



Sahhali Shores at Neskowin COA

44495 Sahhali Drive
Neskowin, OR 97149
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VIA US MAIL AND EMAIL
sarah.thompson@tillamookcounty.gov

Ms. Sarah Thompson
Tillamook County Planning Commission
1510-B Third Street
Tillamook, OR 97141

January 5, 2026

Re: 851-25-000549-PLNG and Conditional Use Review 851-25-000548-PLNG - request for replat
Sahhali South subdivision

My name is Don Polednak, and I serve as President of the Sahhali Shores at Neskowin COA. It has come to our attention that the developer of the Sahhali South subdivision has requested a replat of that neighborhood. This is the second such request made by the developer, the first (851-22-000003) having been withdrawn in May 2022. As our community is directly adjacent to Sahhali South any replat of that neighborhood will have a direct impact on the feel of our community. We urge you to review and consider the oppositions lodged by several of our community members, including without limitation those of Jennifer Bierce, Jay Keck, Robert Wogrin, and Maria Veltre.

In addition to the concerns expressed by our community members, please consider the following:

- 1) **Changing the setbacks to allow homes to be within 5 feet of the property border.** According to Tillamook Land Ordinance 3.320 the intent is to maintain the rural character of the Sahhali area (Sahhali Shores and South Sahhali). This will allow homes to be only ten feet apart and create much more density and take away from the rural feel of the neighborhoods that exist now with the 10 foot setbacks (which limits homes to within 20 feet of each other). Although that type of density may fit other parts of Neskowin, and the County in general, the Sahhali area has been specifically developed with a more rural feel with less density.
- 2) **Replatting Tract A from open space/undeveloped into 2 single family lots.** In addition to the density concerns as outlined above this change in development would have a large impact on homeowners in Sahhali Shores who are adjacent to this tract. Their lots and homes have been purchased and plans for homes have been designed to enjoy the open

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space near their home based on the original plat. Allowing homes to be built on that space is unfair to homeowners who were promised open space by the original plat map.

The community of Sahhali Shores appreciates you allowing us to provide our feedback on the proposed changes.

Sincerely,



Don Polednak

President, Sahhali Shores at Neskowin COA

cc: COA Board (via email)
Jennifer Bierce (via email)
Jay Keck (via email)
Robert Worgin (via email)
Maria Veltre (via email)

melissa.jenck@tillamookcounty.gov

sheila.shoemaker@tillamookcounty.gov

conrad.kurrelmeir@tillamookcounty.gov

January 1, 2026

Tillamook County Planning Commission
1510 - B Third Street
Tillamook, OR 97141

Re: Permit ID # 851-25-000549-PLNG

I am a permanent resident and homeowner of Lots 44 and 4 in Sahhali South and have been living here full time since October 2020. I am responding to the "Request for replat of a subdivision plat approval for a portion of "Sahhali South" together with Conditional Use request #851-25-000548-PLNG, to amend the Planned Development Master Plan." This is my written testimony to be included in the staff report on the Sahhali South Application for Replat application #851-25-000549-PLNG. I ask to also be included in providing oral testimony.

I am registering my objection to the following items in this Land Division Application request as presented to Tillamook County Planning Commission, and request that they not be approved.

Item 1 – Replat existing lots 14-19, I do not have an objection

Item 2 – OBJECTION I object to replating of lots 46 - 48. Whereas the new lots 47 and 48 are within the development guidelines, the newly created boundaries of lot 46 result in a lot that is unbuildable for either a single family or town home. This lot would not have the necessary setbacks from a road that are the foundational characteristics of both this neighborhood and the adjoining Sahhali Shores development. The applicant is attempting to remedy this by getting an exception to setbacks from the road. If a single family home is attempted to be built here, it would be objectionably close to the road, and be the only home that is 5 feet from a road in the entire two neighborhoods. This resulting development is not consistent with comprehensive plan provisions nor zoning objectives of this area.

Item 3 – OBJECTION While the applicant is welcome to designate more lots as open space for the benefit of the community, the exchange of lot 13 (a steep lot that is difficult to access) for community space (designated as Tract A) is unacceptable. The characteristics of lot 13 have not changed since the applicant set out the original plat. The long driveway to lot 13 (also called Thalassa) borders several townhomes and was never envisioned to be used as a road to a community open space. This resulting exchange is not consistent with the comprehensive plan provisions nor zoning objectives of this area.

Item 4 - OBJECTION Partition Tract A: Open Space into (2) Lots. I object to the open space conversion to building lots:

- a) When I was considering purchasing a home in Sahhali South (more specifically Lot 44), I did so while factoring in the open space immediately across the street. Since the existing homes were a bit close together, I felt the space would provide a sense of openness that would offset any density from the other homes. The relocation of this open space for the

more steeply sloped, inaccessible areas of lots 13A and 13B is not a comparable exchange.

- b) The applicant is not honoring the proposed plan and promised expectations of the homebuyers. This is not consistent with the goals and policies of the Sahhali South Comprehensive Plan.
- c) The residents of Sahhali South have been considering uses for the open space on the corner of Heron View and Proposal Point. The central location of this open space and the flat ground area make this a perfect location for a community gathering place, recreation or potentially a future community center (as identified on page 14 of the Master Development Plan).
- d) This change would alter the character of the surrounding area in a manner which limits and impairs the use of the surrounding area and non-beach recreational opportunities in the development. The community will be unable to utilize the open space currently in lots 13A and 13B steep slope.

Item 5 – OBJECTION While there has been one single family home built to date in this townhome development, the character of the development does not lend itself to many more. Merging townhome lots into single family home lots, across the street from townhomes, is inconsistent with the zoning considerations in this area.

Item 6 - no objection. Lot 48 has always been advertised as a single family home lot, as it is tucked behind the majority of townhomes. This is not a change to the existing plan and so it is confusing as to why it is listed by the applicant as a plat change.

Item 7 – OBJECTION This change to setback for lot 46 from 10 fett to 5 feet would require a vote by the owners of Sahhali South to amend the CC&R's.

- a) Applicant does not have the sole right to amend SS CC&R's.
- b) The Proposed Amendment to Recorded CC&R will increase the density of the development, reduce views and will affect properties outside of the "subject properties boundaries" in the application.
- c) This does not meet Tillamook Land Use Ordinance Section 1.020 Purpose. The proposed setback will not serve the purposes listed which are to "encourage the orderly development of land, . . . to preserve and stabilize the value of property; aid in the provision of fire and police protection; facilitate the provision of community services (water, propane) prevent undue concentration of population, protect and enhance the appearance of the landscape and to protect and promote public safety."
- d) Under Tillamook Land Use Ordinance section 6.040 Review Criteria:
 - Section 3: The remaining lots in the subdivision are not suitable for a setback change based on size, shape, location, existence of improvements.

- Section 4: The proposed new setback will alter the character of the surrounding area in a manner which impairs or prevents the use of surrounding property for residential, recreational purposes.
- e) This is a substantial change in the appearance of this and adjoining Sahali Shores subdivisions as it exists, as currently all dwellings are spaced 20 feet from existing roads.

This application is substantially similar to one submitted in 2022. At that time the residents of the Sahali neighborhood strongly voiced their objections and the application was withdrawn. In the past, Tillamook County has expressed the condition that *“All areas designated as open space, common area, wetlands or the areas designated for development shall not be further subdivided for development purposes.”* This application is trying to subdivide an open space, common area.

I respectfully request that this application be denied.

I look forward to discussing these issues with the Commission in the hearing scheduled for January.

Sincerely,



Katherine Hammack
45040 Proposal Point Drive (Lots 4 and 44)
Neskowin, OR 97149
hammackk@gmail.com
(602) 370-1005

Melissa Jenck

From: Jay Keck <jay.keck@yahoo.com>
Sent: Sunday, January 4, 2026 2:36 PM
To: Melissa Jenck
Subject: EXTERNAL: Comments on sahhali south replat request 851-25-000549-PLNG/851-25-000548-PLNG

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Hello,

My name is Jay Keck and I own lots 53 (house 5835 tyee court) and 54 of Sahhali Shores which are immediately to the north of lot 46 and 48 of Sahhali South.. I would respectfully ask the review committee to reject the proposal of redefining the property lines of lots for several reasons:

- 1) Changing the side setback on lot 46 from 10' to 5' would create a situation where any development would be right on top of my property. The county established 10' setbacks to help maintain an open feeling among houses, this change would do just the opposite.
- 2) Potential safety issues to my house. If a fire broke out at the lot 46/48 property. With only 5' separation it makes it easier for flames to jump over.
- 3) this request will create a very high density cluster of houses and townhomes by allowing up to 4 single family homes to be built immediately around the already existing 4 townhomes in Sahhali South. This would really take away from the rural, open feeling that Neskowin is known for. In addition the request to change the current open space lot into 2 single family homes only adds more to the density issue
- 4) All other houses, including mine were built following the 10' setbacks rule. So to allow a variance just so the developer can jam as many houses as possible into a space, not taking into account how other properties are affected, flies in the face of why those very setback rules were put in place.

The developer has withdrawn this request before due to pushback from the members of the Sahhali South HOA, and they once again are not in favor of this. The Sahhali Shores HOA also has concerns. I would ask the committee to reject this request and keep the current property lines in place which allow for a more reasonable housing configuration.

Regards,

Jay Keck

Owner Sahhali Shores lot 53 and 54

5835 Tyee Court

503-224-5396

Sent from my iPhone

January 2, 2026

To the esteemed members of the Tillamook County Planning Commission:

My name is Jennifer Bierce, owner of tax lot 3500, Lot 52 in Sahhali Shores; located at 5835 Tyee Loop (aka 45015 Proposal Point Drive), a neighboring Lot to Tract-A, which is currently under review to replat.

I appreciate your review of my opposition to the proposed 851-25-000549-PLNG & Conditional Use Review #851-25-000548-PLNG. I am writing to renew and repeat my earlier comments generated by the applicant's Jan 2022 application which he abruptly withdrew in May 2022 only to now repackage in his Dec 9, 2025 application, having refused to answer any of the voluminous comments generated during his January 2022 terminated application.

As previously disputed by me and multiple landowners during the 2022 submission (documenting over 100+ pages of disputes), I am surprised that the Tillamook County Planning Commission is entertaining this most recent submission. The developer is clearly attempting to surreptitiously slip this proposal through during the holiday season when the chances of owners missing said submission is significantly greater, and my hope is that your esteemed commission will not play into his farce.

Dispute 1: Developer Submission is in direct contradiction to intentions stated in July 1, 2025 Sahhali South HOA meeting proposing updates to CCRs to allow submission to move forward with TPB, therefore any review of this submission by TPB is unlawful.

- Despite his intentions expressed at the July 1, 2025 HOA meeting, the developer has yet to schedule a vote of owners on the proposed changes to the CCRs despite the fact no authority can be found in the land use or Land Development Ordinances to allow the Tillamook Planning Board [TPB] to replat without CCRs approved.
- Given the above, it is imperative the TPB should deny any application for replatting requested, as any changes without current concomitant CCRs previously voted on and approved would be forcing the Sahhali South lot owners to handcuff their vote against their preferred wishes if ordered by the TPB.
- The developer's repetitive proposal to reposition the original, recognized, well established almost 21-year Tract A Open Space from current tax lot 5900 to lots 1300 and 1301 should be automatically dismissed per his rude and unprofessional time wasting during the 2022 aborted application, which he withdrew just before the Tillamook Planning Board was to issue its final response. The following reasons will illuminate why:
 - Developer hubris to request repeal now of the TPB Section F, which he signed under oath, contractually binds him to the perpetual covenants and restrictions. Unacceptably, he now wants to renegotiate after almost 21 years, undermining the original approved basis as well as the heavy reliance on nearby Sahhali Shores lot/homeowner purchasers who bought as recently as December 3, 2025 (Tax lot 3300) and as far back as 20 + years ago [see [page 107](#) Figure 2 dated 4/13/2022 that was listed in the 2025 submission along with impacted adjacent perimeter lot owners (12 lots provided here in Exhibit D page 16) who relied on the long term Open Space current designation.]

- If the developer can reuse his 2022 application pages, the voluminous concerned parties in the 2022 written testimony should also be included in the 2025 application packet as the developer has set the precedent for repetition. These Sahhali Shores buyers performed their due diligence and received cold comfort via Section F plus the fact the TPB has never capriciously replatted/moved designated Open Space after 20 years. Please see Exhibit E (page 17-162 for opposition letters).

Dispute 2: Tract A Open Space should be protected and remain as open space per Section F 2005; agreed by the applicant.

- 2005: Planned Development Subdivision (PD 05-13) F states, All areas designated as open space, common area, wetlands, or the areas designated for development shall not be further subdivided for development purposes; however, Lot 13 may be further partitioned into two separate lots at a future date subject to amendment of this Master Plan.
- If the TPB were to accede to this request, it would be rewarding the developer for his inadequate and incomplete 2022 submission that not only wasted the time of the TPB Commission, but also that of all owners who submitted feedback. Moreover, repealing your TPB 2005 predecessor's stern Section F proviso would make a mockery out of all current and future TPB stipulations, **creating a dangerous precedence that would impact the credibility the TPB** has professionally worked so hard to authenticate and uphold for the last 20+ years.
- I fear the TPB's future credibility will be greatly tarnished if not obliterated if the Section F issued in 2005 is altered or repealed after 21 years to placate the fickle and money hungry developer that does not care about the impact this replat will have to our gorgeous coast lines and the neighboring community.

Dispute 3: The proposed Open Space area recommended by the Developer is unusable for its intended purpose (an open space to enhance the aesthetic value of the community) and benefits only the developer to sell an area that is more suitable for building and sale.

- The proposed lots 13a & b are so steep and bramble filled that only an agile goat or experienced mountaineer would be able to navigate the terrain. Ironically, both Sahhali Shores and Tillamook County have recently approved home plans for similarly steep lots so that should not be an impediment to the developer on lots 13a & b remaining as is or perhaps included in the lot 14-19 bucket.
- Tillamook County defines "open space" as equivalent to "undeveloped land or park facilities belonging in common to the members of a property owners association. The open space, development density, and the layout of the streets in Cluster developments are designed to maintain the natural or scenic amenities of a site, and the minimum lot sizes in Cluster subdivisions are reduced to allow a proportionate increase in the density of the developed portions of the tract." The above Tillamook County Section 020 definition under Cluster subdivision equates open space as being synonymous with public park facilities. As such implicit in "open space" is the assumed human interactive component requiring ease of access and ease of use.
 - Inherent in the developer's proposed "swapping" open space from the Tract A (0.34 acreage) for his lot 13 (0.88 acreage) is his incorrect assumption of fundamental equivalence for the 2 parcels. He glosses over his "gently sloping

terrain" description of Tract A and immediately equates it to his "steeply sloped " lot 13 statement as being equal substitutes.

- The problem with this developer assumption is it completely removes the human interaction component requiring ease of access and ease of use for children, handicapped, disabled, and senior citizens to enjoy. It also seems to contradict his earlier 2005 and 2007 submissions to those then serving Tillamook County Board representatives who I'm sure applauded his thoughtful foresight to lay out Tract A as the most accessible and easy to use "open space" central to ALL Sahhali South lot/homeowners.
- Instead of certifying to his earlier thoughtful open space inclusion near the major Sahhali South intersection, He has now shunted the proposed " open space" designated area to a peripheral cul-de-sac requiring current Proposal Point Drive homeowners to travel up to 3x the original distance to visit. Moreover, his suggested substitute on lot 13 all but ensures that unlike the aforementioned public park similarity, there is no ease of access or use for many humans.
- **Please see Exhibit C (page 15)** – Bramble filled cliffside that the developer is proposing becomes the new open space.

Dispute 4: The applicants deceptive and purposeful misrepresentation of Thalassa Dr creates a fire safety issue for all inhabitants within the community. Thalassa Dr cannot be found in the application's Tillamook County map area, is not listed in the Dead End section with all the other public/private streets, and remains a visual enigma masquerading as a 2 way street when in fact it a dead end not listed on any Tillamook County maps.

- Based on developer's previous antics and application behavior, it is flagrantly missing, - mis-designated, and blatantly deceptive to all readers. By not mentioning Thalassa is a dead end he can obfuscate the Fire requirement as well as gloss over what the Public Works Director Chris Laity stated following in an email to Melissa Jenck on April 6, 2022: "Page 22 of 62 (pd/ page 23) Section 3.520{3}(b)(4) states that the streets are adequate to support the anticipated traffic and the development will not overload the streets outside of the planned area... This is incorrect as there is ongoing base failure along the existing lower road that needs to be addressed. This is likely a result of the poor & inadequate drainage contrary to what (5) states."
- These Public Works Director's admissions amplify the proposed lots 13 a & b for Open Space are a considerate distance away from the central community core. Not only do the lots' steepness discriminate against use but the Thalassa Drive is not as pristine as Proposal Point Dr. to the detriment of older and younger Sahhali South residents. Moreover, the existing Open Space Tract A does not require additional travel effort required to get to lots 13 a and 13 b.
- Oregon Fire Code Appendix D Section 503.25 as well as Tillamook County guidelines require an approved turnaround if the dead end exceeds 150 feet in length which Thalassa does.
 - Recommendation: Nix Thalassa Dr as an access as the Sahhali South HOA prefers it be downgraded to a maintenance road that would alleviate and diffuse the Open Space imbroglio.

Dispute 5: Developer inaccurately purports that application does neither increase urbanization nor density as it does not reflect the ' impervious surface limitation

[ISL] pick up that a flat lot generates simply by adding to required impervious square footage available to the flat surface. The sheer steepness of lots 13 & b reduces the buildable area so the flatter, more expansive tax lot 5900 will generate close to the 8000 square footage permitted ISL for 2 proposed 57, 58 lots, but greatly restricted and limited by lots 13 a & b steep topography.

The developer's disguised move will increase the development's density and urbanization feel under the guise of the developer's false claim the proposed Open Space swap will not alter the character of the neighborhood.

Dispute 6: Developer hubris includes not only shrinking perimeter lot 46 from 0.16 acre to 0.12 acre or 25% reduction but also simultaneously cuts the side setback to just 5 feet. This meaningful reduction in lot size combined with expanding the available side building space creates additional density despite the developer's misleading claim to the contrary that it "will not alter the character of the surrounding area."

- The developer's 5' side diminution is adamantly opposed by the Sahhali South HOA and was called out at the July 1, 2025 meeting. Even the Sahhali South lot owners do not want the urban feel the developer has repeatedly pushed.
- It is counter to all the current setback requirements and CCRs maintained by both Sahhali South and Sahhali Shores communities, so would ABSOLUTELY alter the character of the surrounding area if approved. It also increases fire risk with flames spreading quickly to the cedar tinder box homes with such close proximity and will destroy the open nature and safety of the community.

Based on the above facts, in addition to all the facts and disputes submitted in April 2022 (reattached in the subsequent pages) it would be inconsistent for the Tillamook County Planning Commission to not maintain original open space Tract A designation and placement. I encourage you to also please review all Exhibit photos submitted on page 14 and 15 of my opposition.

I have also included the extensive opposition submitted in 2022 (**Exhibit E**) regarding a replat of Tract A so that it can be reviewed as a part of this submission as well. I appreciate your consideration and thoughtfulness in this decision, and hope that you choose not to approve the replat of Tract A.

Thank you,
Jennifer Bierce
(Owner Tax Lot 3500 – 45015 Proposal Point Drive, Neskowin, OR 97149)

April 5, 2022
Addendum to February 15th, 2022 Submission

To the esteemed members of the Tillamook County Planning Commission:

My name is Jennifer Bierce, owner of tax lot 3500, Lot 52 in Sahhali Shores; located at 45015 Proposal Point Drive, a neighboring Lot to Tract-A, which is currently under review to replat.

This is an addendum to my Feb 15, 2022, comments in opposition to the **proposed 851-22-000003-PLNG**.

Based on the materials provided, the suggested replat does not meet the following Review Criteria as outlined in Section 6.040 and Section 3.520(3)(b):

Section 6.040(3): The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.

Section 6.040(4): The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

- **Dispute 1: Significant impact/impairment to the macro surrounding area of Neskowin and Highway 101**
 - Visual Impairment would ensue if Tract A open space plat is split into the proposed 2 building lots. The developer shows a permissible building envelope on A-1 with the east/west longitudinal building's 144' width. This length structure will dwarf all existing Sahhali South and Sahhali Shores structures' width by at least 70'. Note: tax lots 900 and 1000 on Heron View Drive are only 51' wide while the Proposal Point Drive tax lots 4400 and 4500 are just 71' wide.
 - Combined with the developer's 30" height, whatever McMansion railroad train elongated structure is built here will permanently alter the landscape views from Highway 101 and Neskowin. The above-mentioned tax lot 4500 has just a 24' height structure but its nighttime light illumination is visible from Hwy 101.
 - Since A-1 elevation is equal to that of tax lot 4500 and will be 6' higher at 30', the proposed allowable building envelope is 144' east west long, it can be assumed this structure will be always visible, day or night.
 - When combined with the developer's 83% side setback downsizing, the very narrow 10' distance between A-1 and A-2 parallel building structures will create a single east/west structure noticeable from Highway 101 that will appear as just one monstrous structure, not two.
- **Dispute 2: Reputational rural character impairment to the lovely town of Neskowin may occur when this permissible 144' wide A-1 structure is finished. Additionally, while the proposal may seem in accordance with Tillamook County setback requirements of a minimum of 5', when you take into account the vertical building heights of this proposal, Neskowin would have the most restrictive side yard setback requirements, exceeding comparable urban designations.**

- According to City of Tillamook residential zoning – for similar size average lots or smaller average lots there is a requirement to add 0.5' setback for each foot structure exceeding 15' high. Since the developer's ARB height is 30', this results in an additional 7.5' to be added to the minimum 5'. Thus, the total side lot setback becomes 12.5' in the city of Tillamook vs. just 5' in Neskowin. This urban Tillamook County city then enjoys a 12.5' / 5' or 250% greater side setback requirement than one proposed for the bucolic rural Neskowin hamlet. This more onerous stipulation drastically impairs the surrounding area as its side setbacks reduce the natural resource amenities view corridor by 60% [7.5' / 12.5'] over whatever view corridor exists in the City of Tillamook.
- Additionally, should structure be built in the proposed A-1 lot, the resulting industrial warehouse length building incursion into a rural residential neighborhood may hurt the Neskowin aura of idyllic hills and untouched Oregon coastal landscapes.
- Removing the 17-year-old Tract A open space designation and converting the same into two building lots may also tarnish and stigmatize Neskowin as placing developer profits over environmental sustainability of our beautiful Oregon coast lines.
- The developer's proposed downsized setback requests are the Trojan horse included to ensure that Tract A platted open space can be subdivided into not one but two buildable lots that will completely alter the nature of what is currently deemed to be a rural, coastal community.
- The 17-year developer reconfirmed [15 years ago] the 30' side interior setback currently prohibits any building on Tract A despite the developer's attempt to slice it into 2 buildable lots.
- More specifically, the proposed side setback reduction from 30' to 5' adds 25 additional buildable feet to each north/south building perimeter. The 83% setback shrinkage generates 25' more feet on either side. So, the math is $30' - 5' = 25'$ additional feet. $25'/5' = 500\%$ increase in allowable footage allowed on each north and south total length.
 - If the developer's application was in the City of Tillamook, not Neskowin, his apples-to-apples similar height allowable building envelope increases would be drastically reduced: $30' - 12.5' = 17.5'$ $17.5/12.5 = 140\%$, NOT the 500% proposed in Neskowin.
 - This more restrictive urban allowable building envelope is contra public policy, inconsistent, and unreasonably biased against the stated NeskRR Section 3.320 [1] Purpose "intended to maintain the rural character"
 - Allowing 3.5X (500/140) larger side yard building envelope increases in rural Neskowin seems in conflict with NeskRR Section 3.320 and unreasonably damaging. Its rural natural amenities are subject to more intrusive, destructive, and injurious larger building envelopes than the City of Tillamook urban allowances, when equal building heights are included. The hamlet's rural character and natural beauty should not be harmed via a more invasive encroachment than the narrower inset allowed in urban cities.
- Also contributing to a greater building envelope is the proposed side street setback decreasing 25% from 20' to 15'. This reduction in setback increases the building envelope where relevant by 33% exceeding that which is permissible in the city of Tillamook.
- These huge building envelope increases, and much less restrictive setbacks proposed are rifles designed to hit the Tract A bullseye and restrict all surrounding area views;

depriving current and future residents of the area's natural beauty and forever altering the conditions of the Neskowin coastline.

