needs to be submitted for process. When there is a local inventory or  
 3 delineation, property owners have the ability to submit to fill that wetland. The  
 4 technical process for filing to fill the wetland is handled through the US Corps of  
 5 Engineers and DSL. The City looks at Comprehensive Plan policies. The Planning  
 6 Commission does not decide if the wetlands report is adequate; it is up to the Corps and  
 7 DSL. The Planning Commission needs to act according to comprehensive plan.

8  
 9 Assistant City Attorney Peter Livingston stated it was appropriate to grant the request to  
 10 keep the record open for seven days for submittal of written arguments. The hearing  
 11 could be continued for seven days and the record could be closed at that time;  
 12 additional oral testimony would not to be expected. Staff final comments could be  
 13 submitted at that time.

14  
 15 There was Planning Commission consensus to keep the record open until July 1 and  
 16 continue the hearing to that date. Written testimony to be delivered no later than 5pm  
 17 July 1, 2015.

18  
 19 Planning Commissioners began deliberation but no decisions were made. Summary of  
 20 general comments during deliberation:

- 21  
 22 Commissioners Nye and Wilson felt the CU did not meet criteria  
 23 Commissioner Overhage would like to have conditions of approval requiring visitor  
 24 parking markings be visible.  
 25 Commissioner Maks suggested better traffic control – he believed the application met  
 26 the criteria  
 27 Commissioner Kroger believed the CU did not meet wetland criteria  
 28 Commissioner Winter and Chair Doukas believed the application met criteria  
 29

30 It was expected that no new evidence would be presented at the next hearing. If new  
 31 evidence was presented, an opportunity for rebuttal would take place.

32  
 33 The public testimony portion of the public hearing was closed.

34  
 35 Commissioner Wilson MOVED, SECONDED by Commissioner Maks, to continue this  
 36 public hearing on CU2015-0003 DR2015-0029, LD2015-0004, ADJ2015-0005 – South  
 37 Cooper Mountain High School, to July 1, 2015, at 6:30 p.m. Motion CARRIED 7:0  
 38

- 39 **AYES:** Wilson, Nye, Maks, Kroger, Winter, Overhage and Doukas.  
 40 **NAYS:** None.  
 41 **ABSTAIN:** None.  
 42 **EXCUSED:** None.  
 43  
 44

1 **APPROVAL OF MINUTES**

2  
3 Commissioner Maks **MOVED, SECONDED** by Commissioner Winter to **APPROVE** the  
4 Minutes of May 27, 2015.

5  
6 Motion **CARRIED 7:0**

7  
8 **AYES:** Wilson, Nye, Maks, Kroger, Winter, Overhage and Doukas .

9 **NAYS:** None.

10 **ABSTAIN:** None

11 **EXCUSED:** None

12  
13 **MISCELLANEOUS BUSINESS:** None.

14  
15 The meeting adjourned at 11:06 p.m.

16  
17 Respectfully submitted,

18  
19 Carmin Ruiz, Recording Secretary  
20  
21

DRAFT

1 **BEAVERTON PLANNING COMMISSION**  
2 **REGULAR MEETING**  
3 **July 1, 2015**

4  
5 **CALL TO ORDER:**  
6

7 The Regular Meeting of the Beaverton Planning Commission was called to order by Chair  
8 Mimi Doukas in The Beaverton Building City Council Chamber, 12725 SW Millikan Way,  
9 Beaverton, Oregon, on Wednesday, July 1, 2015, at 6:30 p.m.  
10

11 **ROLL CALL:**  
12

13 Present were Chair Mimi Doukas; Planning Commissioners Scott Winter, Jennifer Nye,  
14 Wendy Kroger, Dan Maks and Kim Overhage. Commissioner Wilson was excused.  
15

16 Senior Planner Scott Whyte, AICP, Principal Planner Steve Sparks, Associate Planner Ken  
17 Rencher, Current Planning Manager Sandra Monsalve, Assistant City Attorney Peter  
18 Livingston, and Recording Secretary Carmin Ruiz represented staff.  
19

20 **VISITORS:** None.  
21

22 **STAFF COMMUNICATION:** None.  
23

24 **OLD BUSINESS:**  
25

26 **PUBLIC HEARINGS:**  
27

28 **1. SOUTH COOPER MOUNTAIN HIGH SCHOOL – Continued Public Hearing**

- 29 a. CU2015-0003 – CONDITIONAL USE  
30 b. DR2015-0029 – DESIGN REVIEW  
31 c. LO2015-0004 – LAND DIVISION  
32 d. ADJ2015-0005 – MAJOR ADJUSTMENT  
33

34 Beaverton School District proposes to construct a new high school. At full enrollment,  
35 the proposed 320,000 square foot school building is designed to accommodate  
36 approximately 2,200 students and 200 staff. One vehicular access to the school is  
37 proposed from SW 175<sup>th</sup> Avenue and is intended for parents and students. Another  
38 vehicle access to the school is proposed from SW Scholls Ferry Road and is intended for  
39 buses and staff. Both vehicular access points are proposed to be signalized. The  
40 proposal includes several outdoor sports facilities and two parking lots that will provide  
41 a total of 550 parking spaces. The proposal also includes modification and  
42 enhancement of existing wetlands. The project site is located at the northwest corner  
43 of SW Scholls Ferry Road and SW 175<sup>th</sup> Avenue, on Tax Lots 205 and 800 of Washington  
44 County Tax Assessor's Map 2S1-06.

