

Subject: Testimony in support of the Blueberry Subdivision LU-21-025

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JUL 20 2021

BENTON COUNTY

Good evening Planning Commissioners,

I am here tonight to speak in support of the Blueberry Subdivision. Oregon planning goals require careful planning that takes into account housing needs, agricultural needs, natural areas amongst other things. Benton county has followed those goals by having a comprehensive plan and code that determines housing needs and appropriate zoning.

This project is within the RR2 zone, which allows for development on 2 acre parcels while protecting the natural and agricultural integrity of the landscape. Based on the Benton County Code "The Rural Residential Zone shall provide areas within Benton County where rural residential lifestyles can occur outside recognized urban areas without conflicting with agriculture and forestry uses. [Ord 26, Ord 90-0069].

The Blueberry Subdivision project proposed design for two acre lots is laid out to encourage continued production of the blueberry plants that so many of us have grown to love. It also fulfills the County Code and Oregon State goals for orderly development.

The Vilwock family are an agricultural family, living and raising their family on agricultural land while farming orchards and livestock. Scott Taylor also lives on agricultural land farming trees. This development is envisioned by people who have a deep understanding of how housing and agriculture come together. As a designer and project manager I also understand that approaching a project with an understanding of the land is far different from developers who rely on cookie cutter designs.

The two acre lots are low density and allow plenty of room for continued agricultural activities. In fact, I understand that they tend to encourage blueberry plants on these nine lots.

Benton County is well known for it's beautiful forests, woodlands and rivers. It is also known for its agricultural bounties including nuts, berries, grapes and other commodities. Oregon is an innovator of land use planning, leading the way for development to occur while also protecting the natural and agricultural landscape. The Blueberry Subdivision is a perfect example of combining all the best of Oregon landscape, agriculture and housing. Many of us have great memories of picking Anderson blueberries. Scott Taylor allowed so many to continue those memories by making many of the plants available to the community while also preserving many of them within the landscape of his proposed development. This project is a perfect demonstration of what the Benton County RR2 Zone describes.

For these reasons, I support this project and I hope you will too.

Thank you for your time.

Jackie Rochefort
Corvallis Resident
317 NW 32ND STREET
CORVALLIS 97330

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BENTON COUNTY

Dear Planning Commissioners,

It is very strange that there are no improvements required for Arboretum Road as part of the 9-lot subdivision. Much smaller subdivisions have had much more required of them for road improvements to benefit the public in the area and North West Early Blue Drive benefits only the new residents of the subdivision. Please require that they do something to make Arboretum safer for the many people who walk dogs, jog, or go about their day.

Thank you.

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7/22/2021

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JUL 26 2021

Subject: South Anderson Blues Subdivision

Planning Commissioners:

BENTON COUNTY

Please accept this written testimony regarding the preliminary plat approval of the South Anderson Blues Subdivision located on Arboretum Road.

The OSU Research Forests and, in particular, the McDonald Forest, was first established in 1926. The Forest is used for research, teaching, and recreation, and provides a whole host of other ecological and social benefits. The forest is actively managed to provide these benefits as well as to provide sustainable timber harvests, which provide funds to maintain and cover the costs of managing the forest. Funds from these harvests also support the College of Forestry's teaching and research mission.

A portion of the OSU MacDonald Research Forest is located directly across Arboretum Road from proposed South Anderson Blues subdivision (see Figure 1). This portion of the OSU Research Forest is zoned "Public," which allows Forest uses outright (recreation, forest management, timber harvesting, etc.).

When residential development occurs next to Forests, it introduces and amplifies risks and conflicts with the Forest use. These conflicts can be general compatibility concerns related to noise and dust from timber harvesting, or specific concerns such as an increased risk of forest fire, trespassing, and illegal dumping on the forest land.