- **Dispute 3: Significant impact/impairment to the Micro surrounding area with significant densification to a once rural enclave.**
 - The proposal would result in increased density on Proposal Point Drive (PPD) but especially on PPD between Heron View Road and Tyee Loop Ct. The developer's division of Tract A into two lots increases by 20% from 5 lots [tax lots: 4300, 4400, 4500 4600, and 4700] to 6 lots [tax lots 4300,4400, 4500, 4600, plus A-1 and A-2 tax lot numbers].
 - This increased density generates four new east side PPD driveway aprons possibly interlocking or overlapping with tax lots 4400 and 4500 own 4 driveway aprons. Tax lot 4600 two driveway aprons will add to potential interlocking A-2 two driveway aprons.
 - Not only does it generate increased density, but also much additional traffic that intrudes on Sahhali Shores tax lots located on PPD and Tyee Ct. It should be noted the developer's application omits any verbal attribution for Sahhali North, a 25 acre 5 lot subdivision directly contiguous due North on Heron View Drive. Tillamook County Planning Board 10/17/2007 conditional approval Exhibit A III [2] mandates "Vehicular access to the lots take place only from Heron View Drive." So these 5 lots must have mandatory driveway aprons on the north side of Heron View Drive. This stipulation obviously will impact the volume and safety in the area, despite the developer's nonrecognition of this conditional approval.
 - The developer's density at what is the only major north/south and east/west intersection of Proposal Point Drive and Heron View Rd. could be reduced via Section 160 "Dead End Street". This states for roads under 2000' long, there's a potential available permitting up to 18 dwellings. This would alleviate traffic on Proposal Point Drive and decrease density as well.
 - For example, why not use the long 89' road facing lot next to proposed 13-A on Thalassa Dr. Besides being a very suitable building lot, the aerial view illuminates the interlocking apron potential, urban concrete jungle potential, and density increase. To illustrate is a Sahhali Shores lot with similar elevation and well designed house: https://www.zillow.com/homedetails/5700-Sahhali-Poin-LOT-80-Neskowin-OR-97149/2067401912_zpid/
 - Density could also be eliminated by keeping the proposed combined lot 48 as 48-A and 48-B separate. According to [realtor.com](#) both of these lots were Listed on Feb 4, 2021 and both went to sign contracts Pending March 24, 2021. It would be helpful to see these two signed contracts and ascertain why they are now proposed as combined.
- **Dispute 4: Tax Lots 3400 and my own 3500 will be substantially impaired** as the developer's proposed 260' property line, and creation of irregular, sliver lots will shut down both tax lots direct south facing views. Combined with the much narrower side lot setback will obstruct if not obliterate any view once the two parallel 30' structures are built.
 - Each building will now be 25' closer to each tax lot, including mine. Once a developer selects his desired setback formula for detached homes, it should become permanent after 17 years. The Tillamook County Planning Board should maintain its 2005 and 2007 consistent and coherent, disciplined reaffirmation of the 30' side setback requirement.
 - The developer's setback downsized request is squarely aimed at converting irregular Tract A into two buildable lots while his lot #14-19 front street widening negates any required downsized setbacks as does revised lot 46. 48 and 13-a and 13-b.

- According to “Exhibit 2.1: Developers Summary Statement for Sahhali South Master Development Plan” on page 157 of the second paragraph just before the Conclusion of Criteria 4, the developer asserts “The proposed development is designed to replicate in feel and look this development. The proposed layout of the development will not impact the scenic views of the adjacent subdivisions.” Respectfully, this is an utter lie, and the Planning Commission must disaggregate this assertion.
 - As a resident of the “adjacent subdivision”, and most importantly, the neighboring Tax lot 3500, the eradication of Tract A open space plat and its proposed split into 2 lots will substantially marginalize/destroy somewhere between 90-150 degrees south and east of the existing unblocked 360-degree panoramic vistas. This severe view destruction devalues my newly built home whose certificate of occupancy was just issued in November 2021.
 - Under the current setback rules, Tract A 's single plat affords unlimited and unhindered scenic views. The new downsizing setbacks are singularly designed to ensure Tract A can be converted into buildable lot status with no recognition or acknowledgement of scenic view corridor destruction that will inflict on neighboring lots in adjacent subdivisions.
 - The developer's proposed downsized setback adjustments will only further impair the limited scenic view incursion proposed above by the developer's unsubstantiated need to split Tract A into two building lots now after a 17-year status quo permanency as a single plat.
 - Why not add 1 lot or 2 or more on the new cul-de-sac Thalassa Drive proposed road whose unique Dead End Designation is mentioned by the developer himself? As he states, its unusual parameters permit additional homes without any density implications. This splitting Tract A into not 1 but 2 lots to magnify my scenic view limitations seems very inequitable to this single woman.
- Instead of viewing south and east with a spacious 30" property line setback horizon, this additional 25' north and south side building envelope will push the northern A-1 building structure 25' closer to my property to just 5 ' from my southern property line, not 30'. As any eye doctor will state, the closer you are to an object, the greater visual bandwidth it absorbs thereby severely limiting and impacting your lateral side vision. Coupling this to my scenic views and it is easily evident the panoramic vistas will be considerably impacted and diminished.
- If in fact the entire A-1 extra-long east west building envelope is utilized, this will essentially derail all east or south vistas severely impairing my scenic views.
- With the developer's proposed illogical desire to split Tract A into 2 irregular long lots, he will further create an unnecessary 2nd building again significantly limiting my scenic view. This intrusion and visual restriction is not permissible under current existing setback rules and Tillamook County Planning Board conditional approval.
- Shoehorning in this proposed capricious lot # 2 into the single Tract A plat guarantees my southern vistas will be visually obstructed. Who would have guessed the developer could arbitrarily present an out-of-the blue surprise inclusion of a 2nd building lot after a 15 and 17 year requested and approved history as just a single Tract A plat?
- The prospect of having to now stare directly into another 30' high structure just 55' from my property line will further impair my scenic view and impact my property value. **This stealth view diminution from what is currently unlimited as far as the eye can see**

across to the miles-away idyllic Neskowin hills will forever be annihilated and limited to just 55' of nothing but monstrous structures.

- **Dispute 5: For the immediate surrounding area, reversing the developer's 17-year-old twice affirmed detached home 30' side setback to the proposed minimum 5' does not reflect consistency but rather developer inconsistency, contrary to the developer's proposed assertion.**
 - 2005 Exhibit A conditional Planning Board approval was conditioned that **“All areas designated as open space, common area or wetlands shall not be further subdivided for development purposes.”** The December 2007 Planning Board again re-stipulated the 2005 condition in its own 2007 Exhibit A Conditional approval word for word.
 - On a micro level, these inconsistent proposed downsizing setbacks could be interpreted as designed solely to permit the developer to build on Tract A's two divided lots which are not currently buildable under the current 17- year developer selected setback settings.
 - The developer in his original CCRs claims the right to choose which lots to build or annex; he expressly does NOT grant himself the right to request setback stipulations after 17 years. Granting the developer's proposed detached home new minimum setbacks would greatly impair the current 18 Sahhali South homeowners who bought believing the twice affirmed setback restrictions were permanent.
 - The current Sahhali South and Sahhali Shores lot/homeowners would also be impaired. What was considered a permanent view vista in place for 17 years is now proposed to change and impaired 83% narrower viewing bandwidth. These greatly reduced setbacks narrow or extinguish surrounding lot/homeowner views.
 - These added restricted and diminished vistas devalue their property investment as what was fixed and in place is now proposed to be arbitrarily changed.
 - As proposed, the new setbacks are asymmetrical and inconsistent with Sahhali South own setback parameters which the developer had previously affirmed twice 15 and 17 years ago. The increased building envelope permitted under these proposed new setbacks will not "replicate the feel and look" of Sahhali South or Sahhali Shores with its greatly reduced side and interior yard setbacks. These downsized setbacks will create an inconsistent and very uneven dichotomy while greatly destroying much of the scenic views neighboring lot owners in adjacent subdivisions currently enjoy and can experience. There will be a tale of two cities in these neighboring communities.
- **Dispute 6: According to Tillamook County Article 4.11: Exception to Yard Setback Requirements – The proposed request does not align to any of the small lot exceptions outlined and therefore must be denied by the Planning Commission.**
 - **4.11.5a: SMALL LOT EXCEPTIONS:** In the RR, CSFR, RC, CC, CR-1, CR-2, CR-3, RMH and RMD zones and including those communities with adopted community growth boundaries, a front or rear yard, but not both, may be ten feet, provided the following apply to the subject parcel:
 - (a) The parcel is 7500 square feet or less in size.
 - (b) At least one side yard is ten feet or more wide.
 - (c) Required off-street parking is provided.
 - (d) The right-of-way width at the front of the lot is at least thirty feet. In the case of right-of-ways under 30 feet in width, a ten-foot yard may be approved if it is approved by the Public Works Department.
 - (e) The lot is not a corner lot. If the lot is a corner lot and meets the above criteria, the front yard may be 15 feet.

- Developer proposed Lot A-1 is 9285 square feet and is 124% larger than the [a] required maximum 7500 square feet exception and therefore is NOT eligible for either a front or rear yard exception of 10' for detached homes contrary to Table 1 page 17 submission.
- Not only is Lot A-1 ineligible for detached homes, but also NOT eligible for attached homes. Lot size again 9285 square feet exceeds the necessary exception limit of 7500 square feet.
- Developer proposed Lot A-1 is presented as having each side yard being just 5'. Since the [b] exception requires at least 1 side yard setback being 10', the developer's proposed Lot A-1 fails this threshold test. Lot A-1 is therefore ineligible for the Section 4.11 exception. Again, NOT eligible for detached homes contrary to Table 1 page 17 submission.
- Proposed Lots A-1/A-2 is non-conforming and therefore not eligible for any exceptions offered in Section 4.11.5a and 4.11.5b; thus the Planning Board should deny their creation.
- **Dispute 7: Tract A is currently an environmentally sensitive habitat for elk and deer.** It is also centrally located within Sahhali South, and ADA compliant for all humans young and old to enjoy the natural views. It is easily accessible and very easy to use. Please see original submission, as current proposal is in direct violation of Oregon House Bill 2834 that seeks to protect wildlife corridors.
- **Dispute 8: Neskowin is renowned for its very severe Pacific storms generating a lot of wintry rain and off the charts wind speeds; the proposal will increase opportunities for the creation of wind tunnels that can damage property and harm residents.**
 - Per the developer's Geotech report submitted with his large 5 lot Sahhali North April 2013 annexation, is a statement reporting wind gusts in the area are normally up to 110 mph. This 100+ mph wind was echoed in the developer's landscape section. Narrowing the setbacks 83% to just 5' will result in both A-1 and A-2 having just a combined 10' between their two structures. Since the same wind volume must travel through a smaller opening, the wind's velocity will increase potential debris impairment to leeward homes, traffic, and pedestrians.
 - The developer's proposed narrower side setback to 10' [2 x 5' each lot] between adjoining lots A-1 and A-2 will increase the wind force on Heron View Road humans and property as the current 60' setback [2 x 30' each lot] allows for the wind to dissipate instead of accelerating through the much smaller opening between the 2 building lots.
 - This increased danger to human life and property on these highest elevation Sahhali South lots should not be permitted as safety first concerns should override this.

Section 6.040(6): The proposed is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.

- **Dispute 1: If replating was “timely” the proposed requests would have been included in one of the two previous requests for rezoning by the developer.**
 - Although the developer could have used Tillamook County's 12/18/2002 Section 35 allowable 5' side setback in both its 2005 and 2007 reaffirmation, he did not.
 - The developer is the only beneficiary to these downsized setbacks that afford him a 500% increase on 2 sides on the building envelope home sides for adjoining lots to the detriment and impairment of surrounding lot/homeowners. Without these proposed downsized

setback new figures, Tract A would no longer be suitable to the developer to be sliced and diced into two building lots.

- **Dispute 2: Sahhali South has experienced a boom in recent sales activity, it can only be assumed that those sales were made with the understanding that the 17-year-old community open space (Tract A) would not be significantly altered.**
 - No need to alter the current setback factors as the current 18 Sahhali South homeowners are fully adjusted to the current requirements. Sahhali South is experiencing brisk sales activity under the current existing setbacks so again there is no reason to adjust the setbacks. Within the past year as of today's date [March 24, 2022] according to www.realtor.com 8 Sahhali South lots are Pending: Lot # 6, 24, 25, 30, 31, 40, 48-A, and 48-B.
 - I assume the 8 Sahhali South lots pending will close scheduled post this application. When added to the existing homeowners, the combined total of current and pending future individual lot owners = 26, just 3 shy of the majority of current 56 lots. As soon as this happens, the developer loses his control over the Board of Directors of the Sahhali South Homeowners Association.
 - The proposed setback changes seem laser-focused to convert Tract A open space into 2 buildable lots to benefit the developer now. It seems incoherent he proposes this now when the market seems to have recognized the current open space as attractive. Given his brisk sales. These current/future buyers like his consistent 17-year-old prior setback attestations that bring a sense of permanence to them.

Section 3.520 [3] [a] [3]: Proposed Open Space

The developer is mistaken and incorrect to assert on page 20 of his PD Replat Amendment Application:

"The 2021 Amendment Application will not change the use of dedicated OPEN SPACE as undeveloped."

Relocating Tract A creates 2 NEW Ocean View lots for development purposes. This action contravenes both the Tillamook County Planning Boards' 2005 and 2007 Exhibit A Conditional Approval stipulation:

"All areas designated as open space, common area, or wetlands shall not be further subdivided for development purposes."

Since "area" is not defined in Article 11 Definitions, The Article 11.020 [2] advises the following to ensure proper definitions can be agreed upon:

(2) When a Term Is Not Defined. Terms not defined in the Ordinance shall have their ordinary accepted meanings within the context in which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, shall be considered a standard reference.

Using this recommended Webster's Dictionary the ordinary accepted meaning for "area' is the following:

"Area" definitions: "The surface included within a set of lines", "A level piece of ground"

Tract A definitively meets both ordinary accepted definitions: it's a surface included within a set of lines and it is a level piece of ground. The developer's claimed equivalent substitution for lot 13 vicinity misrepresents that area's inherent steeply sloping ground that is NOT at all similar to Tract A and very unsuitable for humans of all ages to use negating the developer contrary observation. Please see Exhibit C on page 11 for detailed photos.

The new Tract A area proposed superimposed development lots [A-1, A-2] are marked and surveyed as separate lots shown on the developer's page 9 application. Oddly, the developer wants to combine the larger 48a and 48b lots into just one. However, with these new Tract A subdivided open space 2 lots he miraculously increases his net lots by 1 for a new total of 59 lots per page 14. These facts underscore the developer is subdividing the current level-grounded open space, for new development purposes solely to increase his net lot count by one.

Tract A open space has been specifically located at the northeastern corner of the Heron View Drive and Proposal Point Drive for 17 years. The developer notes its gently sloping terrain and then infers it is fungible with the very steeply sloped lots 13a and 13b, but these 2 lots are completely different, separate, far removed, and south of Heron View Drive. This false equivalency neglects the all but inaccessible and impossible to use 13 lots versus Tract A very easy to use and ease of access [see exhibits A and C for clearly illuminating the vast differences]. To remain consistent with the 2005 and 2007 Planning Boards, the Tract A acreage area is specifically dedicated to open space; it "shall not be further subdivided for development purposes" and therefore immutable.

So again, subdividing Tract A into 2 development lots most definitely will change the use of dedicated open space contrary to the page 20 developer statement.

Section 3.520(3)(b) (2): Resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area.

- **Dispute 1: Tillamook County defines "open space" as equivalent to "undeveloped land or park facilities belonging in common to the members of a property owners association. The open space, development density, and the layout of the streets in Cluster developments are designed to maintain the natural or scenic amenities of a site, and the minimum lot sizes in Cluster subdivisions are reduced to allow a proportionate increase in the density of the developed portions of the tract."** The above Tillamook County Section 020 definition under Cluster subdivision equates open space as being synonymous with public park facilities. As such implicit in "open space" is the assumed human interactive component requiring ease of access and ease of use.
 - Inherent in the developer's proposed "swapping" open space from the Tract A (0.34 acreage) for his lot 13 (0.38 acreage) is his incorrect assumption of fundamental equivalence for the 2 parcels. He glosses over his "gently sloping terrain" description of Tract A and immediately equates it to his "steeply sloped" lot 13 statement as being equal substitutes.
 - The problem with this developer assumption is it completely removes the human interaction component requiring ease of access and ease of use for children, handicapped, disabled, and senior citizens to enjoy. It also seems to contradict his earlier 2005 and 2007

submissions to those then serving Tillamook County Board representatives who I'm sure applauded his thoughtful foresight to lay out Tract A as the most accessible and easy to use "open space" central to ALL Sahhali South lot/homeowners.

- Instead of certifying to his earlier thoughtful open space inclusion near the major Sahhali South intersection, He has now shunted the proposed " =open space" designated area to a peripheral cul-de-sac requiring current Proposal Point Drive homeowners to travel up to 3x the original distance to visit. Moreover, his suggested substitute on lot 13 all but ensures that unlike the aforementioned public park similarity, there is no ease of access or use for many humans.
- **Please see Exhibit C** – Bramble filled cliffside that the developer is proposing becomes the new open space.

Based on the above facts, it would be inconsistent for the Tillamook County Planning Commission to not maintain original open space Tract A designation and placement. I appreciate your consideration and thoughtfulness in this decision, and hope that you choose not to approve the replat of Tract A.

Thank you,
Jennifer Bierce
(Owner Tax Lot 3500 – 5835 Tyee Loop (aka 45015 Proposal Point Drive), Neskowin, OR 97149)

Exhibit A: Photos taken from South Balcony fo Bierce Resident (Lot 52, Tax Lot 3500):
Tract A is a very gently sloping and easily accessible for all residents, including children, handicapped, disabled or senior citizens. Proposed Open Space is steeply sloping and inaccessible to many current or future residents, as well as discriminatory to handicapped, disabled or senior citizen. Proposed open space would require 36 Proposal Point Lot owners to travel at least twice as far to use a Thalassa Street culdesac.

Per the photos, the addition of two homes in this location would eliminate my south facing views impacting my overall property value, and causing safety concerns of 4 driveways emptying out into the same thoroughfare:

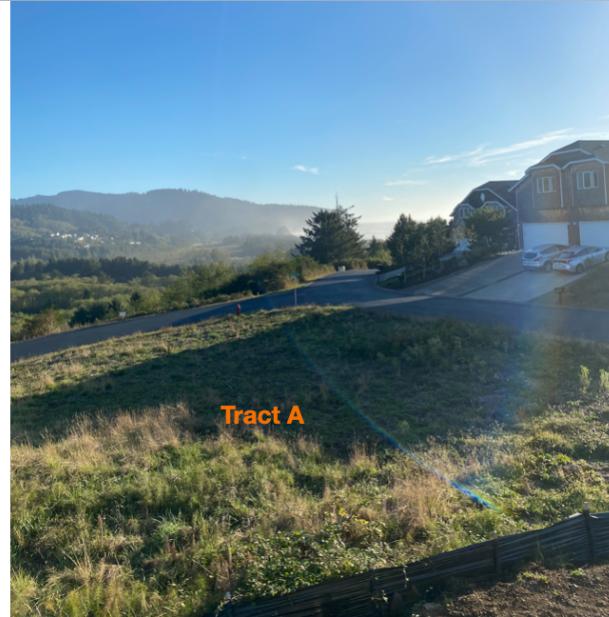


Exhibit B:



**Proposed New
Open Space - a
densely vegetated,
inhabitable, cliffside**

Tract A

Exhibit C – Bramble filled cliffside that the developer is proposing becomes the new open space.



View from Thalassa Drive



View from Heron View Road



View from Heron View Road

**Steep sloping, cliffside brambles are not ADA compliant,
are inaccessible and inhospitable to community.**



View from Thalassa Drive



View from Thalassa Drive



View from Heron View Road

Exhibit D -

Sabhal Shores lots Impacted by
Proposed OPEN SPACE TRACT A
from TAX Lot 5900 to lots 13a+b

<u>TAX Lot</u>	<u>Purchase Date</u>	<u># Years since 2005</u>
3300	12/25	20
3400	10/20	15
3500	03/20	15
3600	01/18	12
3700	08/21	16
5600	06/17	12
5700	09/25	20
5800	11/20	15
5900	05/22	17
6000	05/22	17
6100	04/23	18
6200	04/23	18
AVERAGE		16.3 years

Exhibit E – Letters of Objection from 2022 submission for Tract A Replat

Melissa Jenck

From: Chris Laity
Sent: Wednesday, April 6, 2022 6:28 PM
To: Melissa Jenck; Jim Oeder
Subject: RE: Sahhali South Comments

Melissa,

Page 22 of 62 (pdf page 23) Section 3.520(3)(b)(4) states that the streets are adequate to support the anticipated traffic and the development will not overload the streets outside of the planned area... This is incorrect as there is ongoing base failure along the existing lower road that needs to be addressed. This is likely a result of the poor & inadequate drainage contrary to what (5) states.

The request identifies a fire truck turnaround adjacent to Lot 13-B, but the request does not include any information that shows that it is viable to install the necessary retaining wall needed to support the turnaround. It is unclear, based on what was submitted, that the retaining wall can be constructed within the proposed platted area. Additional setback requirements may be needed on lots 13-A and 13-B for future reconstruction efforts.

My questions & comments may be addressed within the submitted. However, I will be in the field most of tomorrow and I won't have time to do a more thorough review.



Chris Laity, P.E. | Director
TILLAMOOK COUNTY | Public Works
503 Marolf Loop Road
Tillamook, OR 97141
Phone (503) 842-3419
clainty@co.tillamook.or.us

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From: Melissa Jenck <mjenck@co.tillamook.or.us>
Sent: Wednesday, April 6, 2022 5:05 PM
To: Chris Laity <clainty@co.tillamook.or.us>; Jim Oeder <joeder@nrfpd.com>
Subject: Sahhali South Comments
Importance: High

Good evening Chris and Jim,

There are the additional documentation I've received from Sahhali. There is other details regarding water service and wetland discussions, but I've not based that on. If you have any comments you'd like to add to the record, the Staff report is due tomorrow. Please let me know if there is anything additional you'd like to add.

Thank you,



Melissa Jenck (she/her) | CFM, Land Use Planner II
TILLAMOOK COUNTY | Community Development
1510-B Third Street
Tillamook, OR 97141
Phone (503) 842-3408 x3301
mjenck@co.tillamook.or.us

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Melissa Jenck

From: Jim Oeder <joeder@nrfpd.com>
Sent: Thursday, April 7, 2022 9:45 AM
To: Melissa Jenck
Cc: Chris Laity
Subject: EXTERNAL: Re: Sahhali South Comments

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

That is the road that is failing and does not have a turnaround. I will send you some pictures shortly I just got back from there.

James Oeder
Fire Chief
Nestucca RFPD
503-392-3313 office
503-812-2422 cell
joeder@nrfpd.com

On Thu, Apr 7, 2022 at 8:32 AM Melissa Jenck <mjenck@co.tillamook.or.us> wrote:

Good morning Chris,

Thank you for this information. As to the 'lower road', to ensure I'm gathering correctly, is this in relation to Thalassa Drive that is failing? Or is it a comment regarding another road?

Thank you,



Melissa Jenck (she/her) | CFM, Land Use Planner II

TILLAMOOK COUNTY | Community Development

1510-B Third Street

Tillamook, OR 97141

Phone (503) 842-3408 x3301

mjenck@co.tillamook.or.us

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Sent: Wednesday, April 6, 2022 6:28 PM
To: Melissa Jenck <mjenck@co.tillamook.or.us>; Jim Oeder <joeder@nrfpd.com>
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Chris Laity, P.E. | Director

TILLAMOOK COUNTY | Public Works

503 Marolf Loop Road

Tillamook, OR 97141

Phone (503) 842-3419

clainty@co.tillamook.or.us

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From: Melissa Jenck <mjenck@co.tillamook.or.us>
Sent: Wednesday, April 6, 2022 5:05 PM
To: Chris Laity <clainty@co.tillamook.or.us>; Jim Oeder <joeder@nrfpd.com>
Subject: Sahhali South Comments
Importance: High

Good evening Chris and Jim,

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Thank you,



Melissa Jenck (she/her) | CFM, Land Use Planner II

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Melissa Jenck

From: Jim Oeder <joeder@nrfpd.com>
Sent: Thursday, April 7, 2022 10:27 AM
To: Melissa Jenck; Chris Laity
Subject: EXTERNAL: Fwd:

Follow Up Flag: Follow up
Flag Status: Completed

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I am sending pictures that show the road surface conditions. This is Thalassa Dr. which is the road that I believe we have been talking about from them. At the end of the road is just a short gravel section. Melissa also in this document there is a section for fire, first there is no Neskowin Fire Protection District and this is the first time I remember any mention of a turn around at the end of Vanora st. Could you give me a call when you can.