1  
2 Chair Doukas opened the public hearing which had been continued from the meeting of  
3 June 24, 2015, and explained additional written testimony had been submitted since the  
4 June 24 hearing. She confirmed the Commissioners had had time to read that  
5 testimony.

6  
7 The public hearing was then officially closed.

8  
9 **STAFF REPORT:**

10  
11 Senior Planner Scott Whyte added the following to the record:

- 12  
13 -Staff memorandum dated July 1, 2015  
14 -Letter from Fran Warren dated June 30, 2015 with follow-up email dated  
15 July 1, 2015  
16 -Letter from Dave Hunnicut, attorney for Ed and Cathy Bartholomy, dated \_\_\_\_  
17 -Letter from Ed Bartholomy dated June 30, 2015 with exhibit  
18 -Letter from Brian Wegener, Tualatin Riverkeepers, dated July 1, 2015  
19 -Letter from Eric Squires dated July 1, 2015  
20

21 Additions to the CU Conditions of Approval were:

- 22 -Condition 11: Tree heights at time of planting shall be 8-12 ft.  
23 -Condition 12: Bollards removed after discussion regarding when the bollards  
24 would be  
25 removed  
26 -Condition 25, on page 5 of 10: Recognized the circulation pattern  
27 of student/visitor parking lot counterclockwise flow and then two way  
28 flow away from the school building.  
29

30 Commissioner Overhage noted at the last meeting she requested adding signage for  
31 visitor parking. It was not added to the conditions of approval in the staff report before  
32 the Commission. (Note: This condition was added during the motions to approve the  
33 various applications.)  
34

35 **DELIBERATIONS**

36  
37 Commissioners Kroger and Nye believed the application did not meet criteria.  
38 Commissioner Maks believed the application needed a condition of approval on the  
39 bollards. He approved the application otherwise. Also, visitor parking places shall be  
40 clearly marked in the student/visitor parking lot.

41 Commissioner Overhage wanted to add a condition of approval that volunteer spaces be  
42 designated.

43 Commissioner Winter and Chair Doukas believed the application met criteria.  
44

1 Principal Planner Steven Sparks asked that prior to deliberations, the Commission craft  
2 language for staff so they can hear it and the Commission can consider the condition in  
3 its deliberations.

4  
5 Commissioner Maks read the draft language as follows:

- 6 • The bollards between the student/visitor and staff parking lot shall be removed  
7 when there is a large school event which may cause overflow of either school lot.
- 8 • Bollard shall be removed in case of a traffic accident on SW 175<sup>th</sup>, SW Scholls  
9 Ferry Road, or other emergency, requiring vehicles to depart the high school  
10 property from only one exit point.

11  
12 CU2015-0003

13 Commissioner Maks MOVED, SECONDED by Commissioner Winter, to approve  
14 Conditional Use Application CU2015-0003 - South Cooper Mountain High School.  
15 Motion CARRIED 4:2

16  
17 **AYES:** Overhage, Maks, Winter, Doukas

18 **NAYS:** Nye, Kroger

19 **ABSTAIN:** None

20 **EXCUSED:** Commissioner Wilson

21  
22 DR2015-0029

23 Commissioner Kroger mentioned that she did not support DR2015-0003 because she  
24 believed it did not meet design principles 4 and 10 out of the design review handbook.

25  
26 Commissioner Maks MOVED, SECONDED by Commissioner Winter, to approve Design  
27 Review Application DR2015-0029 - South Cooper Mountain High School with the  
28 addition of the following condition of approval: Visitor parking places shall be clearly  
29 marked in the student/visitor parking lot. Motion CARRIED 5:1

30  
31 **AYES:** Overhage, Maks, Winter, Doukas, Nye

32 **NAYS:** Kroger

33 **ABSTAIN:** None

34 **EXCUSED:** Commissioner Wilson

35  
36 LD2015-0004

37 Commissioner Maks MOVED, SECONDED by Commissioner Winter, to approve Land  
38 Division Application LD2015-0004 - South Cooper Mountain High School with the  
39 addition of the following condition of approval: Visitor parking places shall be clearly  
40 marked in the student/visitor parking lot. Motion CARRIED 6:0

41  
42 **AYES:** Overhage, Maks, Winter, Doukas, Nye, Kroger

43 **NAYS:** None

44 **ABSTAIN:** None

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**EXCUSED:** Commissioner Wilson

ADJ2015-0005

Commissioner Maks MOVED, SECONDED by Commissioner Winter, to approve Major Adjustment application ADJ2015-0005 - South Cooper Mountain High School with the addition of the following condition of approval: Visitor parking places shall be clearly marked in the student/visitor parking lot. Motion CARRIED 6:0

**AYES:** Nye, Maks, Kroger, Winter, and Doukas, Overhage.

**NAYS:** None.

**ABSTAIN:** None.

**EXCUSED:** Commissioner Wilson.

**MISCELLANEOUS BUSINESS:** None.

The meeting adjourned at 7:33 p.m.

Respectfully submitted,

Carmin Ruiz, Recording Secretary

DRAFT