The Benton County Code (BCC) recognizes these potential conflicts, and impacts of residential development on Forest uses, and includes standards in the Rural Residential zone to mitigate them. Three pertinent standards from BCC 63.405 – Siting Standards are provided below:

- (7) A dwelling shall be located no closer than 300 feet from a resource zone or conform to this standard to the greatest extent possible. If this is not feasible, the owner shall sign a declaratory statement to be recorded in the County Deed Records recognizing resource use of adjacent lands. This requirement shall not be applied to a setback adjacent to a public road, except when required by an approved conditional use permit.**
- (8) A dwelling located within 200 feet of a forested area shall be provided with a spark arrestor on each chimney and a fire-retardant roof.**
- (9) A minimum thirty (30) foot fire break shall be maintained at all times around structures located on a parcel or lot contiguous to land in the Forest Conservation Zone.**

Consistent with the purposes of these standards to mitigate potential conflicts between new residential development and Forest uses, OSU requests the following condition of approval be applied to the proposed subdivision.

Condition of Approval

The owner of all parcels within the subdivision shall sign a declaratory statement, to be recorded with the Benton County Deed Records, acknowledging the typical forest resource uses and activities on the adjacent OSU property. This document shall include a statement that property owners understand and agree that they have no right to create or construct any type of pedestrian, bicycle, or motor vehicle access through the forest; that all dwellings in the subdivision shall include spark arrestors on each chimney and be constructed with fire-retardant roofs; and, that a 30-ft fire break shall be maintained at all times around structures.

The need for this declaratory statement is two-fold. First, we are very concerned that homeowners in this subdivision will construct paths or trails onto and through our property to gain access to the forest and nearby trails, because the subdivision is immediately across the road from our property (Figure 1-see area circled in red). Although the homes would be more than 300 feet from our property, the subdivision is immediately adjacent to and points directly to our property. The potential impacts to us are from the entire subdivision collectively. Our direct and historic experience over the years has been that people will build or attempt to build trails onto our property, which creates a whole host of issues from enforcement, environmental damage, and long term ill-will. Creation of such trails is an illegal activity, which we would like to avert by having it stated up front in a declaratory statement that each homeowner signs and is attached to their deed. Second, there is a real threat of fire, and mitigating fire risk is important from our standpoint, thus the suggested verbiage in the declaratory statement about fire mitigation measures.

Applying this condition of approval would help ensure that the proposed development is consistent with the following Benton County Comprehensive Plan policies:

4.1.3 Benton County shall maintain residential dwelling siting and defensible space standards to reduce the risk of wildfire and negative impacts to fish and wildlife habitat.

4.1.5 Benton County shall ensure that conflicts between residential development and forest lands are minimized by requiring setbacks for residences adjacent to resource lands.

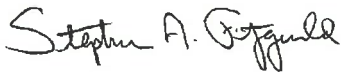
7.6.2 Benton County shall reduce fire risk to life and property, using non-regulatory and regulatory programs that respond to local and state uniform fire codes.

7.6.5 Benton County shall require that plans for new development adequately provide for fire protection.

7.6.6 Benton County shall adopt standards for wildfire protection of structures and resource land.

Thank you for considering our request and this opportunity to provide input.

Sincerely,



Stephen A. Fitzgerald,
Research Forests Director
Oregon State University

DocuSigned by:


8EF0494B4A0C417...
Robert Richardson
University Land Use Planning Manager
Oregon State University