James Oeder
Fire Chief
Nestucca RFPD
503-392-3313 office
503-812-2422 cell
joeder@nrfpd.com

----- Forwarded message -----

From: **Jim Oeder** <joeder@nrfpd.com>
Date: Thu, Apr 7, 2022 at 9:58 AM
Subject:
To: Jim Oeder <joeder@nrfpd.com>

[Download full resolution images](#)
Available until May 7, 2022









Sent from my iPad

Melissa Jenck

From: Jim Oeder <joeder@nrfpd.com>
Sent: Thursday, April 7, 2022 10:27 AM
To: Melissa Jenck; Chris Laity
Subject: EXTERNAL: Fwd:

Follow Up Flag: Follow up
Flag Status: Completed

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

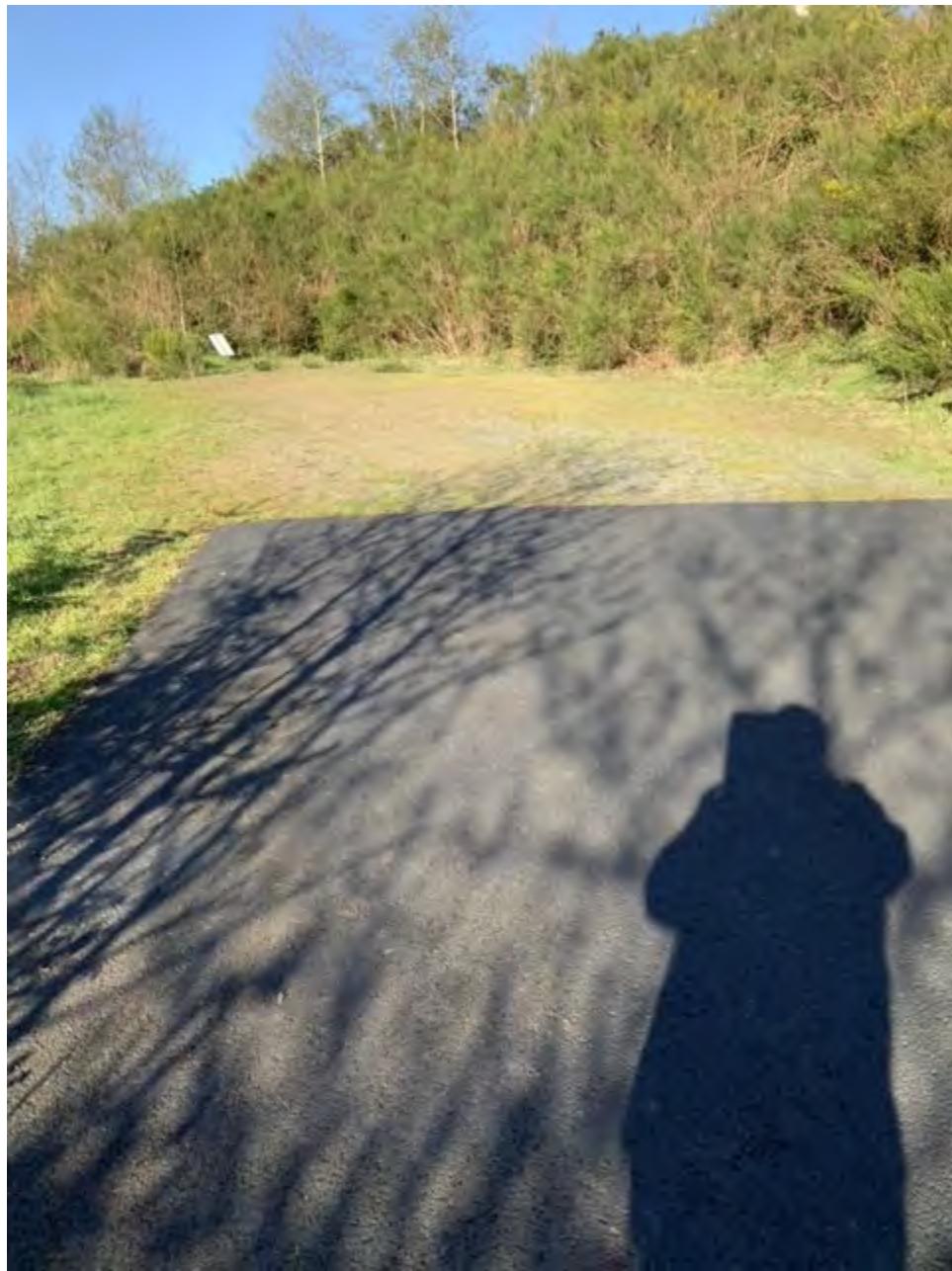
Rest of the pictures

James Oeder
Fire Chief
Nestucca RFPD
503-392-3313 office
503-812-2422 cell
joeder@nrfpd.com

----- Forwarded message -----

From: Jim Oeder <joeder@nrfpd.com>
Date: Thu, Apr 7, 2022 at 9:57 AM
Subject:
To: Jim Oeder <joeder@nrfpd.com>

[Download full resolution images](#)
Available until May 7, 2022











Sent from my iPad

Melissa Jenck

From: Chris Laity
Sent: Wednesday, February 16, 2022 8:54 PM
To: Melissa Jenck; Jim Oeder
Subject: RE: Final Sahhali Comments

Melissa,

The final details regarding the retaining wall will need to be submitted prior to construction. Since these walls lie within the right of way, the wall will be reviewed at the department per AASHTO standards. It is unclear if there is adequate room to allow for future maintenance, but I believe this can be accomplished with an easement based on the side setbacks (if needed). I have no objections to this proposal.



Chris Laity, P.E. | Director
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clainty@co.tillamook.or.us

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From: Melissa Jenck <mjenck@co.tillamook.or.us>
Sent: Wednesday, February 16, 2022 10:07 AM
To: Chris Laity <clainty@co.tillamook.or.us>; Jim Oeder <joeder@nrfpd.com>
Subject: Final Sahhali Comments
Importance: High

Good morning Chris and Jim,

I have to finish up the Sahhali Shores Subdivision staff report tomorrow. Given our previous meeting, I wanted to confirm whether there was any final comments on the record you would like to make. I attached the most recent additional maps that the Applicants included in the request, which includes diagrams of the turnarounds.

You can find the rest of the record online here [851-22-000003-PLNG](https://www.oregonmap.org/851-22-000003-PLNG).

Thank you,



Melissa Jenck (she/her) | CFM, Land Use Planner II
TILLAMOOK COUNTY | Community Development
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Wetland Land Use Notice Response

Response Page

Department of State Lands (DSL) WN#*

WN2022-0081

Responsible Jurisdiction

Staff Contact	Jurisdiction Type	Municipality
Melissa Jenck	County	Tillamook
Local case file #	County	
851-22-000003-PLNG	Tillamook	

Activity Location

Township	Range	Section	QQ section	Tax Lot(s)
05S	11W	24	AB	1300,1301 ,1400- 1900,4600 - 4800,4801 ,5900
Latitude	Longitude			
45.128883	-123.970883			

Street Address

Sahali South - Proposal Point/Heron View Dr

Address Line 2

City

State / Province / Region

Postal / Zip Code

Country

Tillamook

Latitude

Longitude

45.128883

-123.970883

Township	Range	Section	QQ section	Tax Lot(s)
05S	11W	24		200

Street Address

Address Line 2

City

State / Province / Region

Postal / Zip Code

Country

Latitude

Longitude

45.128883

-123.970883

Wetland/Waterway/Other Water Features



- There are/may be wetlands, waterways or other water features on the property that are subject to the State Removal-Fill Law based upon a review of wetland maps, the county soil survey and other available information.
- The National Wetlands Inventory shows wetland, waterway or other water features on the property
- The county soil survey shows hydric (wet) soils on the property. Hydric soils indicate that there may be wetlands.
- The property includes or is adjacent to designated Essential Salmonid Habitat.

Your Activity

- It appears that the proposed project **may** impact wetlands and **may** require a State permit.
- An onsite inspection by a qualified wetland consultant is recommended prior to site development to determine if the site has wetlands or other waters that may be regulated. The determination or delineation report should be submitted to DSL for review and approval. Approved maps will have a DSL stamp with approval date and expiration date.

Applicable Oregon Removal-Fill Permit Requirement(s)

- A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.

Closing Information

Additional Comments

Construction documents associated with the Sahali South subdivision and Master Plan cite a PHS delineation to demonstrate avoidance of wetlands, with some built features on the edge of those wetlands. That delineation only covered a portion of the work area shown as the Master Plan and expired in 2010 (WD2005-0063). Since that time, the Army Corps of Engineers updated technical standards for conducting wetland delineations and the previous delineation may not be accurate. Without an updated delineation it is not possible to evaluate the current Master Plan for wetland and water impacts. An updated delineation for the entirety of the proposed project area, including for any offsite utility and sewer trenching that may be coming from the east side of Hwy 101, is recommended.

This is a preliminary jurisdictional determination and is advisory only.

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

Contact Information

- For information on permitting, use of a state-owned water, wetland determination or delineation report requirements please contact the respective DSL Aquatic Resource, Proprietary or Jurisdiction Coordinator for the site county. The current list is found at: <http://www.oregon.gov/dsl/ww/pages/wwstaff.aspx>
- The current Removal-Fill permit and/or Wetland Delineation report fee schedule is found at: <https://www.oregon.gov/dsl/WW/Documents/Removal-FillFees.pdf>

Response Date

2/24/2022

Response by:

Daniel Evans

Response Phone:

503-986-5271

February 11, 2022

TO: Tillamook County Planning Commission

This letter is being submitted as written testimony in response to the Notice of Public Hearings, Tillamook County Planning Commission, Sahhali South Replat, Date of Notice: January 26, 2022. I respectfully request that this letter be included in the packet that is to be given to the Planning Commission prior to the February 24, 2022, hearing.

Thank you for taking the time to read the responses to 851-22-000003-PLNG for replat of Sahhali South. I am the owner and full time resident of a home on Lot #7 in the community known as Sahhali South, having purchased here because of its rural nature as well as for the views of the ocean and wetlands.

The application for replat as expressed in GOALS 3, 4, 5, and 6 will significantly change the character, value and livability of the neighborhood.

GOAL 3: REPLAT OF TRACT A OPEN SPACE

The replat of Tract A, currently an open space area we had hoped to develop as a neighborhood park/meeting area, would result in two additional lots with two single family homes. This is inconsistent with TCLUO Section 3.520 (7) and Section 6.040 (4) because it would "alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone." Additionally, the proposed addition of two residential home sites would block the ocean view of an existing home in Sahhali Shores and likely block the views of one another.

GOAL 4: REPLAT OF LOTS 13A and 13B

The current location of Lots 13A and 13B may not be easily buildable but the impact of homes built on those two original lots would not have an adverse impact on the environment, view or property values that the replat would inflict. The proposed replat bordering on the wetland is on a trail used by a herd of elk going to and from its night habitat in the wetland. One might argue that the elk will create an alternative trail but the proposed 5' interior line setback between single family homes in that area, as proposed by GOAL 5, will further inhibit access of the elk to the wetland.

The original plat of 13A and 13B is not on an elk trail. The original plat would not obstruct views. However, the proposed replat of those two lots would partially impact views from existing homes on Lots 7 and 8, significantly impact views from homes on Lots 9 and 10, and potentially affect views from Lots 11 and 12. Compromised views impact property value. However, the purpose of TCLUO Section 1.020 is to "preserve and stabilize the value of property."

In the application for replat the Declarant wishes "to swap" TRACT A Open Space on nearly level land for steep, unusable portions of the current Lots 13A and 13B. This is hardly an equitable trade off. It also violates our current Sahhali South Covenants, Section 6.4 entitled "Owners Easement of Enjoyment"

which states that "every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Property ..."

GOAL 5: CONSISTENT SETBACKS

The proposed setback will not serve the purposes of TCLUO 1.020 which are "to encourage the orderly development of land ... (there is nothing orderly or consistent about having some lots with 10' interior line setbacks and some with 5' setbacks) ... to preserve and stabilize the value of property ... (proposed replat will have impacts on views and loss of open space both of which will affect property value) ... aid in the provision of fire and police protection ... (5' interior setbacks between homes in this high wind area could augment the spread of fire) ... facilitate the provision of community services ... (propane tanks will necessarily be within feet of one another and not easily serviced or refilled while utility installations may be hindered due to lack of space) ... prevent undue concentration of population ... (homes within 10 feet of one another will have impact on privacy and quality of life) ... enhance the appearance of the landscape and protect public safety ... (houses crowded together will not be attractive and will be susceptible to spreading fires)."

In TCLUO 3.320, the intent is to maintain the rural character of the community by retaining large lots. In Sahhali Shores, the community adjacent to Sahhali South, the same Declarant developed that community with generous, livable spaces between single family homes and between multi-family homes. In contrast, the request for replat of Sahhali South is hardly rural with 5' interior line setbacks.

GOAL 6: ALLOWED LAND USES

It is apparent the Declarant is trying to use the replat petition to the Planning Commission in order to alter the CCRs of Sahhali South. The sole procedure for amending the CCRs is set forth in Section 15.6 which requires a vote of association members of both Class A and Class B (A being the Owners, B being the Developer) and approval of not less than 75% of each class. No vote has been scheduled or held.

The applicant is ignoring the procedure to amend the CCRs. He is also so certain that these replats will happen that prospective buyers have told me that the 5' setback and approval for single family homes on lots designed for multi-family homes will be approved by the County within a few months. On that basis, there are lots currently "pending" sale. Why such certainty?

A final thank you to the Planning Commission for hearing our concerns and objections. A special shout out to Melissa Jenck who has patiently fielded our questions.

Respectfully submitted,

Heidi Heidenreich

Sahhali South

February 7, 2022

Sahhali South LLC

Attn: Richard Boyles

Via mail: rboyles@meretehotels.com

Re: Application to Replat and Change CCR's

851-22-000003-PLNG

Richard,

This letter is sent on behalf of, and with authority from, Linda and myself (owners of Lot 49), Heidenreich (Lots 32, 33, and 34), Heidenreich (Lot 7), McPeak (Lot 26), Ryan (Lot 10), Bentson (Lot 9), Sammons (Lot 29), Hauptman (Lot 28), Diani (Lot 35), Richards (Lot 36), Hammack (Lot 44), Johnson (Lot 43), and the Karakashian, Fukui Living Trusts (Lot 42).

We have received the Notice of Public Hearing before the County Planning Commission on your Application to replat the subdivision and change the CCR setbacks, among others. The above owners have serious concerns about the Application and its effects and plan to voice them to the Planning Commission at the appropriate time. Please consider this our good faith request that you meet with us to discuss those concerns prior to any hearing and, further, to defer or continue the hearing and associated deadlines for a reasonable time to allow this to take place.

The current time deadlines set by the Notice for input do not allow for a long consideration of our proposal, so we will need a response from you no later than the close of business on Tuesday, February 8.

Thank you for your consideration.

On behalf of the above, sincerely,

Wyatt Angelo (ph: 970-275-3630), email: wyattlindaangelo@gmail.com

cc: Jenck, Tillamook County Community Development (via email)

(original signed and retained this date)

Tillamook County Planning Commission
1510 - B Third Street
Tillamook, Oregon 97141

February 9, 2022

RE: 851-22-000003-PLNG

I am an owner of lot #44 in Sahhali South and have been living here permanently since September 2020. I am responding to the "Request for replat of a subdivision plat approval for a portion of "Sahhali South" together with Conditional Use request #851-22-000003-PLNG-01, to amend the Planned Development Master Plan." This is my written testimony to be included in the staff report on the Sahhali South Application for Replat application #851-22-000003-PLNG. I ask to also be included in providing oral testimony.

I am registering my objection to the following items in this Land Division Application request as presented to Tillamook County Planning Commission, and request that they not be approved.

Item 1 – no objection

Item 2 – no objection

Item 3 – OBJECTION Partition Tract A: Open Space into (2) Lots. I object to the open space conversion to building lots.

- a) The residents of Sahhali South have been considering uses for the open space on the corner of Heron View and Proposal Point. The central location of this open space and the flat ground area make this a perfect location for a community gathering place, recreation or potentially a future community center (as identified on page 14 of the Master Development Plan). Several residents have already taken the time to clear some of the weeds and plant wildflowers and plants. Elk and deer graze in this area contributing to the character of the community.
- b) When I purchased my lot in Sahhali South, I did so with the knowledge and expectation of enjoying the open space across the street that compensated for the close proximity of dwellings. The relocation of this open space for the more steeply sloped, inaccessible areas of lots 13A and 13B is not a comparable exchange.
- c) This change would alter the character of the surrounding area in a manner which limits and impairs the use of the surrounding area and non-beach recreational opportunities in the development. The community will be unable to utilize the open space currently in lots 13A and 13B steep slope.
- d) This is not consistent with the goals and policies of the Comprehensive Plan. Also, increasing the number of building lots increases the density of the development and decreases the views of residents to both the mountains and the ocean.

Item 4 – OBJECTION to replating and exchanging open space to the east of current 13B for the open space proposed to the west of 13A. Note that this is not an acceptable open space exchange for the current open space now referred to as A-1 and A-2. It is also not acceptable due to the fact that the new 13B proposed replat blocks the view line for lots 9 – 12.

Item 5 – OBJECTION This change to setbacks would require a vote by the owners of Sahhali South to amend the CC&R's.

- a) Applicant does not have the sole right to amend SS CCRs as set forth on page 13 of application.
 - CCR section 3.4.1 provides that I am a class A member of the association
 - Setbacks for lots are found in section 10.13 of the CCRs
 - the sole procedure for amending the CCRs is set forth in section 15.6 requires a vote of association members of both classes and the approval of not less than 75% of each class of members.
 - no such vote has been held, scheduled or even noticed and the Applicant has been silent on doing so.
- b) The Proposed Amendment to Recorded CCR Section 10.13 will increase the density of the development, reduce views and will affect properties outside of the "subject properties boundaries" in the application identified in Exhibit A page 7.
- c) This does not meet Tillamook Land Use Ordinance Section 1.020 Purpose. The proposed setbacks will not serve the purposes listed which are to "encourage the orderly development of land, ...to preserve and stabilize the value of property; aid in the provision of fire and police protection; facilitate the provision of community services (water, propane) prevent undue concentration of population, protect and enhance the appearance of the landscape and to protect and promote public safety.
- d) Under Tillamook Land Use Ordinance section 6.040 Review Criteria:
 - section 3: The remaining lots in the subdivision are not suitable for a setback change based on size, shape, location, existence of improvements
 - section 4: The proposed new setbacks will alter the character of the surrounding area in a manner which impairs or prevents the use of surrounding property for residential, recreational purposes;
- e) Close setbacks on the side like this will make it difficult to repair or install utilities along sides of house
- f) This is a substantial change in the appearance of the subdivision as it exists and the landscape, as currently all dwellings are spaced 20 feet apart.

Item 6 – OBJECTION This change to allowed land uses would require a vote by the owners of Sahhali South to amend the CC&R's. Section 15.6 of the CCRs states that each class of ownership has to approve a change in the CCRs by 75%. No such request for change has been presented to the residents and owners of property in the development, nor has a vote been conducted. The Proposed Amendment to Recorded CCR Section 10.3.1 removes the requirement for full compliance with the zoning restrictions of Tillamook County. Making the allowed land uses less restrictive and subject only to the developer run Architectural Review Board, that allows no other owner or resident participation, is not in the best interest of the resident owners of the development.

I look forward to discussing these issues with the Commission in the hearings scheduled for February and April.

Best Regards,



Katherine G. HAMMACK

45040 Proposal Point (Lot #44)

Neskowin, Oregon 97149

hammackk@gmail.com

602-370-1005

Melissa Jenck

From: Dochop1@comcast.net
Sent: Wednesday, February 9, 2022 11:26 AM
To: Melissa Jenck
Subject: EXTERNAL: 851-22-000003-PLNG-01 (for real)

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

The following is a copy of a letter which will be printed, signed, and hand delivered to be included in the staff report that will be presented to the Planning Commission. I will not be present at the February 24 hearing in person:

Tillamook County Planning Commission
1510-B Third Street
Tillamook, OR 97141

February 9, 2022

I'm responding to a request for replat approval # 851-22-000003-PLNG-01 with objections.

There are specified tax lots listed in the opening paragraph of exhibit A, and outlined in red in the Sahhali South plat map. What are not defined are the proposed changes on the other lots seen on the table on pages 17 and 18, specifically Lots 20-45. This table shows Lots 20-45 allowing either a detached 1 family or an attached 2 family home. This is addressed briefly in the narrative in Section 3.520(3)(a): "...the application clarified that both attached and detached dwellings are allowed on lots 1-45,..."

When I purchased lot 28 in 2008 there was no such understanding. Proposal Point Drive was intended for attached 2-family homes, ie. the townhomes. The proposed clarification will negatively alter the aesthetic properties of the neighborhood as originally conceived and advertised.

The neighborhood was intended to be built with well spaced and complementarily designed townhomes. The new proposal says that smaller, more crowded homes can be built in their place. These can have architectural designs that are quite disparate without neighborhood input.

The increase in construction density caused by building 2 separate 1-family homes will directly impact the enjoyment of and the value of my home. Lot 30 and Lot 31 (formerly 30/31) are to be sold as 2 separate 1-family homes. There will be 2 separate construction crews working simultaneously in a very concentrated area over an extended period of time (construction delays caused by supplies and manpower shortages). The doubling of construction crews, machinery, noise, and traffic is not healthy for the wildlife residing in the contiguous wetlands and national animal refuge. It also negatively impacts the peace and enjoyment of my home and neighborhood. In addition, lot 24, on the other side of my home has a pending sale which adds yet another construction site near my home. That would place 3 construction sites in the Proposal Pt. cul-de-sac simultaneously.

Please vote against replatting lots 1-45 in Sahhali South as described in 851-22-000003-PLNG-01.

Sincerely,

M. Christine Hauptmann, MD

45250 Proposal Point Drive (lot #28)
Neskowin, OR 97149

Tillamook County Planning Commission
1510 - B Third Street
Tillamook, Oregon 97141
RE: 851-22-000003-PLNG

February 9, 2022

I am the owner of lot #36 in Sahhali South and live here full time. I am responding to the "Request for replat of a subdivision plat approval for a portion of "Sahhali South" together with Conditional Use request #85 1-22-000003-PLNG-01, to amend the Planned Development Master Plan." This is my written testimony to be included in the staff report on the Sahhali South Application for Replat application #851-22-000003-PLNG.

I am registering my objection to the following items in this Land Division Application request as presented to Tillamook County Planning Commission, and request that they not be approved.

Item 1 – no objection

Item 2 – no objection

Item 3 – OBJECTION Partition Tract A: Open Space into (2) Lots. I object to the open space conversion to building lots.

Item 4 – OBJECTION to replating and exchanging open space to the east of current 13B for the open space proposed to the west of 13A. This is not an acceptable open space exchange for the current open space now referred to as A-1 and A-2. It is also not acceptable because the new 13B proposed replat blocks the view line for lots 9 – 12.

Item 5 – OBJECTION to the change in setbacks

- a) The Proposed Amendment to Recorded CCR Section 10.13 will increase the density of the development, reduce views and will affect properties outside of the "subject properties boundaries" in the application identified in Exhibit A page 7.
- b) This does not meet Tillamook Land Use Ordinance Section 1.020 Purpose. The proposed setbacks will not serve the purposes listed which are to "encourage the orderly development of land, ...to preserve and stabilize the value of property; aid in the provision of fire and police protection; facilitate the provision of community services (water, propane) prevent undue concentration of population, protect and enhance the appearance of the landscape and to protect and promote public safety.
- c) Under Tillamook Land Use Ordinance section 6.040 Review Criteria:
 - section 3: The remaining lots in the subdivision are not suitable for a setback change based on size, shape, location, existence of improvements
 - section 4: The proposed new setbacks will alter the character of the surrounding area in a manner which impairs or prevents the use of surrounding property for residential, recreational purposes.
- d) This is a substantial change to the appearance of the subdivision as it exists. Currently all dwellings are spaced 20 feet apart.

Item 6 – OBJECTION The Proposed Amendment to Recorded CCR Section 10.3.1 removes the requirement for full compliance with the zoning restrictions of Tillamook County. It makes the allowed land uses less restrictive, is subject only to the developer run Architectural Review Board which allows no other owner or resident participation. It is not in the best interest of the resident owners of the development.

Sincerely

Peggy R Richards
45170 Proposal Point Dr (lot 36)
Neskowin, Oregon 97149
prmcelroy@msn.com
503-720-7585

February 10, 2022

Tillamook County Planning Commission
1510-B Third Street
Tillamook, OR 97141

RE: Application 851-22-000003-PLNG

This letter is submitted as written testimony by Boyce Heidenreich and Brooke Heidenreich, owners of Lots 32, 33, and 34 in the Sahhali South Development. We request that it be included in the packet being prepared for the Planning Commission for its scheduled hearings on the above referenced application. We would like to address Application Request 3 (partitioning Tract A into Lots A-1 and A-2) and Application Request 5 (adopting consistent setbacks).

REQUEST 3, PARTITION OF TRACT A

This particular tract is on level, easily accessible land at the entrance to the Sahhali South development. To our knowledge it is the only open space in the development that could be used as a small neighborhood park.

We object to the Applicant's request that this tract be divided into two purchasable lots, A-1 and A-2, and that a very steep, inaccessible parcel of land be substituted as the community's open space. The Applicant's new open space would be located next to proposed Lots 13a and 13b. Not only would this eliminate any suitable, accessible space for a neighborhood park, but it is inconsistent with TCLUO Section 3.520(7) and Section 6.040(4) that state "the proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone."

In addition, this violates our current Declaration of Covenants, Conditions and Restrictions of Sahhali South (CCRs). Section 6.4 of our CCRs, entitled "Owners' Easement of Enjoyment," states that "every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Property, which shall be appurtenant to and shall pass with the title to every Lot." This is simply not possible on the proposed steep, inaccessible land the Applicant is proposing as common property. In other words, it appears to us that Request 3 disregards the interests of current and future owners while focusing solely on the interests of the Applicant.

REQUEST 5, ADOPT CONSISTENT SETBACKS

We are not against the development of our community but we have assumed it would be done in ways consistent with our adopted and recorded CCRs. We have been well aware that we will have neighbors living next to our property but we were not expecting them to be 5 feet from us. The current setbacks,

as set forth in our CCRs are between 10-15 feet. Our objections to the proposed 5' setbacks are as follows:

- 1) It is inconsistent with current setbacks for the homes in Sahhali South and the nature of the development. As such, it violates TCLUO 6.040, sections 3 and 4 as quoted above. Five foot setbacks and the potential of homes being built with only 10' between them significantly alters the character of the surrounding area.
- 2) It increases the risk of fire spreading rapidly to adjacent structures. Although we are fortunate to have a dedicated and skilled fire department serving our community, it is located in Hebo. Given the time it would take for firefighters to respond to fires in our development, decreasing setbacks and building homes within 10' of each other would substantially increase the likelihood of fires spreading rapidly to other structures. One of the provisions in Section 1.0202 of Article 1 of the TCLUO is "to aid in the provision of fire and police protection." Approval of the Applicant's request does not, in our opinion, ring true to this provision.
- 3) Given the increased possible impact of fire with structures this close to each other, this proposal will detrimentally affect homeowners' insurance premiums.
- 4) In constructing new homes on lots with only a 5' setback on each side, how will it be possible to get heavy machinery and large construction vehicles and apparatus along the sides of lots? Where will excavated materials be placed? Where will building materials and supplies be unloaded and kept until used? We believe this could also "substantially limit, impair or prevent the use of surrounding properties" – most specifically our Lot 32 – along with any lot in the development that borders new construction.
- 5) This proposal is inconsistent with Section 3.320 of the Neskowin Rural Residential (NeskRR) Zone. In item 4 (k)(2) of this section it states that "Building width at all points shall not exceed 70% of the distance between opposite side lot lines (measured as close to perpendicular as possible)." Given that Lot 31 next to us is approximately 40' wide, that means a home could be only 28' wide. That results in 6' setbacks, not the 5' setbacks the Applicant is asking the Planning Commission to approve. While the difference may not be large, adhering to the NeskRR provisions is important to us.
- 6) This proposal, by being submitted to the Planning Commission for approval, is side-stepping our adopted CCRs and asking the County to be party to vacating the clearly defined process for changing our CCRs outlined in Section 15.6 of that document. Our reading of the County's Land Development Ordinance is that it prohibits changes to CCRs as part of the review process. Section 120(3)(c) states that limitations on replatting include that it does not act to "vacate any recorded covenants or restrictions." Approval of the Applicant's request would do just that.
- 7) The scope of the Applicant's request to change setbacks is not clear. While the Applicant is asking the Planning Commission to approve changes that will provide "consistent setback requirements throughout the development," his application is inconsistent in that it also states that the request "involves 13 vacant lots controlled entirely by the Declarant." Which is it? If the Applicant wants to change all setbacks, we believe Section 10.020(1)(a) of the

TCLUO prohibits this. The Applicant cannot ask for changes to setbacks for property he does not own. We believe he has no jurisdiction to modify the setbacks on our Lots 32 and 33.

- 8) Not only is the Applicant ignoring the duly recorded CCRs of our community, but he initiated the request to have the Planning Commission approve a change to the setbacks with no prior notice to current owners. In fact, we were told about the proposed new 5' setbacks by prospective buyers who said that the County would be approving them within the next two months. In other words, real estate agents and prospective buyers have known about this long before property owners found out about it from the County's January 26, 2022, notice. While this may not violate any rules or procedures, it is a disheartening way for owners to be treated.

We appreciate the opportunity to present this written testimony to the Planning Commission and thank the members of the commission for your consideration of our views. We also would like to thank County staff, particularly Melissa Jencks, for her amazingly prompt replies to our questions and requests.

Sincerely,

Boyce and Brooke Heidenreich

February 11, 2022

TO: Tillamook County Planning Commission

This letter is being submitted as written testimony in response to the Notice of Public Hearings, Tillamook County Planning Commission, Sahhali South Replat, Date of Notice: January 26, 2022. I respectfully request that this letter be included in the packet that is to be given to the Planning Commission prior to the February 24, 2022, hearing.

Thank you for taking the time to read the responses to 851-22-000003-PLNG for replat of Sahhali South. I am the owner and full time resident of a home on Lot #7 in the community known as Sahhali South, having purchased here because of its rural nature as well as for the views of the ocean and wetlands.

The application for replat as expressed in GOALS 3, 4, 5, and 6 will significantly change the character, value and livability of the neighborhood.

GOAL 3: REPLAT OF TRACT A OPEN SPACE

The replat of Tract A, currently an open space area we had hoped to develop as a neighborhood park/meeting area, would result in two additional lots with two single family homes. This is inconsistent with TCLUO Section 3.520 (7) and Section 6.040 (4) because it would “alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.” Additionally, the proposed addition of two residential home sites would block the ocean view of an existing home in Sahhali Shores and likely block the views of one another.

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The current location of Lots 13A and 13B may not be easily buildable but the impact of homes built on those two original lots would not have an adverse impact on the environment, view or property values that the replat would inflict. The proposed replat bordering on the wetland is on a trail used by a herd of elk going to and from its night habitat in the wetland. One might argue that the elk will create an alternative trail but the proposed 5' interior line setback between single family homes in that area, as proposed by GOAL 5, will further inhibit access of the elk to the wetland.

The original plat of 13A and 13B is not on an elk trail. The original plat would not obstruct views. However, the proposed replat of those two lots would partially impact views from existing homes on Lots 7 and 8, significantly impact views from homes on Lots 9 and 10, and potentially affect views from Lots 11 and 12. Compromised views impact property value. However, the purpose of TCLUO Section 1.020 is to “preserve and stabilize the value of property.”

In the application for replat the Declarant wishes “to swap” TRACT A Open Space on nearly level land for steep, unusable portions of the current Lots 13A and 13B. This is hardly an equitable trade off. It also violates our current Sahhali South Covenants, Section 6.4 entitled “Owners Easement of Enjoyment” which states that “every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Property ...”

GOAL 5: CONSISTENT SETBACKS

The proposed setback will not serve the purposes of TCLUO 1.020 which are “to encourage the orderly development of land ... (there is nothing orderly or consistent about having some lots with 10’ interior line setbacks and some with 5’ setbacks) ... to preserve and stabilize the value of property ... (proposed replat will have impacts on views and loss of open space both of which will affect property value) ... aid in the provision of fire and police protection ... (5’ interior setbacks between homes in this high wind area could augment the spread of fire) ... facilitate the provision of community services ... (propane tanks will necessarily be within feet of one another and not easily serviced or refilled while utility installations may be hindered due to lack of space) ... prevent undue concentration of population ... (homes within 10 feet of one another will have impact on privacy and quality of life) ... enhance the appearance of the landscape and protect public safety ... (houses crowded together will not be attractive and will be susceptible to spreading fires).”

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GOAL 6: ALLOWED LAND USES

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The applicant is ignoring the procedure to amend the CCRs. He is also so certain that these replats will happen that prospective buyers have told me that the 5’ setback and approval for single family homes on lots designed for multi-family homes will be approved by the County within a few months. On that basis, there are lots currently “pending” sale. Why such certainty?

A final thank you to the Planning Commission for hearing our concerns and objections. A special shout out to Melissa Jenck who has patiently fielded our questions.

Respectfully submitted,

Heidi Heidenreich

Sahhali South

February 11, 2022

Tillamook County Department of Community Development

1510-B Third Street

Tillamook, OR 97141

Re: Application 851-22-000003-PLNG

This is the written testimony of Wyatt Angelo and Linda Angelo, owners of Lot 49, Sahhali South, with reference to the above Application and addresses Request 3, "Partition Tract A," and Request 5, "Adopt Consistent Setbacks, Amend CCRs Section 10.13, Addendum to Master Plan." ***We also request the opportunity to present oral testimony at the hearings in February and April.***

BACKGROUND

Sahhali South Development is situated approximately 25 miles south of Tillamook, west of Highway 101. It is bounded on the west and south by a wildlife refuge. Currently there are 63 residential lots, the majority of which are adjacent to the Sahhali Shores subdivision and are serviced by a common access road (Sahhali Drive) from Highway 101. There are 7 lots in a standalone unit approximately 250 yards south of the main development and serviced by a separate access road from Highway 101 (Pelican Point Drive).

The lots in the northern area of the development average about .12 acres, and all of the structures constructed there today are attached (townhomes). The lots on Pelican Point Drive average approximately .25 acres; and currently there is one detached home on Lot 49, belonging to the undersigned.

The Homeowners Association (HOA) is essentially non-functioning by choice of the developer/applicant, who controls the affairs of the association (including Architectural Control Board) per the CCRs and percentage of ownership. No meetings of the Association have been noticed, called or scheduled in the last two years. Non-affiliated lot owners receive, and are required to pay, an annual bill for dues which are set by the developer. Approximately 46% of the dues paid by owners in 2021 were used for 'common area operations' and another 27% of those dues were levied for the 'common area capital fund.' The applicant is exempt from paying HOA dues.

THE APPLICATION IS DEFICIENT/INCOMPLETE

The County Development Approval Procedures (LUO 10.020 (6)(v) mandates that an application contain "a *detailed statement* that *demonstrates* how the proposal meets *all* approval criteria . . ."

The Application's "detailed statement" as to approval criteria 4 (LUO SECTION 6.040) at page 22 states:

"The 2021 Amendment to Sahhali South Planned Development Subdivision does not alter the character of the surrounding area in any way that substantively limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone. The 2021 Amendment to Sahhali South continues the development character of detached and attached single-family-dwellings with the Sahhali South 2005 and 2007 decisions."

In short, an application itself is deficient if it does not make the detailed showing as to each of the criteria set forth in the Approval Procedures. The applicable language of this Application is conclusory

and devoid of detail as to ANY of the six Goals of the Application. Because the Application does not conform to the LUO standards, it should be denied without a hearing. Should the Community Development Department or the Planning Commission wish to allow the applicant to supplement the Application, all hearings should be continued to allow further community input on the supplemented Application.

GOAL 3, PARTITION TRACT A

Tract A is open space at the entrance to both Sahhali South and Sahhali Shores. Applicant proposes to remove Tract A from 'open space' and divide and sell it as two lots. This has been identified open space for the development (common area as defined by statute) since inception and is the only common space which is relatively level, centrally located and accessible. This is not true of the property to be substituted. The naked assertion that taking Tract A from open space "will not alter the character which substantially limits, impairs or prevents the use of surrounding properties for permitted uses" is completely lacking in the detail required and inconsistent with the applicant's own goals for the development. See above.

GOAL 5, ADOPT CONSISTENT SET BACKS

CHANGE OF CCRs BY APPLICATION OF TILLAMOOK COUNTY LAND DEVELOPMENT ORDINANCE (LDO)

We do not believe that the provisions of the Tillamook County Land Development Ordinance can be applied to a change to the CCRs as set forth in Application Goal 5. The Land Development Ordinance prohibits changes to CCRs as part of that review process. Application p. 27, LDO Section 120 (3)(c).

CHANGE OF CCRs BY APPLICATION OF TILLAMOOK COUNTY LAND USE ORDINANCE (LUO)

Introduction.

The Application seems inconsistent, in that the Statement of Intent (p. 5) specifically states that the request "involves 13 vacant lots controlled entirely by the Declarant." This is misleading because reading further, on page 5 at paragraph 5 the Application states that it seeks to amend the Master Plan and CCRs to provide for "consistent setback requirements throughout the development." The Staff should clarify this with the applicant and modify the Application accordingly, with an appropriate period for supplemental input by lot owners.

CCRs are not a "USE"

As we read it, Application Goal 5 seeks to alter the CCRs originally filed as part of the master plan in order to change side yard setbacks from 15 feet to 5 feet for each lot on which a detached residence is constructed via the CONDITIONAL USE PROCEDURES AND CRITERIA in ARTICLE V of the LUO. "USE" is defined in the LUO as "The purpose for which a structure is designed, arranged, or intended, or for which a unit of land is developed, occupied or maintained." LUO DEFINITIONS 11.030. The CCRs and setbacks themselves are clearly not a "purpose," and therefore the provisions of the LUO should not apply. This would seem to make sense, as neither setbacks nor CCRs are listed in the LUO as either a conditional use or use as a matter of right. The Planning Commission and the County should reject this part of the Application as beyond the authority granted to them under the LUO.

Standing

Even assuming the provisions of the Land Use Ordinance apply, Section 10.020 of the Land Use Ordinance prohibits the Applicant from applying for such a change to setbacks for property it does not own. It, therefore, has no standing to seek to modify property owned by others.

Authority to Change CCRs

The Sahali South CCRs provide for changing the CCRs by vote of the owners (CCRs Section 15.6). The Applicant has not availed itself of the very process it created. Insofar as the Application seeks to change CCRs, it is at least premature and probably seeks to persuade the County to act where it has no authority. To now seek to use the County Planning process to change CCRs after properties within the development have been purchased and built on by third parties is manifestly unfair, and the County should not allow itself to facilitate it.

Neither the Land Division Ordinance or the Land Use Ordinance apply to changing CCRs. The request is beyond the authority of the County to act through the planning process and should be denied.

Tillamook County Land Use Ordinance SECTION 6.040 REVIEW CRITERIA

If the County believes changing CCRs is a “USE” to be reviewed, we now address REVIEW CRITERIA (3) Suitability of Parcel and (4) Alteration of Character.

Suitability: LUO REVIEW CRITERIA Section 6.040 (3)

The Application seeks to change setbacks established by the current CCRs in a substantial and dramatic way. The proposed change to the side yard setbacks in the CCRs from 15 feet to 5 feet for detached homes (a 66% reduction of side yard space) is not suited to the location of the Applicant’s lots. Those lots are currently intermingled in a subdivision wherein 16 attached (townhomes) and 1 detached (single family) residence have been constructed. The townhomes have a 10 foot side yard setback or distance of 20 feet between structures.

To now permit the construction of detached homes with side yard setbacks of 5 feet - interspersed beside and between townhomes with larger setbacks - will substantially change the character and aesthetics of the development. Furthermore, the setbacks proposed are urban in nature, not rural residential.

Neskowin Rural Residential zoning allows for 5 foot setbacks where the minimum lot size is 20,000 square feet (LUO 3.320(4)). The majority of the vacant lots that are the subject of this Application were designed for townhomes and average less than 6000 square feet. Reducing side yard setbacks by 66% for detached homes is not *compatible* with the development and improvements as they exist today. In considering “suitability,” the County must consider the size, location and existence of other improvements, including those other homes constructed within the development (LUO Section 6.010 and Section 6.040(3)).

Alteration: LUO REVIEW CRITERIA 6.040 (4)

The implications of a 10 foot total distance between structures in a non-urban area are substantial and alter the character of the Development. A limited few are discussed below.

Privacy

Privacy impacts on adjacent homeowners cannot be ignored. While visual 'trespasses' may be mitigated by fencing, the CCRs in Section 10.11 state that no fence is permitted within the minimum setback line and the property line. It is physically impossible to build a fence in this space without building within the setback or encroaching on the adjacent property. People's everyday privacy concerns about what goes on in their homes should be paramount. They are substantially and adversely impacted by closer setbacks.

Normal day-to-day activities related to homeownership and maintenance are limited and impaired (LUO REVIEW CRITERIA 6.040(4)).

As an example, one cannot safely erect a ladder for second story or roof maintenance within a 5 foot side yard setback. The height limitation in the CCRs range from 24-35 feet (Neskowin RR). One cannot safely erect a ladder to a 24 foot roof with less than 6 feet of space for the base of the ladder from the wall.

Quiet Enjoyment

The adverse impacts of construction and excavation on adjacent properties, their occupants, and their ability to enjoy their homes are substantial with smaller setbacks. Noise, excavated material and access by equipment to sites will impinge on adjacent properties if smaller setbacks are permitted. Current setbacks are adequate to mitigate these impacts; the proposed side yard setback is not.

Public Safety

Risk of fire spread from one home to another by virtue of radiant heat transmission is greatly increased by reducing the distance between structures. This is particularly applicable in Sahhali, where winds are constant and normal gusts dangerous in fire situations.

THE APPLICATION CONSIDERED IN ITS ENTIRETY

When considered together, the overall impact of the Application requests is greater than those of the individual parts. Chopping space between homes by 66%, changing lot configurations to interfere with owner view corridors, 'taking' and selling the only centrally located and accessible common space - all in a relatively small/compressed area of homes - is devastating to the character, value, and desirability of the Development and the legitimate expectations of current owners regarding the enjoyment of their homes. Granting Requests 3 and 5 will violate the purposes of the LUO. See LUO PURPOSE, SECTION 1. The Application's statement (p. 22) that the proposed changes "will not alter the character of the surrounding area" is conclusory and devoid of the detail required to consider or grant the Application.

Thanks to the staff and the Planning Commission for the opportunity to present written testimony.

Sincerely,

Wyatt Angelo

Linda Angelo

Address: 6375 Pelican Point Drive, Neskowin, OR 97149

Phone: 970-275-3630

Email: wyattlindaangelo@gmail.com

Submitted by email February 13, 2021 addressed to mjenck@co.tillamook.or.us and ltone@co.tillamook.or.us. Original is signed and delivered on February 14, 2022

Ron and Lynell Bohr
Lot 37, Sahhali South
Neskowin, OR 97149

February 11, 2022

Tillamook County Department of Community Development
1510-B Third Street
Tillamook, OR 97141
Attn: Melissa Jenck, Project Planner
Letter to be presented to the Planning Commission

RE: 851-22-000003-PLNG and 851-22-000003-01

Please regard this as our written testimony in response to the above referenced replat requests.

My wife and I have been owners of lot 37 in Sahhali South since 2008. The proposed changes are being presented to Tillamook County with no requested input from the owners. These changes will significantly affect the character and esthetic value of the community.

We specifically object to:

1. Goal 3 (Partition Tract A: Open Space into 2 lots) and Goal 4 (Replat Partition lots 13a and 13b into 2 lots and 1 open space Tract A).
These items will move the Open Space area to an area that is basically unusable for its intended purpose (an open space to enhance the esthetic value of the community) and benefits only the developer to sell an area that is more suitable for building and sale.
2. Goal 5 (Consistent Setbacks). This change would allow for a reduction in setback requirements for interior side yards from 10' to 5' for **detached** single family dwellings for lots that were originally designed for **attached** single family dwellings (which all the currently built homes are). This would essentially allow for "row houses" not conducive to the initial design criteria and expectations of all owners. Better would be to convert the 2 lots designed for **attached** single family dwellings into 1 lot for 1 **detached** single family dwelling and adhere to the original 10' setback.

Conclusion:

These changes would negatively affect the esthetics as well as property values of this beautiful ocean side community. Due to the current state of the home buying frenzy, the developer is obviously trying to maximize profits to the detriment of the owners.

Sincerely,

Ron and Lynell Bohr
ronbohr@cox.net

Ron Bohr
Lynell Z Bohr

Melissa Jenck

From: Brenda Freshman <Brenda.Freshman@csulb.edu>
Sent: Monday, February 14, 2022 9:51 AM
To: Melissa Jenck; Lynn Tone
Cc: Brenda Freshman
Subject: EXTERNAL: Re: Application 851-22-000003-PLNG
Attachments: planndng Commission letter. B. Freshman.docx

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

February 13, 2022

Tillamook County Department of Community Development
1510-B Third Street
Tillamook, OR 97141 Re: Application 851-22-000003-PLNG

Submitted for acceptance is this written testimony of the Brenda Freshman, Trustee for Brenda Freshman Living Trust, owner of Lots 2 and 3, Sahhali South, with reference to the above Application. These comments are submitted to addresses Request 3, "Partition Tract A," and Request 5, "Adopt Consistent Setbacks, Amend CCRs Section 10.13, Addendum to Master Plan."

I also request the opportunity to present oral testimony at the hearings in February and April.

My current written comments to be forwarded to the Department of Community Development, and Planning Commissioners are as follows:

THE APPLICATION IS DEFICIENT/INCOMPLETE

The County Development Approval Procedures (LUO 10.020 (6)(v)) requires that applications "contain a *detailed statement* that *demonstrates* how the proposal meets *all* approval criteria . . ."

The Application's "detailed statement" as to approval criteria 4 (LUO SECTION t6.040) at page 22 states:

"The 2021 Amendment to Sahhali South Planned Development Subdivision does not alter the character of the surrounding area in any way that substantively limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone. The 2021 Amendment to Sahhali South continues the development character of detached and attached single-family-dwellings with the Sahhali South 2005 and 2007 decisions."

I disagree with the applicants assessment as the proposed amendments would directly change the character of the landscape and the use of the property.

The statement in the Application is vacant of the detail required to address how the changes sought do "not alter the character of the surrounding area." The Application does not appear to conform to the LUO standards.

GOAL 3, PARTITION TRACT A

Tract A lies is open space at the entrance to both Sahhali South and Sahhali Shores. Applicant proposes to remove Tract A from 'open space', and divide and sell it as two lots. These lots have been designated as open space for the development since inception. Additionally these lots are the only common space which is relatively level, centrally located and accessible. The substitute property is NOT of the same quality or character. I take issue with the implication that taking Tract A from open space "will not alter the character which substantially limits, impairs or prevents the use of surrounding properties for permitted uses." Furthermore the application lacks detail that describes their assertions and positions.

GOAL 5, ADOPT CONSISTENT SET BACKS

CHANGE OF CCRs BY APPLICATION OF TILLAMOOK COUNTY LAND DEVELOPMENT ORDINANCE (LDO)

I do not think the provisions of the Tillamook County Land Development Ordinance can be applied to a change to the CCRs as set forth in Application Goal 5. The Land Development Ordinance prohibits changes to CCRs as part of that review process. Application p. 27, LDO Section 120 (3)(c).

Alteration: LUO REVIEW CRITERIA 6.040 (4)

The implications of adjusting the distance between structures in a non-urban area. The proposed changes would have substantial impacts on the safety, and privacy of daily life as well change the character of the Development. Thank you in to the staff and the Planning Commission for the opportunity to this testimony.

Sincerely,

Brenda Freshman

Address: 6715 Pacific Overlook Drive, Neskowin Oregon, 97149

Phone: 541-921-7593

Email: Brenda.Freshman@csulb.edu

Submitted by email February 14, 2021 addressed to mjenck@co.tillamook.or.us and ltone@co.tillamook.or.us.

Brenda Freshman, Ph.D.
Professor, Health Care Administration (HCA)
HCA Internship Coordinator
California State University, Long Beach
1250 Bellflower Blvd.
Long Beach, Ca 90840-0106
Brenda.Freshman@csulb.edu

From: Brenda Freshman <Brenda.Freshman@csulb.edu>
Sent: Sunday, February 13, 2022 11:46 AM
To: linda angelo <wyattlindaangelo@gmail.com>
Subject: Re: Letter

Hello Wyatt,

Please see my letter attached. I'm losing my computer for 5 days, not traveling.
can you take this in. I'll also email to the addresses provided.

Thank you, Brenda

Brenda Freshman, Ph.D.
Professor, Health Care Administration (HCA)
HCA Internship Coordinator
California State University, Long Beach
1250 Bellflower Blvd.
Long Beach, Ca 90840-0106
Brenda.Freshman@csulb.edu

From: linda angelo <wyattlindaangelo@gmail.com>
Sent: Saturday, February 12, 2022 12:52 PM
To: Brenda Freshman <brenda.freshman@csulb.edu>
Subject: Letter

CAUTION: This email was sent from an external source.

Application (58 pages) is available by querying Sahhali South after going to the community development tab at the county website and you should be able to find the review criteria in the Land Use Ordinance (Section 6) there or by a google search. Wyatt

February 13, 2022

Tillamook County Department of Community Development

1510-B Third Street

Tillamook, OR 97141

Re: Application 851-22-000003-PLNG

Submitted for acceptance is this written testimony of the Brenda Freshman, Trustee for Brenda Freshman Living Trust, owner of Lots 2 and 3, Sahhali South, with reference to the above Application. These comments are submitted to addresses Request 3, "Partition Tract A," and Request 5, "Adopt Consistent Setbacks, Amend CCRs Section 10.13, Addendum to Master Plan."

I also request the opportunity to present oral testimony at the hearings in February and April.

My current written comments to be forwarded to the Department of Community Development, and Planning Commissioners are as follows:

THE APPLICATION IS DEFICIENT/INCOMPLETE

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I disagree with the applicants assessment as the proposed amendments would directly change the character of the landscape and the use of the property.

The statement in the Application is vacant of the detail required to address how the changes sought do "not alter the character of the surrounding area." The Application does not appear to conform to the LUO standards.

GOAL 3, PARTITION TRACT A

Tract A lies is open space at the entrance to both Sahhali South and Sahhali Shores. Applicant proposes to remove Tract A from 'open space', and divide and sell it as two lots. These lots have been designated as open space for the development since inception. Additionally these lots are the only common space which is relatively level, centrally located and accessible. The substitute property is NOT of the same quality or character. I take issue with the implication that taking Tract A from open space "will not alter the character which substantially limits, impairs or prevents the use of surrounding properties for permitted uses." Furthermore the application lacks detail that describes their assertions and positions.

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The implications of adjusting the distance between structures in a non-urban area. The proposed changes would have substantial impacts on the safety, and privacy of daily life as well change the character of the Development.

Thank you in to the staff and the Planning Commission for the opportunity to this testimony.

Sincerely,

Brenda Freshman

Address: 6715 Pacific Overlook Drive, Neskowin Oregon, 97149

Phone: 541-921-7593

Email: Brenda.Freshman@csulb.edu

Submitted by email February 13, 2021 addressed to mjenck@co.tillamook.or.us and ltone@co.tillamook.or.us.

Peter and Stephanie Sammons
3508 SW Gale Ave
Portland, OR 97239

February 10, 2022

Sarah Absher, CFM, Director
Tillamook County Department of Community Development
1510-B Third Street
Tillamook, OR 97141

Dear Sarah-

We are writing in regard to Notice of Public Hearing 851-22-000003-PLNG, Sahhali South Replat.

We have owned our home in Sahhali South (Lot #29) since August 2008. We are concerned about the Sahhali South Replat Amendment Requests that are being proposed and the impact these changes will have on maintaining the value of our home and the integrity of our neighborhood.

The specific amendments that we are most concerned with are the following:

3. Partition Tract A: Open Space into (2) Lots:

We feel that the trade between the open space and Lots 13a and 13b is not an equitable trade. The open space is flat and Homeowners have been discussing using it to create a community gathering place or neighborhood park. Lots 13a and 13b are very steep and would not be usable for a community park or gathering space.

5. Consistent Setbacks: Master Plan and CCR Section 10.13 Amendment Language:

Currently, the side setback on single family homes is 15 feet (CCR 10.13) but the amendment requests that single family homes be allowed with a side setback of 5 feet. The original 15 feet setback for single family homes and 10 feet side setback for attached living units (townhomes) was established to preserve and stabilize the value of the property; aid in the provision of fire and police protection; preserve access to adequate light and air; facilitate the provision of community services such as water supply, utilities and propane delivery; and to protect and enhance the appearance of the landscape. We are concerned the change in side setback for single family homes from 15 feet to 5 feet (page 11 of Replat Amendment Request) will devalue our property, change the consistent "Planned Community" (CCR 1.13) that exists today and potentially impact the "Natural Features" (CCR 8.1) including flora, fauna and wildlife corridors that exist between our properties.