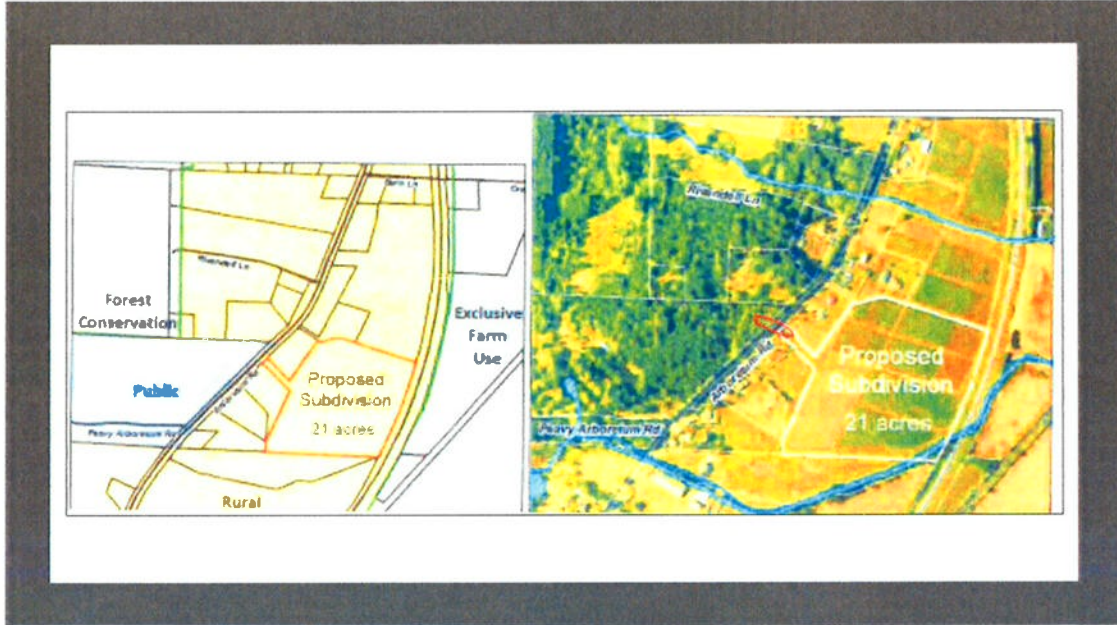


Figure 1 – Map showing proximity of South Anderson Blues Subdivision to the OSU Research Forests. Area with red circle shows likely location and potential for illegal trail construction and trespass..

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LU-21-025

Dear Benton County Planning Commission,

BENTON COUNTY

July 26, 2021 Record held open seven days from July 20, 2021, I assume from reading public testimony submitted July 20 2021 to the record that further comment can be submitted. Thank you.

Siting Standards 63.405 offers no way to buffer an Ag Resource Zone,(Anderson Blues) and with this preliminary plat to create 9 lots with undetermined future density, request to possibly have more homes per acre than is required under BCLand use code. Creative exceptions to Siting Standards 63.405 may need to be made to buffer this subdivision from Ag Resource Zone-Anderson Blues, and from Arbor Creek.

There is no way in land use code to build setback or easement in land code which conserves Ag Zone from RR developments. How is this application addressing the loss of AG zone conversion to RR-2 and is there a site home density limitation for these 9 lots under preliminary plat land use requested?

Will site be developed with more than 34 homes?

If so, the public should be aware of this.

This developer will be changing the area land use zone and be coming to an established RR-2 community from the 1960s and is taking away prime AG Zone from Benton County and global Blue Berry Production.

Anderson Blue Ag zone could be degraded from this subdivision, due to run off from 21 acres of undisclosed fill amounts, septic field failure drainage, noise, light pollution, shading from three story buildings and on fill to reach x feet with zero standards in the land use code for protection against loss of solar access. Blue Berry plants need sun.

Drainage is already an issue at the lower elevations here, as noted in public comment from around peoples properties, as seasonal standing water table.

Hydrologically fill from the highway may be allowing area drainage to pool up at this lowest elevation 278 feet, as surface sheet flows get trapped from the west, and can not pass under the highway to get to the next lower topographic line to the east side of the highway at 275 feet elevation.

Can a wider buffering be created in the site development plan, between Arbor Creek and this development? Arbor Creek is not well discussed in this staff report as a preliminary plat and subdivision.

Does Arbor Creek flood? Where are area wetlands connected to Arbor Creek, how wide is Arbor Creek riparian corridor? Should the development and it's support infrastructure including: gardens, lawns, pools, car storage areas, garages, tools sheds, lawn mower sheds, roads, septic fields, storm water detention facilities, fences, buried

utilities have a wider buffer from Arbor Creek? Can area homeowners dig their own well on their lot in the subdivision, and use this water in any way they wish?

Should the storm detention pond be moved further from Arbor Creek, if Arbor Creek does flood and does flow out across this area (where the detention pond will be) to lower elevations up against the highway on area clay layers?

Residents report seasonal high standing water here, and this impacts their lives, they are dealing with this by modifying their land use over time as stated in public comment to the record. Adding in more standing water here from 21 acres of fill and 34 homes square footage of hard space will impact area residents further, as more runoff rain water comes off 21 acres of fill onto surrounding RR and AG Zones, pools up, backs up, flooding established area septic fields, impacts area wells and possibly could impact area building.

How will this development and storm drain system, impact area standing water levels on clay layers here?

63.010 Application RR Zone- is based on carrying capacity of land soil air and water to support sewage, water use... roads, homes.

If this area has documented issues with seasonal standing water, and three lots of the nine noted for engineering evaluation to be hydric soils, will not support septic fields, should this applicant come back with a more detailed development plan for the public to review? How do combined septic fields work and how will the more costly septic system work, or not work at this site? Will the more costly septic system also fail? Will the lots be affordable with this more costly septic system?

This subdivision's homes may lead to a percentage of shading out onto Anderson Blues, and this is not disclosed if this entire partitioned 21 acre AG zone changed to RR-2 is to be filled. What height will the homes be here, and where will shade lines fall?

This subdivision could use 2 wells for undisclosed purposes. These wells may be the same depth as area wells, and linked physically to area irrigation wells for Anderson Blue and are RR-2 drinking and Fire suppression water volume. 99.805(4) Sufficient Fire Flow.

Oregon Water Resource Dept. prodigal for well water use may show that landowners should avoid dewatering an already in use water table.

Anderson Blues has I assume uses wells for irrigation. Are the two wells on T12S R4W Sec 32C Tax lot 3200, Benton County Oregon, associated with wells used for irrigation of Anderson Blues since this was owned by Anderson Blues and x numbers of blueberries will be removed from Tax Lot 3200.

How is the applicant proposing to use the two wells in this tax lot? This is not clearly defined in this application for Preliminary Plat and Subdivision from AG to RR-2.

How is this applicant guaranteeing this land use will not damage or degrade Ag Zone to the North, Anderson Blues from run off from 21 acres of fill, fecal coliform bacteria from failing septic fields, light pollution to area residences, shading of Anderson Blue AG land? Will any use of chemicals here on 9 lots with 34 homes enter the air, ground or water tables and which could contaminated area wells and or impact the ability of Anderson Blues to work to achieve Organic status under Oregon Tilth?

99.660 Erosion and Sediment Control

(1)a Preserve and enhance health and safety

b Maintain water quality...

Should a wider buffer be placed between this development and Arbor Creek and should a wider buffer be placed between this developments fill, detention pond and homes and Anderson Blues?

99.725 New Community and Justification of this system and specifications...

Does this developer need to create a Community Septic System Preliminary Plan if more then one home will be on a combined septic field?

99.225 Development Activities in wetlands riparian flood plain.

Area flood plain and wetlands need to be defined. Area landowners document standing water, applicant can not build on three lots -x number of homes due to septic field failure evaluation. We are not seeing in this application the location of area wetlands, or flood plain in order to be able to comment to the record about this partition request.

How many acres of fill will be allowed here? 21? Are there any limitations to the total amount of fill in a zone change and partition request?

Will all area access roads need to be filled as well?

How does filling all these acres impact area wells, and impact area flooding in a documented standing water table area?

Will a few road side water detention depressions along the entire access road to all 35 homes be enough to stop area flooding and impacts of higher standing water onto surrounding lands from 21 acres of fill? Can area homes be impacted by this development from standing water volume increases from run off from 21 acres of fill and 34 homes hard surfaces?

Storm Water Mg. Plan is noted as not noted in land use code as a "development decision", but that a Storm Water Mg. Site Plan will be needed with fill going into excess of 25,000 sq feet. 99.670 Long Term Storm water Mg. (3) Permit Required B iii Fill over 25,000 sq feet...

With septic field failure already determined, area problems with seasonal drainage documentation, Arbor Creek and possible wetland flood plain flooding issues, fill from the highway blocking and perhaps, pooling up area drainage, no land use code which limits this developer to put fill on top of 21 acres, and building more than 34 homes, and build of a private water line needed from Hospital Hill -Adair water treatment plant, and unexplained use of two wells on this tax lot to water lawns, fill pools, wash cars, wash driveways, water gardens... fish ponds, fountains, landscaped water features...

How is this development able to be placed here if it is unable to sustain carrying capacity for water, sewer and will impact Arbor Creek being used as storm water outfall, light pollution coming to RR zone, air and water pollution from run off and are flooding from seasonal standing water increasing in volume from 21 acres of fill and 34 homes.