6. Allowed Land Use: Master Plan Amendment Languages:

We are concerned that this request is being made. Our current CCR (15.6 Amendment) states that a vote is needed to change the CCR: "this Declaration may be amended at any time

by an instrument approved by not less than seventy-five percent (75%) of the total votes of **each** class of members that are eligible to vote".

These amendment requests were not presented to the Class A Members of the Association for either discussion or vote. In forwarding this proposal to the Tillamook County Planning Commission without adhering to the CCR 15.6 Amendment requirements, it appears the Declarant is not fulfilling the fiduciary responsibility to act in the best interest of all Sahhali South owners.

We feel that both of the amendment requests 5 and 6, which are detailed on page 11 of the Sahhali South Replat Amendment Request document, are in violation of CCR 15.6. The sentence that is the most concerning is: "The Architectural Review Board may approve a proposal that does not comply with these setback requirements pursuant to CCR Section 11 Architectural Review Board". We feel this amendment request is too general and allows too much freedom to the Class B Member (the Declarant) in making decisions that could impact the overall value and integrity of Sahhali South. These requests may also be in violation of the Neskowin Rural Residential Zone (NeskRR) land use.

We are also concerned with the language change in CCR 10.3.1 on page 12 of the Amendment Request document. Currently our CCR states the following: "shall be maintained in full compliance with the zoning restrictions of Tillamook County". The amendment request asks that the language be changed from being compliant with Tillamook County zoning to "consistent with Applicable Criteria and the Sahhali South Planned Development decisions". We believe this request is not in the best interest of the Sahhali South minority owners and will jeopardize the consistent future development of Sahhali South and the value of our property.

In conclusion, we are concerned with the requests being made to change not only the replat of Sahhali South but to make amendments to the CCR. When we purchased our property, we believed the CCR was designed to protect both Class A and Class B Members. The amendments that are being presented lean strongly in favor of the Class B Member (the Declarant) and do not reflect responsibility to minority owners.

We appreciate your consideration,

Peter Sammons

Stephanie Sammons

February 10, 2022

Tillamook County Planning Commission
1510 - B Third Street
Tillamook, OR 97141

Re: Permit ID # 851-22-000003-PLNG

I am a permanent resident and homeowner of Lot 43 in Sahhali South and have been living here full time since October 31, 2019. I am responding to the "Request for replat of a subdivision plat approval for a portion of "Sahhali South" together with Conditional Use request #85 1-22-000003-PLNG-01, to amend the Planned Development Master Plan." This is my written testimony to be included in the staff report on the Sahhali South Application for Replat application #851-22-000003-PLNG. I ask to also be included in providing oral testimony.

I am registering my objection to the following items in this Land Division Application request as presented to Tillamook County Planning Commission, and request that they not be approved.

Item 1 – I do not have an objection

Item 2 – I do not have an objection

Item 3 – OBJECTION Partition Tract A: Open Space into (2) Lots. I object to the open space conversion to building lots:

- a) When I was considering purchasing a home in Sahhali South (more specifically Lot 43), I did so while factoring in the open space immediately across the street. Since the existing homes were a bit close together, I felt the space would provide a sense of openness that would offset any density from the other homes. The relocation of this open space for the more steeply sloped, inaccessible areas of lots 13A and 13B is not a comparable exchange.
- b) Having worked for new home construction developers for most of my 40 plus year career (one builder for over 18 years), I had an expectation the developer would continue with the plan presented to me prior to my purchase. I always made sure I worked for developers who committed to do the right thing by honoring the proposed plan and promised expectations of their homebuyers. This is not consistent with the goals and policies of the Sahhali South Comprehensive Plan. Also, adding to the number of building lots increases the density of the development and decreases the views of residents to both the mountains and the ocean.
- c) The residents of Sahhali South have been considering uses for the open space on the corner of Heron View and Proposal Point. The central location of this open space and the flat ground area make this a perfect location for a community gathering place, recreation or potentially a future community center (as identified on page 14 of the Master Development Plan). Several residents

have already taken the time to clear some of the weeds and plant wildflowers and plants. Elk and deer graze in this area contributing to the character of the community.

- d) This change would alter the character of the surrounding area in a manner which limits and impairs the use of the surrounding area and non-beach recreational opportunities in the development. The community will be unable to utilize the open space currently in lots 13A and 13B steep slope.

Item 4 – OBJECTION to replatting and exchanging open space to the east of current 13B for the open space proposed to the west of 13A. Note that this is not an acceptable open space exchange for the current open space now referred to as A-1 and A-2. It is also not acceptable due to the fact that the new 13B proposed replat blocks the view line for lots 9–12.

Item 5 – OBJECTION This change to setbacks would require a vote by the owners of Sahhal South to amend the CC&R's.

- a) Applicant does not have the sole right to amend SS CC&R's as set forth on page 13 of application.
 - CC&R'S section 3.4.1 provides that I am a class A member of the association.
 - Setbacks for lots are found in section 10.13 of the CC&R's.
 - The sole procedure for amending the CC&R's is set forth in section 15.6 requires a vote of association members of both classes and the approval of not less than 75% of each class of members.
 - No such vote has been held, scheduled or even noticed and the Applicant has been silent on doing so.
- b) The Proposed Amendment to Recorded CC&R Section 10.13 will increase the density of the development, reduce views and will affect properties outside of the “subject properties boundaries” in the application identified in Exhibit A page 7.
- c) This does not meet Tillamook Land Use Ordinance Section 1.020 Purpose. The proposed setbacks will not serve the purposes listed which are to "encourage the orderly development of land, . . . to preserve and stabilize the value of property; aid in the provision of fire and police protection; facilitate the provision of community services (water, propane) prevent undue concentration of population, protect and enhance the appearance of the landscape and to protect and promote public safety."
- d) Under Tillamook Land Use Ordinance section 6.040 Review Criteria:
 - Section 3: The remaining lots in the subdivision are not suitable for a setback change based on size, shape, location, existence of improvements.
 - Section 4: The proposed new setbacks will alter the character of the surrounding area in a manner which impairs or prevents the use of surrounding property for residential, recreational purposes.
- e) Close setbacks on the side like this will make it difficult to repair or install utilities along sides of house.
- f) This is a substantial change in the appearance of the subdivision as it exists and the landscape, as currently all dwellings are spaced 20 feet apart.

Item 6 – OBJECTION This change to allowed land uses would require a vote by the owners of Sahhal South to amend the CC&R's. Section 15.6 of the CC&R's states that each class of ownership has to approve a change in the CC&R's by 75%. No such request for change has been presented to the residents and owners of property in the development, nor has a vote been conducted. The Proposed Amendment to Recorded CC&R Section 10.3.1 removes the requirement for full compliance with the zoning restrictions of Tillamook County. Making the allowed land uses less restrictive and subject only to the developer run Architectural Review Board, that allows no other owner or resident participation, is not in the best interest of the resident owners of the development.

I look forward to discussing these issues with the Commission in the hearings scheduled for February and April.

Sincerely,



Pam Johnson
45050 Proposal Point Drive (Lot 43)
Neskowin, OR 97149
pami714@gmail.com
(949) 933-9012

Melissa Jenck

From: Christopher Diani <christopher.a.diani@gmail.com>
Sent: Tuesday, February 15, 2022 2:51 PM
To: Lynn Tone; Melissa Jenck
Cc: Diani Christine
Subject: EXTERNAL: Written testimony for Application 851-22-000003-PLNG

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Tillamook County Planning Commission:

This letter is submitted as written testimony by Christopher & Christine Diani, with ownership interest in Lot 35 (45180 Proposal Point Drive, Neskowin, OR 97149) in the Sahhali South Development. We request that it be included in the packet being prepared for the Planning Commission for its scheduled hearings on the above referenced application. We would like to address Application Request 3 (partitioning Tract A into Lots A-1 and A-2) and Application Request 5 (adopting consistent setbacks).

REQUEST 3, PARTITION OF TRACT A

This tract is on level, easily accessible land at the entrance to the Sahhali South development. To our knowledge it is the only open space in the development that could be used as a small neighborhood park.

We object to the Applicant's request that this tract be divided into two purchasable lots, A-1 and A-2, and that a very steep, inaccessible parcel of land be substituted as the community's open space. The Applicant's new open space would be located next to proposed Lots 13a and 13b. This would eliminate any suitable, accessible space for a neighborhood park and likely alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

In addition, this appears to violate our current Declaration of Covenants, Conditions and Restrictions of Sahhali South (CCRs). Section 6.4 of our CCRs states that every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Property, which shall be appurtenant to and shall pass with the title to every Lot. This is simply not possible on the proposed steep, inaccessible land the Applicant is proposing as common property. It appears that Request 3 disregards the interests of current and future owners while focusing solely on the interests of the Applicant.

REQUEST 5, ADOPT CONSISTENT SETBACKS

The current setbacks, as set forth in our CCRs are between 10 and 15 feet. Our objections to the proposed 5 foot setbacks are as follow:

- It is inconsistent with current setbacks for the homes in Sahhali South and the nature of the development. 5 foot setbacks and the potential of homes being built with only 10 feet between them significantly alters the character of the surrounding area.
- It increases the risk of fire spreading rapidly to adjacent structures.
- Given the increased possible impact of fire with structures this close to each other, this proposal may detrimentally affect homeowners' insurance premiums.

- This proposal, by being submitted to the Planning Commission for approval, appears to be circumventing the defined process of modifying our adopted CCRs.
- The applicant initiated the request to have the Planning Commission approve a change to the setbacks with no prior notice to (or input from) current owners.

Thank you for your consideration of our concerns.

Kind regards,
Christopher & Christine Diani

February 15, 2022

To the esteemed members of the Tillamook County Planning Commission:

My name is Jennifer Bierce, owner of tax lot 3500, Lot 52 in Sahhali Shores; located at 45015 Proposal Point Drive, a neighboring Lot to Tract-A, which is currently under review to replat.

I would like to voice my opposition to **851-22-000003-PLNG**, specifically as it relates to the replat of Tract-A (currently designated as Open Space), to not one, but two, buildable tax lots.

Based on the materials provided, the suggested replat does not meet the following Review Criteria as outlined in Section 6.040 and Section 3.520(3)(b).

Section 6.040(3): The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.

- **Dispute:**

- The proposal requests current setback guidelines be revised from 30' at side yard to the Tillamook County minimum at just 5' – an 83% reduction. The interior yard setback requests a reduction from 15' minimum, to 5' – representing a 67% reduction from current standards. Lastly, the side street setback is requested to be reduced from 20' to 15' – a 33% reduction from current standards. Given the proposal requires a remapping of setback lines, it confirms that it is not suitable for the proposed use without extreme augmentation of current county rules and ordinances.
- In the proposal shared, the developer claims that lots 14-19 are currently too narrow to build on (approx. 50' width); however, the replotting of Tract A would make the proposed lot A1 and A2 (approx. 32'-38' width) too narrow by the proposer's own guardrails. This represents an inconsistency in the logic and guidelines within the proposal with the developer applying a different set of rules to each lot based on his desired outcomes.

Section 6.040(4): The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

- **Dispute:**

- The proposal requests current setback guidelines be revised from 30' side yard to the Tillamook County minimum at just 5 ft. – an 83% reduction. The interior yard setback requests a reduction from 15' minimum, to 5' – representing a 67% reduction from current standards. Lastly, the side street setback is requested to be reduced from 20' to 15' – a 33% reduction from current standards. My home, directly neighboring Tract A, which recently completed building in November of 2021, was subject to 15' setbacks at the side yard in line with the current Sahhali South standards to which the developer would like to reduce by 67%. It is incongruous that two neighboring lots could have such vastly different rules as it relates to setbacks and buildable space on our properties.

- Tract A is currently home to amazing wildlife including, but not limited to, deer and elk grazing on this Open Space land almost daily. The proposed removal of this Open Space in favor of two single family home lots is unlawful and in direct contradiction to the recently passed Oregon House Bill 2834, which states:
 - Relating to wildlife corridors. Whereas the state of Oregon is home to a rich array of wildlife and landscapes; and Whereas biodiversity and habitat connectivity play a vital role in Oregon's economy and in ensuring a sustainable future for current and future generations of Oregonians; and Whereas habitat loss and fragmentation are major contributors to declines in populations of native fish, marine life and terrestrial wildlife; and Whereas wildlife corridors serve to connect wildlife habitat areas and allow for the movement, migration and dispersal of fish, wildlife and plant species; and Whereas, in addition to other benefits, wildlife corridors provide ecosystem services such as pollination, air and water purification, carbon sequestration and disturbance prevention; and Whereas wildlife corridors increase public safety and are highly effective at reducing vehicle wildlife collisions and the costs associated with those collisions; and Whereas formally designating and protecting wildlife corridors is a crucial strategy for bolstering Oregon's ecosystem resiliency and for ensuring the long-term viability of wildlife population and communities; now, therefore, **Be It Enacted by the People of the State of Oregon:**
- **SECTION 1. (1)** The State Department of Fish and Wildlife shall...preserve long-term habitat connectivity for wildlife as defined in ORS 496.004. The plan shall provide guidance for all state agencies to develop benchmarks for the designation and protection of wildlife corridors in Oregon.
- In order to protect our wildlife, their migratory patterns and fragile ecosystem on the Oregon coast, we cannot replace the Tract A Open space with two buildable lots. The replacement Open Space that the developer is proposing is located on an uninhabitable, cliff side that is currently too treacherous for wild life or humans to safely navigate. (Please see Exhibit B)
- By removing this open space and converting it to two buildable lots, we will be taking away the precious habitat for our wildlife and destroying the natural beauty of the Oregon Coast. We will also increase the chances of wildlife/vehicle collisions with the increased urbanization of the community. According the Pew Research Center: Oregon's "mule deer population has been below the Oregon Department of Fish and Wildlife (ODFW) [management goals](#) for at least 30 years and declined by 95,000 animals from 2015 to 2017, in part because of collisions with vehicles". The addition of these buildable lots will further denigrate the wildlife population and result in heightened safety risks for animals and drivers alike.
- The proposed NEW Open Space is an uninhabitable cliff side that is not only not suitable to build on, but also not suitable to the animals that currently thrive in

Tract A. Please see Exhibit A and B for commentary regarding accessibility and use.

- The addition of buildable lots A-1 and A-2 would be detrimental to the neighborhood safety as these lots are located at a major North/South and East/West Intersection between the Sahhali Shores and Sahhali South communities. The addition of lots A-1 and A-2 would result in diminished (impaired) visibility for drivers and increase the danger of automotive accidents at a busy intersection between two communities.
- These 2 new lots will also add 4 concrete/asphalt driveway aprons to the east side of Proposal Point Dr. putting more cars into the nearby intersection and tangentially across from the 4 westside Proposal Point Dr. driveway aprons creating more traffic interplay.
- This proposal represents the increased urbanization of what had originally been deemed a rural community; by squeezing in two additional buildable lots to what was once Open Space, we are increasing the harmful impact on the community infrastructure, not only impacting the safety of those living within the community but also creating a detrimental impact on the coastal wildlife that currently grazes and roams on the Tract A Open Space.
- Tract A location is currently at the epicenter of the Sahhali South development and the surrounding area. Its 260' east west longitudinal lot line is significantly larger than any lots currently on the market. This extensive lot line will permit a monstrously long wall like home fitting within 144' east-west building envelope line. This huge potential structure would far eclipse any existing building now measured on the same east/west axis and “substantially limit, impair [and] prevent the use of surrounding properties” to enjoy our current community and the wildlife we love that live within it. Please note:
 - The two closest Heron View tax lots combined [#900 and #1000] on 0.20 acreage are only 62' combined east/west. More acreage but smaller east/west line interference and impairment silhouette.
 - The closest Proposal Point Dr. with tax lot homes #4400 and #4500 measure just 71' east/west line beyond the 32' concrete driveway apron.
 - These tax lots are all 50% smaller than the proposal.
- The conversion of Tract A from Open Space to two, buildable lots, would also greatly impair my current South facing Ocean views and impede on my overall property value and desirability. My south facing ocean view is currently an impressive view of the Oregon Coast’s beautiful cape bluffs, however if this proposal is approved, I would lose this view, and instead see not one but two homes directly next to my own. I purchased my land with the understanding that Tract A was Open Space and therefore would never be buildable, thus protecting my pristine ocean view, the proposal “substantially limits, impairs” and prevents the use of my surrounding property thus in direct disagreement with **Section 3.520(3)(b) (7). (Please see Exhibit A)**

Section 6.040(6): The proposed is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.

- **Dispute:**

- Tract A has been deemed Open Space since the community inception in 2005 (17 years ago). The developer submitted revisions to his community plan in 2007 – a reasonable amount of time from inception and the proper time to submit additional desired replats. Now, 17 years from inception and 15 years from his revised land use ordinance, the proposal is now requesting yet another replat, specifically of an Open Space that has remained as such for 15 years.
- According to even the most liberal statute of limitations of 10 years (in accordance with the IRS Federal Statute of Limitations), the proposer is at minimum 5 years past due his time to redraw the lines of our communities.
 - Since this statute has expired, the 3 contiguous lots – Lot 51, 52 and 79 all sold, with the understanding that after 15-17 years of designation as an open space, Tract A would remain an open space in perpetuity.
- I implore the Commission to state how many similar unit developments have gone through not one, but 3 replats since their inception, and ask over what time period those occurred? Is 15 years a reasonable amount of time to request changes that will impact the community so egregiously? Given it is far beyond even the most liberal statute of limitations, I think not.
- Furthermore, the Developer has surreptitiously failed to disclose the existence of Tract A as a designated Open Space on any of his listings at least since January 2020, likely in hopes that his proposal to replat would be approved. On the contrary, Tract A has been deemed “Open Space” annually for more than 12 years on the Tillamook County Taxation subdivision website (plot map and lot-owner matrix). If this designation can be redefined/replatted at the whim of Developers, Tillamook County Planning Board should provide a warning to all current and potential buyers that a designation of Open Space apparently means nothing, and can be changed at any time. For example:
 - WARNING: This is a notice informing you the public that Tillamook County Taxation and Assessment subdivision maps may show "open space" parcels. Do not ever assume these are permanent as the developer can apply at any future date to arbitrarily remove this designation and convert same parcel to 1 or more building lots. Caveat Emptor to all prospective buyers, these so called "open space" individual lots can be altered at any time beyond any known statute of limitations.

Section 3.520(3)(b) (2): Resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area.

- **Dispute:**

- The proposed development would be inconsistent with the comprehensive plan provisions or zoning objectives of the area as it seeks to reduce setbacks by 67%-83% and eliminates natural, open space that is precious to the community inhabitants and surrounding wildlife. Please see previously stated disputes above as to why this development would be inconsistent with the comprehensive plan provisions.

Section 3.520(3)(b) (5): The parcel is suitable for the proposed use, considering its size, shape, location, topography, existence of improvements, natural features.

- **Dispute:**
 - Given the proposal also requires a remapping of setback lines, it confirms that it is not suitable for the proposed used without extreme augmentation of current county rules and ordinances.
 - Additionally, in the proposal shared, it claims that lots 14-19 are currently too narrow to build on (approx.. 50' width), however, the replotting of Tract A would make the proposed lot A1 and A2 (approx. 32'-38' width) too narrow by the proposer's own guardrails.

Section 3.520(3)(b) (7): The proposed use will note alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

- **Dispute:**
 - Please see dispute reasons outlined in **Section 6.040(4)** above.

Based on the above facts, it would be inconsistent for the Tillamook County Planning Commission to not maintain original open space Tract A designation and placement.

I appreciate your consideration and thoughtfulness in this decision, and hope that you choose not to approve the replat of Tract A.

Thank you,
Jennifer Bierce
Owner Tax Lot 3500 – 45015 Proposal Point Drive, Neskowin, OR 97149

Exhibit A: Photos taken from South Balcony fo Bierce Resident (Lot 52, Tax Lot 3500):
Tract A is a very gently sloping and easily accessible for all residents, including handicapped, disabled or senior citizens. Proposed Open Space is steeply sloping and inaccessible to many current or future residents, as it is discriminatory to handicapped, disabled or senior citizen as it is very challenging to use. Proposed open space would require 36 Proposal Point Lot owners to travel at least twice as far to use a Thalassa Street culdesac.

Per the photos, the addition of two homes in this location would eliminate my south facing views impacting my overall property value, and causing safety concerns of 4 driveways emptying out into the same thoroughfare:

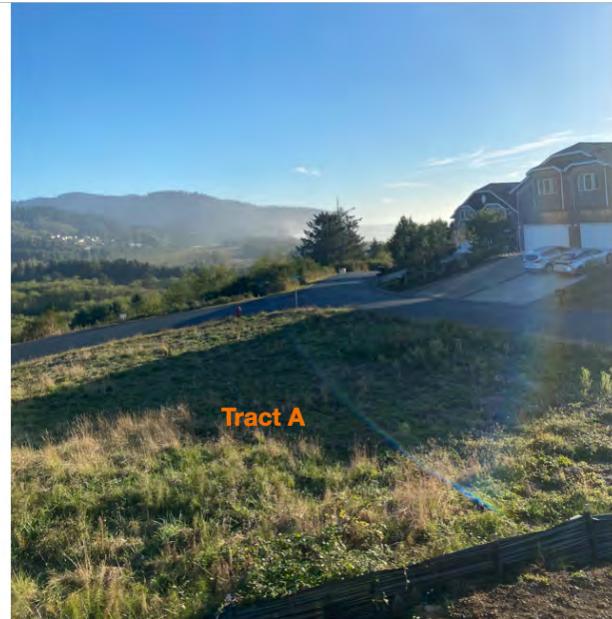


Exhibit B:

Proposed Open Space is steeply sloping, inaccessible and extremely difficult to many current or future residents, as it is discriminatory to handicapped, disabled or senior citizen residents. Proposed open space would require 36 Proposal Point Lot owners to travel at least twice as far to use a Thalassa Street culdesac.



**Proposed New
Open Space - a
densely vegetated,
inhabitable, cliffside**

Tract A



Sahhali Shores at Neskowin COA

44495 Sahhali Drive

Neskowin, OR 97149

Website: www.sahhalishores.org

February 15, 2022

To: Tillamook County Planning Commission

Re: 851-22-000003-PLNG request for replat Sahhali South subdivision

It has come to our attention that the developer of the Sahhali South subdivision has requested a replat of that neighborhood. As our community is directly adjacent to Sahhali South any replat of that neighborhood will have a direct impact on the feel of our community. Of particular concern are two items in particular:

- 1) Changing the setbacks to allow homes to be within 5 feet of the property boarder. According to Tillamook Land Ordinance 3.320 the intent is to maintain the rural character of the Sahhali area (Sahhali Shores and South Sahhali). This will allow homes to be only ten feet apart and create much more density and take away from the rural feel of the neighborhoods that exist now with the 10 foot setbacks (which limits homes to within 20 feet of each other). Although that type of density may fit other parts of Neskowin and the County in general the Sahhali area has been specifically developed with a more rural feel with less density.
- 2) Replatting Tract A from open space/undeveloped into 2 single family lots. In addition to the density concerns as outlined above this change in development would have a large impact on homeowners in Sahhali Shores who are adjacent to this tract. Their lots and homes have been bought and plans for homes have been designed to enjoy the open space near their home based on the original plat. Allowing homes to be built on that space is unfair to homeowners who were promised open space by the original plat map.

The community of Sahhali Shores appreciates you allowing us to provide our feedback on the proposed changes.

David McDonald, DVM
President, Sahhali Shores at Neskowin COA

Melissa Jenck

From: Lorrie Hallman <lorrie12@gmail.com>
Sent: Friday, April 1, 2022 9:56 AM
To: Melissa Jenck
Subject: EXTERNAL: Replanting of Sahhali South

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

I am a resident of Sahhali Shores, the neighborhood adjacent to Sahhali South. I strenuously object to the replatting plan submitted to the county by the corporate owners of the land in question.

We overlook the property and must drive through it to get to our house. We purchased our property with the knowledge that Sahhali South would continue to adhere to their own stated and approved plans.

The corporation that owns Sahhali South is clearly interested in making as much money as possible from their land before their property has enough private owners that the Sahhali South community can form their own HOA and prevent such disruption of the character of the community and the wildlife therein. They are destroying the trees and natural shrubs that support wildlife and turning the land into an urban subdivision like so many others.

The 2 neighborhoods, Sahhali Shores and Sahhali South, share the same entry and the same road, Sahhali Drive. Changing the setbacks from 15 feet to 5 feet would alter the perceived character of my neighborhood as well as Sahhali South. The development of their lots on Sahhali Drive would allow 5 homes set back just 5 feet from said road and radically change the appearance of BOTH communities from Hwy 101.

The same corporation owns the property north of Sahhali Drive which they have called Sahhali North. I am concerned that they will apply for the same reduced setbacks for this as yet undeveloped tract. Our neighborhood which does have 15 foot setbacks will then be surrounded with an outdated Californian subdivision that squeezes as many buildings and people as possible into what was a rural community. The wildlife and the coastal character of this property will then be completely destroyed.

I hope you will take this overview into consideration when you make your decision.