Thanks, Rana Foster 980 SE Mason Place, Corvallis Oregon

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JUL 27 2021

BENTON COUNTY

RE: Reference to case no. LU-21-025

Dear Kristen and the Benton County Planning Commission,

Below is my new testimony with applicable code criteria to be included in the record. I am submitting these comments on behalf of Ken Smith, my husband and myself, Pamela Toman. We own Anderson's Blues Farm and live at 8793 NW Arboretum Road, Corvallis, Oregon. My husband and I ask these comments be presented to the Planning Commission.

I previously submitted comments on Tuesday, July 20th, 2021. Specifically, I am very concerned that the septic systems proposed by the applicant Scott Taylor and Sandra Villwock and necessary for approval of the plat—are likely to impact the drain tiles that connect to our property. Please refer to the map that was submitted with my previous testimony. This does not appear to have been part of the county's consideration in reviewing the application. I am also very concerned that the proposed subdivision will impair our irrigation water rights and ability to access groundwater that is critical for irrigation of the blueberries we grow at Anderson's Blues Blueberry farm.

The Planning Commission should deny the Application for the following reasons:

1. The Applicant has failed to obtain septic site evaluation approvals for the lots and there is no evidence in the record which supports a finding that the Application will be able to do so.
 - BCC 99.705 requires that “each proposed dwelling, parcel, lot, or place of public occupancy shall be served by a sewage disposal system which complies with the requirements of the Oregon Department of Environmental Quality requirements.” BCC 99.710 requires that “An applicant for a land division or building permit shall obtain site suitability evaluation approval from the County Sanitarian prior to the issuance of a permit or final approval of a land partition indicating that each proposed parcel or lot is capable of accommodating a standard septic system or approved alternative system.”

The Applicant must demonstrate site suitability as part of the tentative subdivision plat application; this cannot be deferred to final plat unless the application is for a “partition.” There must be substantial evidence in the record supporting a conclusion that the applicable standards and criteria are met. The record is clear that the County has not issued suitability evaluations for all lots, as required. The Application has met neither of the above requirements and therefore, the Planning Commission must deny the Application.

- As explained above, BCC 99.705–710 must be satisfied as part of the preliminary plat review, which means that they cannot be simply deferred to final plat as conditions of approval. However, even if conditions of approval could be used, there must be evidence in the record demonstrating that it is more likely than not that the conditions will be met. There is no dispute that the Applicant has not satisfied BCC 99.710 or 99.705.

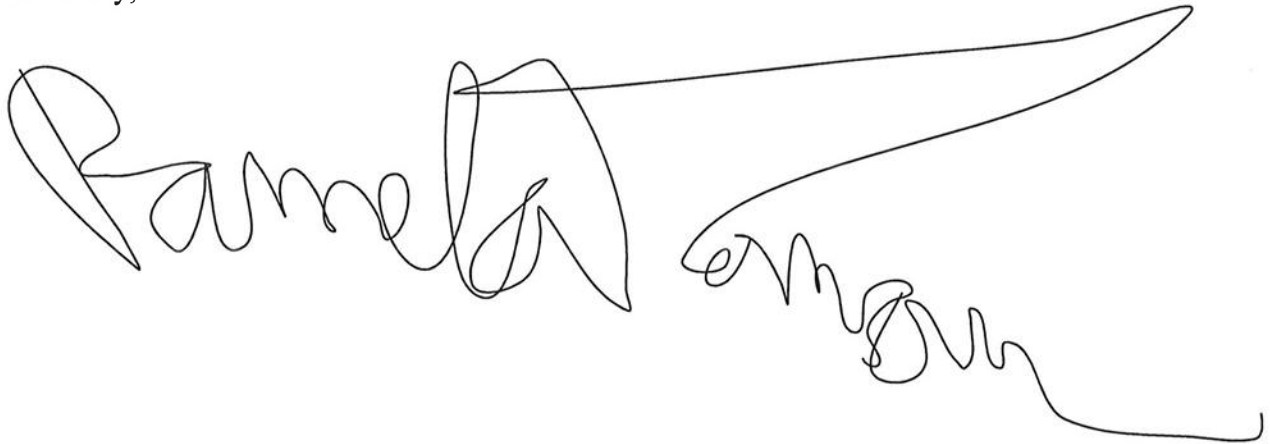
Moreover, there is not enough evidence in the record demonstrating that it will even be possible for each lot to be served by an adequate septic system; rather, the evidence in the record suggests that proposed Condition 33, which requires on-site sewage disposal facility permits prior to final plat, cannot be satisfied.