Lorraine Hallman
5705 Sahhali Drive
Sahhali Shores

April 1, 2022

To the members of the Tillamook County Planning Commission:

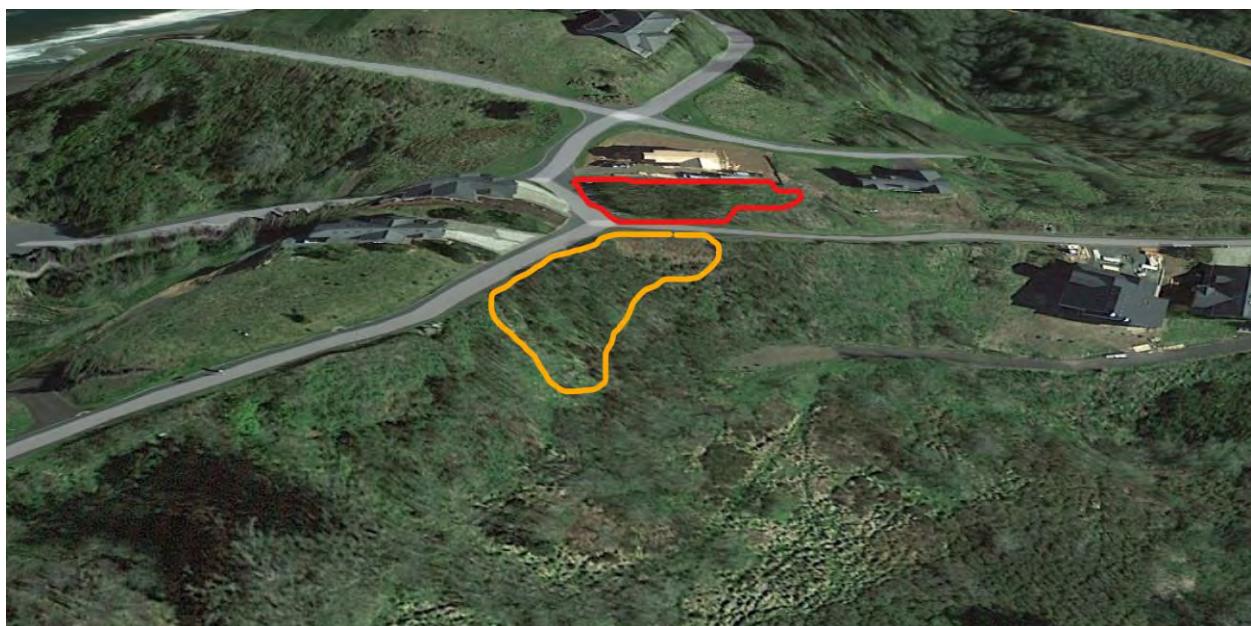
My name is John Golightly, owner of Tax Lot 1000, Lot 22 in Sahhali Shores; located on Sahhali Drive, Neskowin.

I write to you to object to the proposed replat of Sahhali South in Neskowin, filed as **851-22-000003-PLNG**.

Based on the materials provided in the developer's application, the suggested replat does not meet the following Review Criteria as outlined in Section 6.040 and Section 3.520(3)(b):

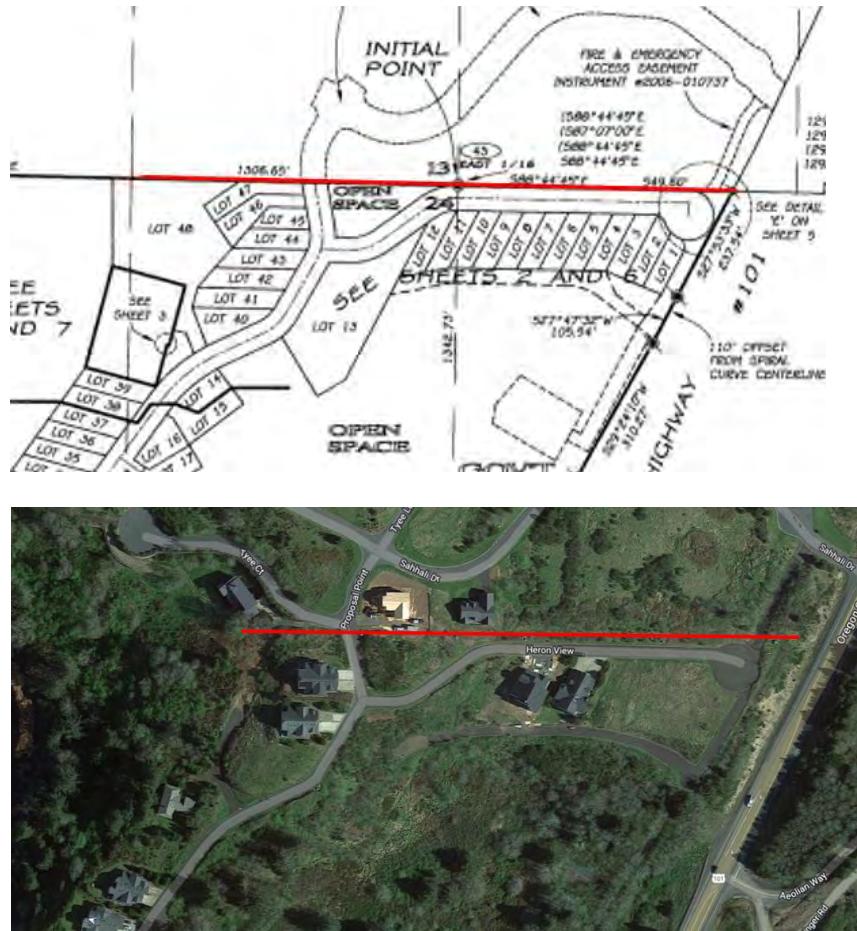
Section 6.040(3): The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.

- Tract-A of the proposal would divide an already suitable open space (for community use) into 2 narrow lots inappropriately sized for a home. One of the proposed lots would be as narrow as 50' with incredibly narrow side setbacks. Considering there is already a home built on the adjacent lot to the north (Tax lot 3500, Lot 52), this encroachment is not "suitable" considering the "size, shape" and "topography" of the lot.
- To maintain an "open space", the developer is proposing to move this current open space on Tract-A to another existing lot south of Tract-A which would be the western portion of current Lot 13. This lot is not "suitable" for a proposed purpose of an "open space". This is a steep lot (natural feature) that can serve no purpose, especially as an open space which is intended for community use. As shown in the Google Earth image below, which is necessary to see the actual topography, Tract-A (red outline) is relatively flat and accessible and "suitable" for its current intended purpose. The proposed new open space (orange outline) is not and cannot be converted as such.



Section 6.040(4): The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

- A redevelopment of Tract-A would “substantially limit, impair and prevent the use” of surrounding properties for their permitted use. As noted above in relation to its current open space designation, the Tract-A platting proposal would have 2 very narrow lots, with very limited setbacks next to an already existing structure/home (Tax Lot 3500, Lot 52 in Sahhali Shores). One can easily predict given the narrow outline and limited setbacks, that any structure built on this property would be long, narrow, and tall (maximizing heights to attain their own views). The home, as a pre-existing occupied structure, already has established a “use of the surrounding property” that does not include a neighboring structure against almost non-existent setbacks. This home/property was significantly invested in as a view property since Tract-A already has a 17-year established platting as an “open space”. As the “surrounding area”, Tax Lot 3500 would suffer substantial limits, impairments, and prevention of its use if Tract-A were redeveloped with tall structures and narrow setback robbing Tax Lot 3500 of its view and investment. This would essentially be allowing the developer to benefit at the expense of a single property owner.
- The “surrounding area” in this case involves a property that has no “voting rights” on a future structure on Tract-A. The Tract-A property and its proposed future development directly affect another subdivision. The properties in the Sahhali Shores subdivision to the north are not eligible to participate in the ARB process of Sahhali South. This is likely another reason why Tract-A was designated as an “open space” and has been for substantial time, to create a neighborly buffer between the two subdivisions. When viewed as a whole, Tyee Court (in Sahhali Shores), and Tract-A plus Heron View (both in Sahhali South) form a congruent and consistent partition between the two subdivisions whereby no two properties between the subdivisions are sharing a property line. This arrangement minimized the risk of conflicts of interest between the two subdivisions. This is demonstrated below (next page) with approximate comparison of Page 85 of the developer’s submittal
(https://www.co.tillamook.or.us/sites/default/files/fileattachments/community_development/project/70265/notice_of_public_hearing_website.pdf) and a satellite view from Google Map of the area. The red line in each indicates the separation of the two subdivisions. Even Lot 47 of Sahhali South is protected by Tyee Ct. to the North:



- A key Exhibit provided by the developer in their application (https://www.co.tillamook.or.us/sites/default/files/fileattachments/community_development/project/70265/notice_of_public_hearing_website.pdf) is Exhibit 2.1 starting on page 148 of the link provided above. This is the original Master Development Plan. By providing this as an exhibit of support to the application, the developer is attesting it is still applicable. However, there are elements of the exhibit which are no longer accurate and consistent with the proposed new plat. Specifically:
 - Page 157, Criterion 4 of Exhibit 2.1: The developer states “The proposed development is designed to replicate in feel and look this development.”
 - This is referring to replicating Sahhali Shores to the North. This statement is no longer an accurate statement. By increasing the density of Sahhali South, the intent is no longer to replicate the look and feel of Sahhali Shores with its larger lots.
 - Page 157, Criterion 4 of Exhibit 2.1: The developer states: “The proposed layout of the development will not impact the scenic views of the adjacent subdivisions.”

- This is wholly inaccurate with the proposal to replat Tract-A. As noted above, a replat of Tract-A will immediately impact the scenic view of the already developed and adjacent subdivision, minimally and specifically Tax Lot 3500.
- As such, the conclusions drawn in the Master Development Plan are no longer valid. The replat proposal at a minimum should require the developer to openly and clearly state in a new Master Development Plan, in the same manner as in the original, how he is still meeting ALL of the criterion and the conclusions he draws with each criterion. He has materially changed the original conclusions and should be required to address this.

Respectfully, I ask that the application not be approved as submitted. In summary, the Tract-A replat alone violates multiple criterion, and when the application is taken as a whole, the Master Development Plan is no longer valid and the criterion no longer met to not impact the neighboring subdivision of Sahhali Shores.

Regards,

John Golightly
Tax Lot 1000, Lot 22 in Sahhali Shores; located on Sahhali Drive, Neskowin

April 2, 2022

To Tillamook County Planning Commission:

My husband and I live in Sahhali Shores (44570 Sahhali Drive). We were very concerned to learn of the proposed **851-22-000003-PLNG**, the replat of Sahhali South.

We came to Sahhali Shores because of the tranquil, quiet neighborhood. We are dumbfounded to learn that after over 15 years of the developer having maintained the same neighborhood design, that he is proposing to densify the Sahhali South community, bringing more homes and less open space in the area. This would materially impact Sahhali Shores and the tranquility of the community to now be surrounded by a neighborhood with 5' setbacks between homes.

More specifically, the suggested replat does not meet the following Review Criteria as outlined in Section 6.040 and Section 3.520(3)(b):

Section 6.040(3): The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.

Section 6.040(4): The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

- **Dispute 1: Significant impact/impairment to the macro surrounding area of Neskowin and Highway 101**
 - Visual Impairment would ensue if Tract A open space plat is split into the proposed 2 building lots. The developer shows a permissible building envelope on A-1 with the east/west longitudinal building's 144' width. This length structure will dwarf all existing Sahhali South and Sahhali Shores structures' width by at least 70'. Note: tax lots 900 and 1000 on Heron View Drive are only 51' wide while the Proposal Point Drive tax lots 4400 and 4500 are just 71' wide.
 - Combined with the developer's 30" height, whatever McMansion railroad train elongated structure is built here will permanently alter the landscape views from Highway 101 and Neskowin. The above-mentioned tax lot 4500 has just a 24' height structure but its nighttime light illumination is visible from Hwy 101.
 - Since A-1 elevation is equal to that of tax lot 4500 and will be 6' higher at 30', the proposed allowable building envelope is 144' east west long, it can be assumed this structure will be always visible, day or night.
 - When combined with the developer's 83% side setback downsizing, the very narrow 10' distance between A-1 and A-2 building structures will create a single east/west structure noticeable from Highway 101 that will appear as just one monstrous structure, not two.
- **Dispute 2: Reputational impairment to the lovely town of Neskowin may occur when this permissible 144' wide A-1 structure is finished. Additionally, while the proposal may seem in accordance with Tillamook County setback requirements of a minimum of 5', when you take into account the vertical building heights of this proposal, Neskowin would have the most restrictive side yard requirements.**

- According to City of Tillamook zoning - there is a requirement to add 0.5' for each foot structure above 15' high. Since the developer's ARB height is 30', this results in an additional 7.5' to be added to the minimum 5'. Thus, the total side lot setback becomes 12.5' in the city of Tillamook vs. just 5' in Neskowin. This urban Tillamook County city then enjoys a 12.5' / 5' or 250% greater side setback requirement than one proposed for the bucolic rural Neskowin hamlet. This onerous stipulation drastically impairs the surrounding area as its side setbacks reduce the natural resource amenities view corridor by 58% [7.5' / 12'] over whatever view corridor exists in the City of Tillamook.
- Additionally, should structure be built in the proposed A-1 lot, the resulting industrial warehouse length building incursion into a rural residential neighborhood may hurt the Neskowin aura of idyllic hills and untouched Oregon coastal landscapes.
- Removing the 17-year-old Tract A open space designation and converting the same into two building lots may also tarnish and stigmatize Neskowin as placing developer profits over environmental sustainability of our beautiful Oregon coast lines.
- The developer's proposed downsized setback requests are the Trojan horse included to ensure that Tract A platted open space can be subdivided into not one but two buildable lots that will completely alter the nature of what is currently deemed to be a rural, coastal community.
- The 17-year developer reconfirmed [15 years ago] the 30' side interior setback currently prohibits any building on Tract A despite the developer's attempt to slice it into 2 buildable lots.
- More specifically, the proposed side setback reduction from 30' to 5' adds 25 additional buildable feet to each north/south building perimeter. The 83% setback shrinkage generates 25' more feet on either side. So, the math is 30'- 5'= 25' additional feet. $25'/5' = 500\%$ increase in allowable footage allowed on each north and south total length.
- Also contributing to a greater building envelope is the proposed side street setback decreasing 25% from 20' to 15'. This reduction in setback increases the building envelope where relevant by 33%.
- These huge building envelope increases, and much less restrictive setbacks proposed are rifles designed to hit the Tract A bullseye and restrict all surrounding area views; depriving current and future residents of the area's natural beauty and forever altering the conditions of the Neskowin coastline.
- **Dispute 3: Significant impact/impairment to the Micro surrounding area with significant densification to a once rural enclave.**
 - The proposal would result in increased density on Proposal Point Drive (PPD) but especially on PPD between Heron View Road and Tyee Loop Ct. The developer's division of Tract A into two lots increases by 20% from 5 lots [tax lots: 4300, 4400, 4500 4600, and 4700] to 6 lots [tax lots 4300,4400, 4500, 4600, plus A-1 and A-2 tax lot numbers].
 - This increased density generates four new east side PPD driveway aprons possibly interlocking or overlapping with tax lots 4400 and 4500 own 4 driveway aprons. Tax lot 4600 two driveway aprons will add to potential interlocking A-2 two driveway aprons.
 - Not only does it generate increased density, but also much additional traffic that intrudes on Sahhali Shores tax lots located on PPD and Tyee Ct.
 - The developer's density at what is the only major north/south and east/west intersection of Proposal Point Drive and Heron View Rd. could be reduced via Section 160 "Dead End Street". This states for roads under 2000' long, there's a potential available permitting up to

18 dwellings. This would alleviate traffic on Proposal Point Drive and decrease density as well.

- Density could also be eliminated by keeping the proposed combined lot 48 as 48-A and 48-B separate. According to [realtor.com](https://www.realtor.com) both of these lots were Listed on Feb 4, 2021 and both went to sign contracts Pending March 24, 2021. It would be helpful to see these two signed contracts and ascertain why they are now proposed as combined.
- **Dispute 4: Tax Lots 3400 and 3500 will be substantially impaired** as the developer's proposed 260' property line, and creation of irregular, sliver lots will shut down both tax lots direct south facing views. Combined with the much narrower side lot setback will obstruct if not obliterate any view once the two 30' structures are built.
 - Each building will now be 25' closer to each tax lot. Once a developer selects his desired setback formula for detached homes. it should become permanent after 17 years. The Tillamook County Planning Board should maintain its 2005 and 2007 consistent and coherent, disciplined reaffirmation of the 30' side setback requirement.
 - The developer's setback downsized request is squarely aimed at converting irregular Tract A into two buildable lots while his lot #14-19 front street widening negates any required downsized setbacks as does revised lot 46. 48 and 13-a and 13-b.
 - According to "Exhibit 2.1: Developers Summary Statement for Sahhali South Master Development Plan", the developer asserts "The proposed development is designed to replicate in feel and look this development. The proposed layout of the development will not impact the scenic views of the adjacent subdivisions." Respectfully, this is an utter lie, and the Planning Commission must disaggregate this assertion.
 - As a resident of the "adjacent subdivision", the eradication of Tract A open space plat and its proposed split into 2 lots will substantially marginalize/destroy somewhere between 90-150 degrees south and east of the existing unblocked 360-degree panoramic vistas.
 - Under the current setback rules, tract A 's single plat affords unlimited and unhindered scenic views. The new downsizing setbacks are singularly designed to ensure Tract A can be converted into buildable lot status with no recognition or acknowledgement of scenic view corridor destruction that will inflict on neighboring lots in adjacent subdivisions.
 - The developer's proposed downsized setback adjustments will only further impair the limited scenic view incursion proposed above by the developer's unsubstantiated need to split Tract A into two building lots now after a 17-year status quo permanency as a single plat.
 - Why not add 1 lot or 2 or more on the new cul-de-sac Thalassa Drive proposed road whose unique Dead End Designation is mentioned by the developer himself? As he states, its unusual parameters permit additional homes without any density implications.
- **Dispute 5: For the immediate surrounding area, reversing the developer's 17-year-old twice affirmed detached home 30' side setback to the proposed minimum 5' does not reflect consistency but rather developer inconsistency, contrary to the developer's proposed assertion.**
 - 2005 Exhibit A conditional Planning Board approval was conditioned that "All areas designated as open space, common area or wetlands shall not be further subdivided for development purposes." The December 2007 Planning Board again re-stipulated the 2005 condition in its own 2007 Exhibit A Conditional approval word for word.

- On a micro level, these inconsistent proposed downsizing setbacks could be interpreted as designed solely to permit the developer to build on Tract A's two divided lots which are not currently buildable under the current 17 developer selected setback settings.
- The developer in his original CCRs claims the right to choose which lots to build or annex; he expressly does NOT grant himself the right to request setback stipulations after 17 years. Granting the developer's proposed detached home new minimum setbacks would greatly impair the current 18 Sahhali South homeowners who bought believing the twice affirmed setback restrictions were permanent.
- The current Sahhali South and Sahhali Shores lot/homeowners would also be impaired. What was considered a permanent view vista in place for 17 years is now proposed to change and impaired 83% narrower viewing bandwidth. These greatly reduced setbacks narrow or extinguish surrounding lot/homeowner views.
- This added restricted and diminished vistas devalue their property investment as what was fixed and in place is now proposed to be arbitrarily changed.
- As proposed, the new setbacks are asymmetrical and inconsistent with Sahhali Shores own setback parameters which the developer had previously affirmed twice 15 and 17 years ago. The increased building envelope permitted under these proposed new setbacks will not "replicate the feel and look" of Sahhali Shores with its greatly reduced side and interior yard setbacks. These downsized setbacks will create an inconsistent and very uneven mix while greatly destroying much of the scenic views neighboring lot owners in adjacent subdivisions currently enjoy and can experience. There will be a tale of two cities in these neighboring communities.
- **Dispute 6: According to Tillamook County Article 4.11: Exception to Yard Setback Requirements – The proposed request does not align to any of the small lot exceptions outlined and therefore must be denied by the Planning Commission.**
 - **4.11.5a: SMALL LOT EXCEPTIONS:** In the RR, CSFR, RC, CC, CR-1, CR-2, CR-3, RMH and RMD zones and including those communities with adopted community growth boundaries, a front or rear yard, but not both, may be ten feet, provided the following apply to the subject parcel:
 - (a) The parcel is 7500 square feet or less in size.
 - (b) At least one side yard is ten feet or more wide.
 - (c) Required off-street parking is provided.
 - (d) The right-of-way width at the front of the lot is at least thirty feet. In the case of right-of-ways under 30 feet in width, a ten-foot yard may be approved if it is approved by the Public Works Department.
 - (e) The lot is not a corner lot. If the lot is a corner lot and meets the above criteria, the front yard may be 15 feet.
 - Developer proposed Lot A-1 is 9285 square feet and is 124% larger than the [a] required maximum 7500 square feet exception and therefore is NOT eligible for either a front or rear yard exception of 10' for detached homes contrary to Table 1 page 17 submission.
 - Not only is Lot A-1 ineligible for detached homes, but also NOT eligible for attached homes. Lot size again 9285 square feet exceeds the necessary exception limit of 7500 square feet.
 - Developer proposed Lot A-1 is presented as having each side yard being just 5'. Since the [b] exception requires at least 1 side yard setback being 10', the developer's proposed Lot A-1 fails this threshold test. Lot A-1 is therefore ineligible for the Section 4.11

exception. Again, NOT eligible for detached homes contrary to Table 1 page 17 submission.

- Proposed Lots A-1/A-2 is non-conforming and therefore not eligible for any exceptions offered in Section 4.11.5a and 4.11.5b; thus the Planning Board should deny its creation.
- **Dispute 7: Tract A is currently an environmentally sensitive habitat for elk and deer.** It is also centrally located within Sahhali South, and ADA compliant for all humans young and old to enjoy the natural views. It is easily accessible and very easy to use. Please see original submission, as current proposal is in direct violation of Oregon House Bill 2834 that seeks to protect wildlife corridors.
- **Dispute 8: Neskowin is renowned for its very severe Pacific storms generating a lot of wintry rain and off the charts wind speeds; the proposal will increase opportunities for the creation of wind tunnels that can damage property and harm residents.**
 - Per the developer's Geotech report submitted with his large 5 lot Sahhali North April 2013 annexation, is a statement reporting wind gusts in the area are normally up to 110 mph. This 100+ mph wind was echoed in the developer's landscape section. Narrowing the setbacks 83% to just 5' will result in both A-1 and A-2 having just a combined 10' between their two structures. Since the same wind volume must travel through a smaller opening, the wind's velocity will increase potential debris impairment to leeward homes, traffic, and pedestrians.
 - The developer's proposed narrower side setback to 10' [2 x 5' each lot] between adjoining lots A-1 and A-2 will increase the wind force on Heron View Road humans and property as the current 60' setback [2 x 30' each lot] allows for the wind to dissipate instead of accelerating through the much smaller opening between the 2 building lots.
 - This increased danger to human life and property on these highest elevation Sahhali South lots should not be permitted as safety first concerns should override this.

Section 6.040(6): The proposed is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.

- **Dispute 1: If replating was “timely” the proposed requests would have been included in one of the two previous requests for rezoning by the developer.**
 - Although the developer could have used Tillamook County's 12/18/2002 Section 35 allowable 5' side setback in both its 2005 and 2007 reaffirmation, he did not. He chose the same consistent 30' side setback that Sahhali Shores elected. The choice of the matching Sahhali Shores 30" side setback may have been to account for public health and safety concerns as well have 500% wider scenic natural view corridor for all to enjoy.
 - The developer is the only beneficiary to these downsized setbacks that afford him a 500% increase on 2 sides on the building home sides for adjoining lots to the detriment and impairment of surrounding lot/homeowners. Without these proposed downsized setback new figures, Tract A would no longer to be suitable to the developer to be sliced and diced into two building lots.
- **Dispute 2: Sahhali South has experienced a boom in recent sales activity, it can only be assumed that those sales were made with the understanding that the 17-year-old community open space (Tract A) would not be significantly altered.**
 - No need to alter the current setback factors as the current 18 Sahhali South homeowners are fully adjusted to the current requirements. Sahhali South is experiencing brisk sales

activity under the current existing setbacks so again there is no reason to adjust the setbacks. Within the past year as of today's date [March 24, 2022] according to www.realtor.com 8 Sahhali South lots are Pending: Lot # 6, 24, 25, 30, 31, 40, 48-A, and 48-B.

- I assume the 8 Sahhali South lots pending will close scheduled post this application. When added to the existing homeowners, the combined total of current and pending future individual lot owners = 26, just 3 shy of the majority of current 56 lots. As soon as this happens, the developer loses his control over the Board of Directors of the Sahhali South Homeowners Association.
- The proposed setback changes seem laser-focused to convert Tract A open space into 2 buildable lots to benefit the developer now. It seems incoherent he proposes this now when the market seems to have recognized the current open space as attractive. Given his brisk sales. These current/future buyers like his consistent 17-year-old prior setback attestations that bring a sense of permanence to them.
- If the developer is so inclined to add additional buildable lots, why does he not replat the massive 10 acres lot of Sahhali North or any of the other Sahhali North lots planned that span 100' wide on Heron View Road? This appears to be an attempt to conceal the developer's further intent to densify the neighborhood – despite annexing the Sahhali North lots in April 2013, he does not acknowledge their existence in his most recent replat request. (https://www.realtor.com/realestateandhomes-detail/Heron-View-Dr-Lot-1_Neskowin_OR_97149_M95860-69433)

Section 3.520(3)(b) (2): Resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area.

- **Dispute 1: Tillamook County defines “open space” as equivalent to “undeveloped land or park facilities belonging in common to the members of a property owners association. The open space, development density, and the layout of the streets in Cluster developments are designed to maintain the natural or scenic amenities of a site, and the minimum lot sizes in Cluster subdivisions are reduced to allow a proportionate increase in the density of the developed portions of the tract.”** The above Tillamook County Section 020 definition equates open space as being synonymous with public park facilities. As such implicit in "open space" is the assumed human interactive component requiring ease of access and ease of use.
 - Inherent in the developer's proposed "swapping" open space from the Tract A (0.34 acreage) for his lot 13 (0.38 acreage) is his incorrect assumption of fundamental equivalence for the 2 parcels. He glosses over his "gently sloping terrain" description of Tract A and immediately equates it to his "steeply sloped" lot 13 statement as being equal substitutes.
 - The problem with this developer assumption is it completely removes the human interaction component requiring ease of access and ease of use for children, handicapped, disabled, and senior citizens to enjoy. It also seems to contradict his earlier 2005 and 2007 submissions to those then serving Tillamook County Board representatives who I'm sure applauded his thoughtful foresight to lay out Tract A as the most accessible and easy to use "open space" central to ALL Sahhali South lot/homeowners.
 - Instead of certifying to his earlier thoughtful open space inclusion near the major Sahhali South intersection, He has now shunted the proposed "open space" designated area to a

peripheral cul-de-sac requiring current Proposal Point Drive homeowners to travel up to 3x the original distance to visit. Moreover, his suggested substitute on lot 13 all but ensures that unlike the aforementioned public park similarity, there is no ease of access or use for many humans.