- No public sanitary sewers are available to serve this project. The County Environmental Health Division considered whether septic drainfields can be used on each lot. The Division DENIED drain fields for lots 6, 7, and 8. Environmental Health indicated that lots 5 and 9 can only host drainfields under very specific circumstances (use of alternative treatment technology and abandonment of the existing well on Lot 9), but this is speculative and does not demonstrate that septic systems can be approved on those lots. What is more, the record demonstrates that the Applicant wishes to keep using the well on Lot 9 for irrigation, and Staff notes that as a consequence, the “drainfield approval areas will be more difficult to achieve, maybe impossible.” We also know that Environmental Health has advised the Applicant a number of times to conduct further analysis (stakeouts), but the Applicant has not done so.
 - Staff concluded as follows: “Although some lots may contain drainfields for other lots, it is possible that some configuration could be figured out in which septic drainfields, wells, driveways, roads, houses, drainageways, and property lines could be sited in accordance with the applicable setbacks.” While it is a truism that “anything is possible,” the evidence suggests, in fact, that as many as five of the nine proposed lots cannot obtain an onsite septic certification and will not be able to obtain a septic permit. Therefore, staff’s conclusion is not supported by evidence.
 - As the record is doubtful about whether lots 5 through 9 can obtain onsite septic certifications, the Applicant’s proposed parcel and lot configuration is also doubtful. That is, the record demonstrates that certain lot boundaries may need to change. Therefore, there is not enough evidence in the record that the Application satisfies BCC 99.305, and therefore, not enough evidence to demonstrate that the Application satisfies BCC 97.120. Relatedly, the likely need to change the layout of the lots means that the Planning Commission cannot even conclude at this point that the project will meet minimum lot sizes required by BCC 63.305(a).
2. The Application does not meet development standards related to water service.
- BCC 99.805 provides in relevant part that “each proposed...lot,[...] shall be served by one of the water sources listed in subsections (1) through (4). Subsection (4), in turn, requires as follows: “Expansion of the Camp Adair (Adair Village) water system or any new community water systems within the boundaries of Adair Village Rural Fire Protection District shall provide sufficient fire flows determined to be necessary by the district’s fire chief in accordance with the Uniform Fire Code, as adopted by the District and the County.” This requirement applies to the creation of “lots” and arguably cannot be deferred as a condition of approval. There is no dispute that the fire flow analysis required by BCC 99.805 has not been completed as a condition of approval.

- BCC 99.825 requires as follows: “If a public water system is proposed, the following standards shall apply. (2) If connection to an existing system is proposed, the applicant shall prepare and submit formal plans and specifications for review and approval by the County Engineer and the engineer representing the water system.” There is no evidence in the record that the Applicant has fulfilled this requirement.
- According to the applicant’s marketing materials, they intend to irrigate the proposed lots. However, the proposed subdivision has only 7 acres of irrigation water rights. And, the well for these water rights is located on Anderson Blues’ property to the north (Oregon Water Rights Certificate 61752). Therefore, the proposed subdivision does not have access to the water supply for these water rights. While an exempt well may provide for up to ½ acre of non-commercial irrigation, approval of the septic systems on the proposed lots is apparently contingent on decommissioning wells that are reportedly being maintained and utilized for irrigation within the proposed subdivision. Therefore, these wells – if exempt – are unavailable to support irrigation. If the applicant intends to have irrigation on the proposed lots, they need to ensure the water supply from the City of Adair Village will support that use, as there is not another readily available source or right for irrigation of the lots.

I would like to thank the Planning Commission for taking the time to review this testimony and consider the above arguments.

Sincerely,

A handwritten signature in black ink, appearing to read "Pamela Toman" followed by a flourish, and "Ken Smith" written below it.

Pamela Toman and Ken Smith