- Please see **Exhibit C** – Bramble filled cliffside that the developer is proposing becomes the new open space.

Based on the above facts, it would be inconsistent for the Tillamook County Planning Commission to not maintain original open space Tract A designation and placement. I appreciate your consideration and thoughtfulness in this decision, and hope that you choose not to approve the replat of Tract A.

Thank you,
Maria Veltre and Jon Wapner
Owners, 44570 Sahhali Drive, Neskowin, OR 97149

Exhibit A: Tract A is a very gently sloping and easily accessible for all residents, including children, handicapped, disabled or senior citizens. Proposed Open Space is steeply sloping and inaccessible to many current or future residents, as well as discriminatory to handicapped, disabled or senior citizen. Proposed open space would require 36 Proposal Point Lot owners to travel at least twice as far to use a Thalassa Street culdesac.



**Proposed New
Open Space - a
densely vegetated,
inhabitable, cliffside**

Tract A

April 4, 2022

To: Tillamook Planning Commission

From Jonathan Gehrs

Lot 43, Sahhali Shores development
5315 Whale Point Drive
Neskowin, Oregon 97149

Re: Proposed Re-platting **851-22-000003-PLNG**

I am writing this letter to the Commission in opposition to the proposed re-platting of Tract A included in **851-22-000003-PLNG**.

Specifically, concerns over the following Review Criteria sections:

Section 6.040(3): The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.

Section 6.040(4): The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

For background purposes, my address and dwelling are in the Sahhali Shores neighborhood directly north of the property subject to the re-platting.

Concern 1 (Section 6.040(3): We located our property in this development assuming current platting and build requirements would not change. The County did an excellent job in its initial approval process for both the Sahhali Shores development and the Sahhali South development, to require the developer to create a very livable, open spaced neighborhood, fitting for an upper end development on the Oregon coast.

His current proposal is requesting reducing the lot setbacks from 10ft to 5 ft on the side lot boundaries, effectively squeezing in more lots into the development. In addition, he is proposing inside Tract A to swap the existing open space area with another area in the development that is not buildable and is currently overgrown with heavy underbrush and vegetation. This would also increase the building lots available for him to develop and sell.

The effect of his proposal adds density to this neighborhood, without a doubt. Density that was not designed into the development initially over 15 years ago and should not be allowed now. Current homeowners in both sections of the Sahhali neighborhood did not purchase lots and build their homes, assuming that the development would then become an urban neighborhood. The County should be concerned about this. This development was planned to provide large lots, lots of open space and common area, and to have the development “flow” with the surrounding natural environment, and also the wildlife that co habitats the area. As noted above, the livability of the neighborhood will be adversely impacted by the density that the developer is proposing.

The prosed swapping out of common area space is basically an “available land” grab, wherein the developer can shove in more buildable lots and take what is a great open space now, utilized by residents and wildlife, and build homes on it. The common area land that would be exchanged into, to say the least, is a challenging piece of property on a hillside, overgrown with underbrush and vegetation, which would not be used at all by residents or wildlife.

For the above reasons, I am respectfully requesting that the Commission deny the re-platting request, in that is does not meet the requirements of **Section 6.040(3)**.

Concern 1 (Section 6.040(3)): As noted above, we located our new home on the Oregon coast specifically in this neighborhood (Sahhali Shores), as we felt it had the most to offer from a livability standpoint, than any other development we had investigated.

The “feel” and “flow” of the neighborhood is amazing. The development was designed and initially approved by the County with large lots, open spaces, very little view impairment. It is unmatched in the way the neighborhood fits into the surrounding natural environment, where they co-exist together in harmony.

The approval of the re-platting will alter the feel of the neighborhood and the natural environment where the neighborhood resides. Re-platting will add more buildable lots, creating a more urban environment that is more suited to platted cities and villages, not rural developments on the Oregon coast that were specifically designed to provide larger lots, open spaces, coastal viewing. Adding more lots and reducing setbacks will assuredly affect view sight lines for existing homes in the neighborhood. In addition, adding buildable lots increases traffic and reduces the livability of the homes that are already built. This was not the intent of the platting of the initial development, and any modification of that plan should not be allowed now.

As noted above, in Concern 1, swapping current common area space for unusable common area space is just a land grab to create additional buildable lots. The swapped common area is not useable by the community nor wildlife, reducing the livability of the neighborhood, which prevents use of the common area that is a key requirement under Section 6.040(3).

For the above reasons, I am respectfully requesting that the Commission deny the re-platting requested in **851-22-000003-PLNG**, as it does not the requirements of **Section 6.040**.

Thank you for taking the time to review my comments and concerns. I have listed my two most concerning issues that affect our neighborhood. There are many additional concerns. Rather than listing them all out here, I would ask the Commission to carefully consider resident Jenny Bierce’s filing in opposition to the re-platting, which has already been filed with the Commission. She has done an incredibly detailed job listing out all the concerns she has as an adjoining property to the proposed change, and the concerns of the neighborhood at large, I fully support Jenny’s filing and the concerns she has noted therein.

Respectfully submitted,
Jonathan Gehrs

April 3, 2022

To the esteemed members of the Tillamook County Planning Commission:

My name is Christine Gault, manager of Gault Properties, LLC, owner of tax lots 1700 and 1800 in Sahhali Shores at Neskowin and resident of 5705 Sahhali Dr. Our development is directly adjacent to Sahhali South which has a proposal currently under review to replat Tract A (Open Space).

Thank you for the invitation to submit comments and I would like to voice my opposition to **851-22-000003-PLNG**, specifically as it relates to the replat of Tract A (currently designated as Open Space), to buildable tax lots.

I have reviewed the two documents submitted to the Commission by Jennifer Bierce and have done some of my own research. I share her concerns about the negative impacts this change would mean for the people and wildlife in our community.

I want to emphasize that, given the number of years that have passed since the original designation, this proposed change seems especially egregious and unfair as well as financially damaging to Ms. Bierce as well as the owner of the adjacent lot to the northeast (Lot 3400 in Sahhali Shores at Neskowin, Unit Two), both of whom purchased their properties since 2020 with the understanding that Tract A would be Open Space as it was originally designated by the same developer many years ago.

In searching for information about how views can affect our property values, I found Attachment 1, a judgement entered in a case in which Sahhali South LLC sued Tillamook County to have property tax assessments reduced for multiple lots in the neighborhood. According to the evidence provided in that case, cited on pages 5 and 5 in the court order, both the county's appraiser and Sahhali South's appraiser reported that they ranked each property's view into one of three categories based on the view. Sahhali South's developer suggested reductions in property valuations of between 10-15% for lots with "average" or "inferior" views compared to those determined to have "superior" views and Tillamook County's appraiser returned values that were 20-35% less for properties with "fair" to "good" views compared to those with "superior" views.

If Tract A is allowed to be replotted and built upon as proposed, it is obvious that the views from the adjacent lots (Lots 3400 and 3500 in Sahhali South at Neskowin) as well as their corresponding property values would be substantially and negatively degraded (10-35% less in value). Interestingly, Sycan B Corp was the original owner of Lots 3400 and 3500 and Sycan B Corp is also the listed manager of Sahhali South LLC. It is reasonable to presume that the unobstructed view to the south from those lots would have brought a premium in price when Sycan B Corp sold those lots to their first individual owners and now the same entity proposes to redesignate the land 17 years later so it can benefit financially at the expense of the subsequent owners of those same lots.

Additionally, since Tract A has been designated as Open Space/Common Ground, it appears that no (\$0) property taxes have been paid on this property since it was originally designated as a subdivided lot in 2007. To allow the developer to avoid property tax payments on this Open Space/Common Ground for the past 17 years and then allow it to be turned into a lot for development and profit would also be unfair to all property taxpayers in the county.

I appreciate your consideration and thoughtfulness in this decision, and hope that you choose not to approve the replat of Tract A.

Thank you,
Christine Gault, Manager
Gault Properties LLC

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

SAHHALI SOUTH, LLC,)
Plaintiff,) TC-MD 090541C
v.)
TILLAMOOK COUNTY ASSESSOR,)
Defendant.) DECISION

Plaintiff seeks reductions in the values, for the 2008-09 tax year, of 36 townhouse lots in a newly platted subdivision on the Oregon coast.¹ Plaintiff appealed Defendant's values to the county board of property tax appeals (BOPTA), and BOPTA sustained Defendant's values. Plaintiff timely appealed to this court seeking considerable reductions in the real market value (RMV), which, if granted, will reduce the maximum assessed value (MAV) and assessed value (AV) of the lots because the lots are newly created and were first placed on the rolls for the 2008-09 tax year.² Defendant requests that the court sustain the values currently on the rolls.

Trial in the matter was held by telephone. Plaintiff was represented by Greg Hoard (Hoard), Vice President of Finance and the managing member of Sahhali South. Testifying for Plaintiff were Brian L. Kelley (Kelley), MAI, from PGP Valuation, Inc.; designated appraiser and Oregon certified state appraiser, Tim Henton (Henton), President, Butterfield Homes, Inc.; and Dawn Barker (Barker), Realtor/Broker, CRS (Certified Residential Specialist), from Windermere Real Estate. Defendant was represented by Denise Vandecoevering

¹ Plaintiff appealed 44 accounts total, eight of which were stipulated to.

² Defendant's representative, Vandecoeuring, states in her appraisal that the change property ratio (CPR) applied to RMV to arrive at an AV was 0.481 for the year at issue. (Def's Ex A at 7.) That ratio is applied to the RMV to arrive at MAV and AV, the latter of which is generally used in computing and levying property taxes. As such, every dollar reduction in RMV will reduce AV by roughly 52 cents.

(Vandecoevering), Property Appraiser III and Sales Data Analyst, Tillamook County Assessor's office.

I. STATEMENT OF FACTS

The lots under appeal are located in a subdivision known as Sahhali South. Plaintiff, a wholly owned subsidiary of Sycan B Corporation, was responsible for the development of the subdivision (*e.g.*, platting, infrastructure, etc.). Plaintiff subdivided several larger parcels into 56 individual buildable lots, and added the infrastructure (paved roads with curbs and gutters, storm drains, underground utilities, and a special community sewage system). (Def's Ex 7 at 1.) The subdivision includes 10 "detached" single family residential lots on the east side of the development close to Highway 101, and 46-plus "attached" duplex style townhome lots on the other side of the development separated by 13 or more acres of protected open space, including a large wetland area. (*See* Ptf's Ex 5 at 21, 25.) The property is located on the west side of Highway 101 in the city of Neskowin, which is on the northern Oregon coast, approximately eight miles south of Pacific City and 13 miles north of Lincoln City. (Ptf's Ex 5 at 19.) The subdivision plat was recorded on February 16, 2007. (Def's Ex A at 1.)

The 36 lots at issue in this appeal are the vacant (*i.e.*, undeveloped) "attached" duplex style townhouse lots. All of the lots have ocean views, although some are better than others. The lots range in size from approximately 4,000 square feet to 7,200 square feet. (Ptf's Ex 5 at 1.)

Plaintiff entered into an exclusive arrangement with Butterfield Homes (Butterfield) pursuant to which Butterfield obtained the right to purchase the lots over time at set prices agreed upon in 2006, and to construct duplex style townhomes for resale to interested parties as land/townhome packages. Each of the duplex townhomes is to be built on two lots, with one unit

on each lot. Under the parties' agreement, Plaintiff receives an additional commission from Butterfield upon the sale of the developed lots equal to two percent of the package sale price (lot and townhome). (Ptf's Ex 6 at 6.) As of the date of trial in late 2009, 12 townhomes had sold. (Def's Ex A at 1.) The prices of the completed townhomes (land and home) ranged from a low of \$559,000 to a high of \$927,773. (Ptf's Ex 7 at 2.) Plaintiff sold the unimproved lots to Butterfield for prices ranging from a low of \$147,500 to a high of \$176,800 between February 2007 and September 2008. (Ptf's Ex 7 at 1.) The bare lot sales are the same lots that later sold as completed townhomes. None of those properties are under appeal.

Owing to financial considerations, Butterfield delayed construction of the townhomes until two adjoining lots and townhomes were purchased. Thus, the first buyer of a lot would purchase the lot and select one of several townhome floorplan models, and Butterfield would then actively market the adjoining lot, holding off on construction until a second buyer (of the adjoining lot) was found. That arrangement often resulted in considerable delays between the time the buyer of the first lot contracted to purchase until the two unit (duplex) townhome was constructed and sold.

The appeal involves lots one through six, nine through 25, 30 through 33, 38 through 41, and 44 through 48 (for a total of 36 lots). (*See* Def's Ex A at 4.) The RMV on the rolls, and the parties' respective RMV estimates, are as follows:

<u>Lot Nos.</u>	<u>Roll Value</u>	<u>Plaintiff's Value</u>	<u>Defendant's Value</u>
1-6	\$220,000	\$120,640	\$220,000
9, 10	\$220,000	\$128,960	\$220,000
11, 12	\$220,000	\$116,480	\$220,000
13	\$440,000	\$200,000	
14	\$275,000	\$112,320	\$250,000
15-23	\$275,000	\$124,800	\$250,000

<u>Lot Nos.</u>	<u>Roll Value</u>	<u>Plaintiff's Value</u>	<u>Defendant's Value</u>
24, 25	\$275,000	\$135,200	\$250,000
30-33, 38, 39	\$350,000	\$141,440	\$350,000
40, 41	\$275,000	\$135,200	\$250,000
44-47	\$275,000	\$122,720	\$250,000
48	\$700,000	\$280,000	

(*Id.*; Ptf's Compl at 2.)

Plaintiff's value estimates set forth above are a percentage (83.2%) of the May 2006 revised sale prices agreed to by Plaintiff and the builder Butterfield as part of the exclusive purchase option agreement between those parties. (*See* Ptf's Ex 6 at 13.) Defendant's estimates are derived from Vandecouering's residual market value approach, which involved subtracting the value of the improvements from the sale price of townhome packages (land and home) in the subject subdivision and a nearby townhome subdivision. (Def's Ex A at 7.) As previously stated, Defendant requests that the values on the rolls be sustained, although her appraised values for 17 of the lots under appeal are slightly lower than the values on the rolls, and she did not value two other lots (13 and 48).

Each party submitted an appraisal report to support its opinion of value and request to the court. Plaintiff submitted a lengthy and detailed written appraisal report utilizing the comparable sales approach. (Ptf's Ex 5.) The appraiser (Kelley) concluded that a base lot value of \$185,000 was appropriate for the 12 lots with "superior" views (lots 30-33, 38-41, 44-47), and that 12 lots with "average" views (lots 14-25) warranted a 10 percent negative adjustment (\$18,500), resulting in a value estimate of \$166,500, and that the 10 lots with "inferior" views (lots one-six, nine-12) required a 15 percent downward adjustment (\$27,750), resulting in a value estimate of \$157,250. (Ptf's Ex 5 at 53, 62.) Kelley valued the two remaining lots, 13 and 48, at \$250,000 and \$350,000 respectively. (*Id.* at 62.)

Defendant's appraiser Vandecoevering valued the lots using an approach she defines as the "land residual market approach." (Def's Ex A at 7.) Vandecoevering explains in her report that, under her approach, "* * * known components of value are accounted for, thus solving for the quantity that is left over, such as land residual[.]" (*Id.*) Vandecoevering determined the value of a completed townhome (land and home as a package, which is how the subject lots were marketed) based on the "Department of Revenue's 2005 cost factor book," adjusted for the "Tillamook County Local Cost Modifier." (*Id.*) As a final step, Vandecoevering subtracted the estimated value of the townhome plus on-site development costs from the "[s]ale price" to arrive at a residual value for the land. (*Id.*) Like Plaintiff's appraiser Kelley, the assessor's appraiser, Vandecoevering divided the lots into three categories based on view (fair, good, and very good), and arrived at estimated values of \$217,488 for lots with a "fair" view (lots one-12), \$268,102 for lots with a "good" view (lots 14-25, and 40-47), and \$334,998 for lots with a "very good" view (lots 26-39). (*Id.* at 7, 8.) Notably, Vandecoevering's appraisal omitted lots 13 and 48. (*See id.*) Vandecoevering supplemented her value estimates with adjusted comparable sales data for the three categories of lots, and determined values of \$239,000 ("fair" lots), \$276,000 ("good" lots), and \$352,229 ("very good"). (*Id.* at 10-12.)

II. ANALYSIS

The issue in this case is the RMV of the subject property on January 1, 2008, which was the assessment date for the 2008-09 tax year. *See generally* ORS 308.007 (defining "[a]ssessment date" as "the day of the assessment year on which property is to be assessed under ORS 308.210 or 308.250," and the "[a]ssessment year" as a calendar year),

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and ORS 308.210(1) (requiring the assessor to value all taxable property in the county “each year as of January 1, at 1:00 a.m. of the assessment year”).¹

ORS 308.205(1) defines RMV as:

“* * * the amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller, each acting without compulsion in an arm’s-length transaction occurring as of the assessment date for the tax year.”

The value of property is ultimately a question of fact. *Chart Development Corp. v. Dept. of Rev.*, 16 OTR 9, 11 (2001) (citation omitted). The party seeking affirmative relief has the burden of proof and, initially, the burden of going forward with the evidence. ORS 305.427. The burden of proof in the Tax Court is a “preponderance” of the evidence. *Id.* A “[p]reponderance of the evidence means the greater weight of evidence, the more convincing evidence.” *Feves v. Dept. of Revenue*, 4 OTR 302, 312 (1971) (citation omitted). This court has previously noted that value is a range rather than an absolute. *Price v. Dept. of Rev.*, 7 OTR 18, 25 (1977). Moreover, the legislature has given the court jurisdiction “to determine the real market value or correct valuation on the basis of the evidence before [it], without regard to the values pleaded by the parties.” ORS 305.412.

The court generally looks for “arm’s length sale transactions of property similar in size, quality, age and location” to the subject property in order to reach a correct RMV. *Richardson v. Clackamas County Assessor*, TC-MD No 020869D, WL 21263620 at *3 (Mar 26, 2003).

The parties present vastly different opinions on the value of the various lots under appeal. Such differences are not uncommon in tax court valuation appeals, and perhaps are to be expected. The parties agree that there was a general decline in the market in 2007, however, they agree on little else.

¹ All references to the Oregon Revised Statutes (ORS) are to 2007.

Plaintiff submitted two exhibits, backed by sworn testimony, specifically addressing the value of the subject property. Plaintiff submitted the appraisal by Kelley that was performed in November 2006, when the parties agree that the real estate market for coastal property was strong. (See Ptf's Ex 5 at 67.) As indicated above, Kelley concluded that a "base lot" with a superior view was estimated to be worth \$185,000 at that time. (*Id.* at 62.) That estimate assumed an absorption rate of two lots per month (24 per year), based on historical data from several years prior to the appraisal date, which showed a rise in housing prices and sales volume, and a decrease in marketing time (*i.e.*, days on the market before sale). (*Id.* at 44-45.) As it turned out, there were only 12 sales in the first 14 months, and no sales thereafter. (Def's Ex A at 1.) Kelley testified that there was a 50 percent drop in residential land sales on the central Oregon Coast from 2006 to 2007 (the assessment date in this case is January 1, 2008). Vandecoevering agreed that there was a 50 percent decline in bare land sales county-wide in 2007.

Kelley testified that land sale prices fell because potential home buyers wanted to pay less for homes, which resulted in builders demanding lower bare land sale prices so that they could keep the final home sale prices down. Kelley explained that builders had a difficult time getting reductions in the costs of materials and labor, which left land as the only place where the builder could reduce overall costs on a finished product (the home on the land).

Plaintiff's other specific value evidence is the agreement between Plaintiff and Butterfield for the sale price of the subject lots. (Ptf's Ex 6.) The parties initially agreed in February 2005, to a base lot price of between \$130,000 (lots one-six) and \$155,000 (lots 26-39), with prices for the other 24 lots under appeal falling between those two numbers. (*Id.* at 6.) Under that agreement, Plaintiff was to receive an additional two percent of the final improved

sale price of the lot with a home by Butterfield to a third party. (*Id.*) By way of example, the court calculates the commissions on the 12 reported sales to have ranged from \$11,180 to \$18,555.46. (Ptf's Ex 7 at 2, utilizing sales prices multiplied by two percent.) The parties subsequently agreed to reduced bare lot sale prices on May 30, 2006, although the reductions were nominal. (Ptf's Ex 6 at 13.)

Defendant disagrees with Plaintiff's assertion that the parties' agreed-upon purchase price for the bare lots represent arm's-length transactions because Plaintiff and the developer Butterfield had a close relationship and limited their market by presenting the land to prospective buyers as a package (requiring the purchase of a lot and the townhome from Butterfield), rather than Plaintiff marketing the lots directly to the public. That arrangement often resulted in considerable delays between the time the buyer of the first lot contracted to purchase until the two unit (duplex) townhome was constructed and sold. That, in turn, caused Butterfield to grant concessions (e.g., reduce the price of the adjoining lot) in order to complete a townhome project and get paid. While there may be some validity to that criticism, it fails to explain why Plaintiff would enter into an agreement that would generate less revenue than if it had made other arrangements for the sale of the lots. There is no evidence that Plaintiff or its individual members had any special relationship with Butterfield or its employees.

Henton, the President of Butterfield, who has 15 years of experience in the coastal building business, the last 10 of which focused on the area where the subject property is located, submitted a three-page written narrative to augment his sworn testimony. (Ptf's Ex 8 at 4-6.) A main point of Henton's testimony was that residential sales activity on the coast began to heat up in 2004, got very active in 2005 and 2006, and then began to cool off in 2007. (*Id.*) The significance of that testimony is that the vision, planning, and initial investment in the project

was based on an expectation of preliminary plat approval by late summer 2005, with the project moving forward smoothly and at an active pace from that point onward. (*Id.* at 4.) The parties expected that the infrastructure would be completed and they would receive final plat approval by the spring of 2006. (*Id.*)

Preliminary approval was received in September 2005, and Butterfield began accepting refundable deposits. (*Id.*) At that point interest was strong and, at one point, 23 of the 46 lots had been reserved. (*Id.*) The project then hit a “snag” when the Oregon Department of Transportation (ODOT) reversed an earlier decision and decided that it would not allow Plaintiff to create a protected left turn lane into the complex from Highway 101. (*Id.*) According to Henton’s written narrative, “[t]his course reversal by ODOT resulted in months of delay and hundreds of thousands of dollars in additional expense to [Plaintiff].” (*Id.*) From “a sales standpoint,” the difficulty created by the delay was the uncertainty of knowing when the issue would be resolved, thus leaving Butterfield unable to honestly predict when prospective buyers who had already placed refundable deposits to reserve a particular lot could expect the project to move forward. (*Id.* at 4-5.) Henton explained that, as the delay continued, the reservation list began to shrink and, by the time the final plat was recorded in February 2007, “the overall housing market had begun to cool from the fever pitch it had reached in 2004, 2005.” (Ptf’s Ex 8 at 5.) Henton stated that, in the end, “only [six] of the 23 parties that had reserved units followed through with the purchase.” (*Id.*)

Henton testified that he took a considerable amount of time to find buyers and obtain approval to build, and that it was between 18 and 20 months before Butterfield received any revenue or profit. Henton also testified that he spent approximately \$200,000 marketing the project.

Hoard, Plaintiff's Vice President of Finance and managing member, submitted additional exhibits that tended to buttress Plaintiff's claim that the market for townhome lots in the area of the subject lots was severely depressed in 2007 and continued to be in 2008. (See, e.g., Ptf's Ex 9 at 2, 8, showing that the majority of the lots in Phase I, platted in April 2006, sold quickly while only one lot in Phase II, which was platted in February 2008, had sold as of the date of trial; Ptf's Ex 10 at 1, 4, 6, showing that one lot which sold in June 2006 for \$300,000 was back on the market in March 2008 for \$295,000, subsequently reduced to a short sale price of \$189,900, then foreclosed by the lender and listed for \$170,000).

Hoard presented testimony on the poor state of the real estate market on the coast through the testimony of Barker, an experienced Oregon coastal realtor and broker with additional qualifications of certified residential specialist (CRS) and certified home market specialist (CHMS). Barker testified that she has worked in the Oregon coast region for the past 20 years and has concentrated on the Neskowin area, which is roughly two to three miles south of the subject property. Barker testified that the market was very active between 2004 and 2006, with a slight "slow down" at the end of 2006 and that the market "definitely slowed" in 2007. Barker testified that the sales of bare land dropped off and that it was cheaper to buy an existing home than to buy land and build because there were "good deals" on existing homes. Barker testified she was familiar with Sahhali Shores (the subject development), where she has listings, and that she conducted a market study of the area. Barker also marketed lots at Pelican Point, a nearby subdivision, and suggested that the owner reduced price was approximately \$100,000 "halfway through 2007."

By comparison, Defendant submitted very little evidence regarding the value of the property, and Vandecoevering's sworn testimony at trial focused primarily on a critique of

Plaintiff's evidence. Hoard presented a persuasive critique of various aspects of Defendant's case, most notably opining that Defendant selected sales that tended to support the county's higher values and that Vandecoevering was overly influenced by Plaintiff's marketing brochure which was put out in August 2008 with the hopes of generating renewed interest in the subject property. The court reviewed the advertisement (Def's Ex A at 3) and, notwithstanding the flowery language, the brochure is typical of the puffing used by salesman.

III. CONCLUSION

On balance, the court finds Plaintiff to have presented a more persuasive picture of the overall condition of the real estate market on the coast as of January 1, 2008, and the range of values for the subject property. Accordingly, the court concludes that the RMV of the subject property for tax year 2008-09 should be reduced to the values requested by Plaintiff. Specifically, lots one through six had an RMV as of January 1, 2008, of \$121,000 (rounded), lots nine and 10 had an RMV of \$129,000, lots 11 and 12 had an RMV of \$116,500, lot 13 had an RMV of \$200,000, lot 14 had an RMV of \$112,500, lots 15 through 23 had an RMV of \$125,000, lots 24 and 25 had an RMV of \$135,000, lots 30 through 33, 38 and 39 had an RMV of \$141,500, lots 40 and 41 had an RMV of \$135,000, lots 44 through 47 had an RMV of \$123,000, and Lot 48 had an RMV of \$280,000.

IT IS THE DECISION OF THIS COURT that Plaintiff's appeal for a reduction in the RMV of the subject property as of January 1, 2008, involving 36 lots, is granted as set forth above; and

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IT IS FURTHER DECIDED that the stipulated values of the eight remaining lots, embodied in the court's Order filed October 15, 2009, are incorporated into this Decision.

Dated this ____ day of December 2010.

DAN ROBINSON
MAGISTRATE

If you want to appeal this Decision, file a Complaint in the Regular Division of the Oregon Tax Court, by mailing to: 1163 State Street, Salem, OR 97301-2563; or by hand delivery to: Fourth Floor, 1241 State Street, Salem, OR.

Your Complaint must be submitted within 60 days after the date of the Decision or this Decision becomes final and cannot be changed.

This document was signed by Magistrate Dan Robinson on December 30, 2010. The Court filed and entered this document on December 30, 2010.

Melissa Jenck

From: batzlercbatz@aol.com
Sent: Tuesday, April 5, 2022 9:29 AM
To: Melissa Jenck
Subject: EXTERNAL: Replanting of Sahhali South

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

My name is Carolyn Batzler and I own a home on lot 13 at Sahhali Shores. I strongly object to the proposal of replant Tract A submitted by Sahhali South.

Both Sahhali Shores and Sahhali South share the same entry and same road (Sahhali Drive). The shared area is financially maintained by the Sahhali Shores homeowners association.

If this project is approved it will impact the value of my property but more importantly it will impact the beauty of Sahhali. We treasure our open spaces, ocean views, old growth trees and especially our wild life.

Please consider this when you make your decision.

Thank you.

Carolyn Batzler
44615 Sahhali Drive
Neskowin, Oregon 97149

[Sent from the all new AOL app for iOS](#)

April 5, 2022
Addendum to February 15th, 2022 Submission

To the esteemed members of the Tillamook County Planning Commission:

My name is Jennifer Bierce, owner of tax lot 3500, Lot 52 in Sahhali Shores; located at 45015 Proposal Point Drive, a neighboring Lot to Tract-A, which is currently under review to replat.

This is an addendum to my Feb 15, 2022, comments in opposition to the **proposed 851-22-000003-PLNG**.

Based on the materials provided, the suggested replat does not meet the following Review Criteria as outlined in Section 6.040 and Section 3.520(3)(b):

Section 6.040(3): The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.

Section 6.040(4): The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

- **Dispute 1: Significant impact/impairment to the macro surrounding area of Neskowin and Highway 101**
 - Visual Impairment would ensue if Tract A open space plat is split into the proposed 2 building lots. The developer shows a permissible building envelope on A-1 with the east/west longitudinal building's 144' width. This length structure will dwarf all existing Sahhali South and Sahhali Shores structures' width by at least 70'. Note: tax lots 900 and 1000 on Heron View Drive are only 51' wide while the Proposal Point Drive tax lots 4400 and 4500 are just 71' wide.
 - Combined with the developer's 30" height, whatever McMansion railroad train elongated structure is built here will permanently alter the landscape views from Highway 101 and Neskowin. The above-mentioned tax lot 4500 has just a 24' height structure but its nighttime light illumination is visible from Hwy 101.
 - Since A-1 elevation is equal to that of tax lot 4500 and will be 6' higher at 30', the proposed allowable building envelope is 144' east west long, it can be assumed this structure will be always visible, day or night.
 - When combined with the developer's 83% side setback downsizing, the very narrow 10' distance between A-1 and A-2 parallel building structures will create a single east/west structure noticeable from Highway 101 that will appear as just one monstrous structure, not two.
- **Dispute 2: Reputational rural character impairment to the lovely town of Neskowin may occur when this permissible 144' wide A-1 structure is finished. Additionally, while the proposal may seem in accordance with Tillamook County setback requirements of a minimum of 5', when you take into account the vertical building heights of this proposal, Neskowin would have the most restrictive side yard setback requirements, exceeding comparable urban designations.**
 - According to City of Tillamook residential zoning – for similar size average lots or smaller average lots there is a requirement to add 0.5' setback for each foot structure

exceeding 15' high. Since the developer's ARB height is 30', this results in an additional 7.5' to be added to the minimum 5'. Thus, the total side lot setback becomes 12.5' in the city of Tillamook vs. just 5' in Neskowin. This urban Tillamook County city then enjoys a 12.5' / 5' or 250% greater side setback requirement than one proposed for the bucolic rural Neskowin hamlet. This more onerous stipulation drastically impairs the surrounding area as its side setbacks reduce the natural resource amenities view corridor by 60% [7.5' / 12.5'] over whatever view corridor exists in the City of Tillamook.

- Additionally, should structure be built in the proposed A-1 lot, the resulting industrial warehouse length building incursion into a rural residential neighborhood may hurt the Neskowin aura of idyllic hills and untouched Oregon coastal landscapes.
- Removing the 17-year-old Tract A open space designation and converting the same into two building lots may also tarnish and stigmatize Neskowin as placing developer profits over environmental sustainability of our beautiful Oregon coast lines.
- The developer's proposed downsized setback requests are the Trojan horse included to ensure that Tract A platted open space can be subdivided into not one but two buildable lots that will completely alter the nature of what is currently deemed to be a rural, coastal community.
- The 17-year developer reconfirmed [15 years ago] the 30' side interior setback currently prohibits any building on Tract A despite the developer's attempt to slice it into 2 buildable lots.
- More specifically, the proposed side setback reduction from 30' to 5' adds 25 additional buildable feet to each north/south building perimeter. The 83% setback shrinkage generates 25' more feet on either side. So, the math is $30' - 5' = 25'$ additional feet. $25'/5' = 500\%$ increase in allowable footage allowed on each north and south total length.
 - If the developer's application was in the City of Tillamook, not Neskowin, his apples-to-apples similar height allowable building envelope increases would be drastically reduced: $30' - 12.5' = 17.5'$ $17.5/12.5 = 140\%$, NOT the 500% proposed in Neskowin.
 - This more restrictive urban allowable building envelope is contra public policy, inconsistent, and unreasonably biased against the stated NeskRR Section 3.320 [1] Purpose "intended to maintain the rural character"
 - Allowing 3.5X (500/140) larger side yard building envelope increases in rural Neskowin seems in conflict with NeskRR Section 3.320 and unreasonably damaging. Its rural natural amenities are subject to more intrusive, destructive, and injurious larger building envelopes than the City of Tillamook urban allowances, when equal building heights are included. The hamlet's rural character and natural beauty should not be harmed via a more invasive encroachment than the narrower inset allowed in urban cities.
- Also contributing to a greater building envelope is the proposed side street setback decreasing 25% from 20' to 15'. This reduction in setback increases the building envelope where relevant by 33% exceeding that which is permissible in the city of Tillamook.
- These huge building envelope increases, and much less restrictive setbacks proposed are rifles designed to hit the Tract A bullseye and restrict all surrounding area views; depriving current and future residents of the area's natural beauty and forever altering the conditions of the Neskowin coastline.

- **Dispute 3: Significant impact/impairment to the Micro surrounding area with significant densification to a once rural enclave.**

- The proposal would result in increased density on Proposal Point Drive (PPD) but especially on PPD between Heron View Road and Tyee Loop Ct. The developer's division of Tract A into two lots increases by 20% from 5 lots [tax lots: 4300, 4400, 4500 4600, and 4700] to 6 lots [tax lots 4300,4400, 4500, 4600, plus A-1 and A-2 tax lot numbers].
- This increased density generates four new east side PPD driveway aprons possibly interlocking or overlapping with tax lots 4400 and 4500 own 4 driveway aprons. Tax lot 4600 two driveway aprons will add to potential interlocking A-2 two driveway aprons.
- Not only does it generate increased density, but also much additional traffic that intrudes on Sahhali Shores tax lots located on PPD and Tyee Ct. It should be noted the developer's application omits any verbal attribution for Sahhali North, a 25 acre 5 lot subdivision directly contiguous due North on Heron View Drive. Tillamook County Planning Board 10/17/2007 conditional approval Exhibit A III [2] mandates "Vehicular access to the lots take place only from Heron View Drive." So these 5 lots must have mandatory driveway aprons on the north side of Heron View Drive. This stipulation obviously will impact the volume and safety in the area, despite the developer's nonrecognition of this conditional approval.
- The developer's density at what is the only major north/south and east/west intersection of Proposal Point Drive and Heron View Rd. could be reduced via Section 160 "Dead End Street". This states for roads under 2000' long, there's a potential available permitting up to 18 dwellings. This would alleviate traffic on Proposal Point Drive and decrease density as well.
 - For example, why not use the long 89' road facing lot next to proposed 13-A on Thalassa Dr. Besides being a very suitable building lot, the aerial view illuminates the interlocking apron potential, urban concrete jungle potential, and density increase. To illustrate is a Sahhali Shores lot with similar elevation and well designed house: https://www.zillow.com/homedetails/5700-Sahhali-Poin-LOT-80-Neskowin-OR-97149/2067401912_zpid/
- Density could also be eliminated by keeping the proposed combined lot 48 as 48-A and 48-B separate. According to realtor.com both of these lots were Listed on Feb 4, 2021 and both went to sign contracts Pending March 24, 2021. It would be helpful to see these two signed contracts and ascertain why they are now proposed as combined.

- **Dispute 4: Tax Lots 3400 and my own 3500 will be substantially impaired** as the developer's proposed 260' property line, and creation of irregular, sliver lots will shut down both tax lots direct south facing views. Combined with the much narrower side lot setback will obstruct if not obliterate any view once the two parallel 30' structures are built.

- Each building will now be 25' closer to each tax lot, including mine. Once a developer selects his desired setback formula for detached homes, it should become permanent after 17 years. The Tillamook County Planning Board should maintain its 2005 and 2007 consistent and coherent, disciplined reaffirmation of the 30' side setback requirement.
- The developer's setback downsized request is squarely aimed at converting irregular Tract A into two buildable lots while his lot #14-19 front street widening negates any required downsized setbacks as does revised lot 46. 48 and 13-a and 13-b.
- According to "Exhibit 2.1: Developers Summary Statement for Sahhali South Master Development Plan" on page 157 of the second paragraph just before the Conclusion of Criteria 4, the developer asserts "The proposed development is designed to replicate in

feel and look this development. The proposed layout of the development will not impact the scenic views of the adjacent subdivisions.” Respectfully, this is an utter lie, and the Planning Commission must disaggregate this assertion.

- As a resident of the “adjacent subdivision”, and most importantly, the neighboring Tax lot 3500, the eradication of Tract A open space plat and its proposed split into 2 lots will substantially marginalize/destroy somewhere between 90-150 degrees south and east of the existing unblocked 360-degree panoramic vistas. This severe view destruction devalues my newly built home whose certificate of occupancy was just issued in November 2021.
- Under the current setback rules, Tract A 's single plat affords unlimited and unhindered scenic views. The new downsizing setbacks are singularly designed to ensure Tract A can be converted into buildable lot status with no recognition or acknowledgement of scenic view corridor destruction that will inflict on neighboring lots in adjacent subdivisions.
- The developer's proposed downsized setback adjustments will only further impair the limited scenic view incursion proposed above by the developer's unsubstantiated need to split Tract A into two building lots now after a 17-year status quo permanency as a single plat.
- Why not add 1 lot or 2 or more on the new cul-de-sac Thalassa Drive proposed road whose unique Dead End Designation is mentioned by the developer himself? As he states, its unusual parameters permit additional homes without any density implications. This splitting Tract A into not 1 but 2 lots to magnify my scenic view limitations seems very inequitable to this single woman.
- Instead of viewing south and east with a spacious 30" property line setback horizon, this additional 25' north and south side building envelope will push the northern A-1 building structure 25' closer to my property to just 5 ' from my southern property line, not 30'. As any eye doctor will state, the closer you are to an object, the greater visual bandwidth it absorbs thereby severely limiting and impacting your lateral side vision. Coupling this to my scenic views and it is easily evident the panoramic vistas will be considerably impacted and diminished.
- If in fact the entire A-1 extra-long east west building envelope is utilized, this will essentially derail all east or south vistas severely impairing my scenic views.
- With the developer's proposed illogical desire to split Tract A into 2 irregular long lots, he will further create an unnecessary 2nd building again significantly limiting my scenic view. This intrusion and visual restriction is not permissible under current existing setback rules and Tillamook County Planning Board conditional approval.
- Shoehorning in this proposed capricious lot # 2 into the single Tract A plat guarantees my southern vistas will be visually obstructed. Who would have guessed the developer could arbitrarily present an out-of-the blue surprise inclusion of a 2nd building lot after a 15 and 17 year requested and approved history as just a single Tract A plat?
- The prospect of having to now stare directly into another 30' high structure just 55' from my property line will further impair my scenic view and impact my property value. **This stealth view diminution from what is currently unlimited as far as the eye can see across to the miles-away idyllic Neskowin hills will forever be annihilated and limited to just 55' of nothing but monstrous structures.**
- **Dispute 5: For the immediate surrounding area, reversing the developer's 17-year-old twice affirmed detached home 30' side setback to the proposed minimum 5' does not**

reflect consistency but rather developer inconsistency, contrary to the developer's proposed assertion.

- 2005 Exhibit A conditional Planning Board approval was conditioned that **“All areas designated as open space, common area or wetlands shall not be further subdivided for development purposes.”** The December 2007 Planning Board again re-stipulated the 2005 condition in its own 2007 Exhibit A Conditional approval word for word.
- On a micro level, these inconsistent proposed downsizing setbacks could be interpreted as designed solely to permit the developer to build on Tract A's two divided lots which are not currently buildable under the current 17- year developer selected setback settings.
- The developer in his original CCRs claims the right to choose which lots to build or annex; he expressly does NOT grant himself the right to request setback stipulations after 17 years. Granting the developer's proposed detached home new minimum setbacks would greatly impair the current 18 Sahhali South homeowners who bought believing the twice affirmed setback restrictions were permanent.
- The current Sahhali South and Sahhali Shores lot/homeowners would also be impaired. What was considered a permanent view vista in place for 17 years is now proposed to change and impaired 83% narrower viewing bandwidth. These greatly reduced setbacks narrow or extinguish surrounding lot/homeowner views.
- These added restricted and diminished vistas devalue their property investment as what was fixed and in place is now proposed to be arbitrarily changed.
- As proposed, the new setbacks are asymmetrical and inconsistent with Sahhali South own setback parameters which the developer had previously affirmed twice 15 and 17 years ago. The increased building envelope permitted under these proposed new setbacks will not "replicate the feel and look" of Sahhali South or Sahhali Shores with its greatly reduced side and interior yard setbacks. These downsized setbacks will create an inconsistent and very uneven dichotomy while greatly destroying much of the scenic views neighboring lot owners in adjacent subdivisions currently enjoy and can experience. There will be a tale of two cities in these neighboring communities.

- **Dispute 6: According to Tillamook County Article 4.11: Exception to Yard Setback Requirements – The proposed request does not align to any of the small lot exceptions outlined and therefore must be denied by the Planning Commission.**
 - **4.11.5a: SMALL LOT EXCEPTIONS:** In the RR, CSFR, RC, CC, CR-1, CR-2, CR-3, RMH and RMD zones and including those communities with adopted community growth boundaries, a front or rear yard, but not both, may be ten feet, provided the following apply to the subject parcel:
 - (a) The parcel is 7500 square feet or less in size.
 - (b) At least one side yard is ten feet or more wide.
 - (c) Required off-street parking is provided.
 - (d) The right-of-way width at the front of the lot is at least thirty feet. In the case of right-of-ways under 30 feet in width, a ten-foot yard may be approved if it is approved by the Public Works Department.
 - (e) The lot is not a corner lot. If the lot is a corner lot and meets the above criteria, the front yard may be 15 feet.
 - Developer proposed Lot A-1 is 9285 square feet and is 124% larger than the [a] required maximum 7500 square feet exception and therefore is NOT eligible for either a front or rear yard exception of 10' for detached homes contrary to Table 1 page 17 submission.

- Not only is Lot A-1 ineligible for detached homes, but also NOT eligible for attached homes. Lot size again 9285 square feet exceeds the necessary exception limit of 7500 square feet.
- Developer proposed Lot A-1 is presented as having each side yard being just 5'. Since the [b] exception requires at least 1 side yard setback being 10', the developer's proposed Lot A-1 fails this threshold test. Lot A-1 is therefore ineligible for the Section 4.11 exception. Again, NOT eligible for detached homes contrary to Table 1 page 17 submission.
- Proposed Lots A-1/A-2 is non-conforming and therefore not eligible for any exceptions offered in Section 4.11.5a and 4.11.5b; thus the Planning Board should deny their creation.
- **Dispute 7: Tract A is currently an environmentally sensitive habitat for elk and deer.** It is also centrally located within Sahhali South, and ADA compliant for all humans young and old to enjoy the natural views. It is easily accessible and very easy to use. Please see original submission, as current proposal is in direct violation of Oregon House Bill 2834 that seeks to protect wildlife corridors.
- **Dispute 8: Neskowin is renowned for its very severe Pacific storms generating a lot of wintry rain and off the charts wind speeds; the proposal will increase opportunities for the creation of wind tunnels that can damage property and harm residents.**
 - Per the developer's Geotech report submitted with his large 5 lot Sahhali North April 2013 annexation, is a statement reporting wind gusts in the area are normally up to 110 mph. This 100+ mph wind was echoed in the developer's landscape section. Narrowing the setbacks 83% to just 5' will result in both A-1 and A-2 having just a combined 10' between their two structures. Since the same wind volume must travel through a smaller opening, the wind's velocity will increase potential debris impairment to leeward homes, traffic, and pedestrians.
 - The developer's proposed narrower side setback to 10' [2 x 5' each lot] between adjoining lots A-1 and A-2 will increase the wind force on Heron View Road humans and property as the current 60' setback [2 x 30' each lot] allows for the wind to dissipate instead of accelerating through the much smaller opening between the 2 building lots.
 - This increased danger to human life and property on these highest elevation Sahhali South lots should not be permitted as safety first concerns should override this.

Section 6.040(6): The proposed is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.

- **Dispute 1: If replatting was “timely” the proposed requests would have been included in one of the two previous requests for rezoning by the developer.**
 - Although the developer could have used Tillamook County's 12/18/2002 Section 35 allowable 5' side setback in both its 2005 and 2007 reaffirmation, he did not.
 - The developer is the only beneficiary to these downsized setbacks that afford him a 500% increase on 2 sides on the building envelope home sides for adjoining lots to the detriment and impairment of surrounding lot/homeowners. Without these proposed downsized setback new figures, Tract A would no longer be suitable to the developer to be sliced and diced into two building lots.

- **Dispute 2: Sahhali South has experienced a boom in recent sales activity, it can only be assumed that those sales were made with the understanding that the 17-year-old community open space (Tract A) would not be significantly altered.**
 - No need to alter the current setback factors as the current 18 Sahhali South homeowners are fully adjusted to the current requirements. Sahhali South is experiencing brisk sales activity under the current existing setbacks so again there is no reason to adjust the setbacks. Within the past year as of today's date [March 24, 2022] according to www.realtor.com 8 Sahhali South lots are Pending: Lot # 6, 24, 25, 30, 31, 40, 48-A, and 48-B.
 - I assume the 8 Sahhali South lots pending will close scheduled post this application. When added to the existing homeowners, the combined total of current and pending future individual lot owners = 26, just 3 shy of the majority of current 56 lots. As soon as this happens, the developer loses his control over the Board of Directors of the Sahhali South Homeowners Association.
 - The proposed setback changes seem laser-focused to convert Tract A open space into 2 buildable lots to benefit the developer now. It seems incoherent he proposes this now when the market seems to have recognized the current open space as attractive. Given his brisk sales. These current/future buyers like his consistent 17-year-old prior setback attestations that bring a sense of permanence to them.

Section 3.520 [3] [a] [3]: Proposed Open Space

The developer is mistaken and incorrect to assert on page 20 of his PD Replat Amendment Application:

"The 2021 Amendment Application will not change the use of dedicated OPEN SPACE as undeveloped."

Relocating Tract A creates 2 NEW Ocean View lots for development purposes. This action contravenes both the Tillamook County Planning Boards' 2005 and 2007 Exhibit A Conditional Approval stipulation:

"All areas designated as open space, common area, or wetlands shall not be further subdivided for development purposes."

Since "area" is not defined in Article 11 Definitions, The Article 11.020 [2] advises the following to ensure proper definitions can be agreed upon:

(2) When a Term Is Not Defined. Terms not defined in the Ordinance shall have their ordinary accepted meanings within the context in which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, shall be considered a standard reference.

Using this recommended Webster's Dictionary the ordinary accepted meaning for "area' is the following:

"Area" definitions: "The surface included within a set of lines", "A level piece of ground"

Tract A definitively meets both ordinary accepted definitions: it's a surface included within a set of lines and it is a level piece of ground. The developer's claimed equivalent substitution for lot 13 vicinity misrepresents that area's inherent steeply sloping ground that is NOT at all similar to Tract A and very unsuitable for humans of all ages to use negating the developer contrary observation. Please see Exhibit C on page 11 for detailed photos.

The new Tract A area proposed superimposed development lots [A-1, A-2] are marked and surveyed as separate lots shown on the developer's page 9 application. Oddly, the developer wants to combine the larger 48a and 48b lots into just one. However, with these new Tract A subdivided open space 2 lots he miraculously increases his net lots by 1 for a new total of 59 lots per page 14. These facts underscore the developer is subdividing the current level-grounded open space, for new development purposes solely to increase his net lot count by one.

Tract A open space has been specifically located at the northeastern corner of the Heron View Drive and Proposal Point Drive for 17 years. The developer notes its gently sloping terrain and then infers it is fungible with the very steeply sloped lots 13a and 13b, but these 2 lots are completely different, separate, far removed, and south of Heron View Drive. This false equivalency neglects the all but inaccessible and impossible to use 13 lots versus Tract A very easy to use and ease of access [see exhibits A and C for clearly illuminating the vast differences]. To remain consistent with the 2005 and 2007 Planning Boards, the Tract A acreage area is specifically dedicated to open space; it "shall not be further subdivided for development purposes" and therefore immutable.

So again, subdividing Tract A into 2 development lots most definitely will change the use of dedicated open space contrary to the page 20 developer statement.

Section 3.520(3)(b) (2): Resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area.

- **Dispute 1: Tillamook County defines "open space" as equivalent to "undeveloped land or park facilities belonging in common to the members of a property owners association. The open space, development density, and the layout of the streets in Cluster developments are designed to maintain the natural or scenic amenities of a site, and the minimum lot sizes in Cluster subdivisions are reduced to allow a proportionate increase in the density of the developed portions of the tract."** The above Tillamook County Section 020 definition under Cluster subdivision equates open space as being synonymous with public park facilities. As such implicit in "open space" is the assumed human interactive component requiring ease of access and ease of use.
 - Inherent in the developer's proposed "swapping" open space from the Tract A (0.34 acreage) for his lot 13 (0.38 acreage) is his incorrect assumption of fundamental equivalence for the 2 parcels. He glosses over his "gently sloping terrain" description of Tract A and immediately equates it to his "steeply sloped" lot 13 statement as being equal substitutes.
 - The problem with this developer assumption is it completely removes the human interaction component requiring ease of access and ease of use for children, handicapped, disabled, and senior citizens to enjoy. It also seems to contradict his earlier 2005 and 2007 submissions to those then serving Tillamook County Board representatives who I'm sure

applauded his thoughtful foresight to lay out Tract A as the most accessible and easy to use "open space" central to ALL Sahhali South lot/homeowners.

- Instead of certifying to his earlier thoughtful open space inclusion near the major Sahhali South intersection, He has now shunted the proposed " =open space" designated area to a peripheral cul-de-sac requiring current Proposal Point Drive homeowners to travel up to 3x the original distance to visit. Moreover, his suggested substitute on lot 13 all but ensures that unlike the aforementioned public park similarity, there is no ease of access or use for many humans.
- **Please see Exhibit C** – Bramble filled cliffside that the developer is proposing becomes the new open space.

Based on the above facts, it would be inconsistent for the Tillamook County Planning Commission to not maintain original open space Tract A designation and placement. I appreciate your consideration and thoughtfulness in this decision, and hope that you choose not to approve the replat of Tract A.

Thank you,
Jennifer Bierce
(Owner Tax Lot 3500 – 45015 Proposal Point Drive, Neskowin, OR 97149)

Exhibit A: Photos taken from South Balcony fo Bierce Resident (Lot 52, Tax Lot 3500):
Tract A is a very gently sloping and easily accessible for all residents, including children, handicapped, disabled or senior citizens. Proposed Open Space is steeply sloping and inaccessible to many current or future residents, as well as discriminatory to handicapped, disabled or senior citizen. Proposed open space would require 36 Proposal Point Lot owners to travel at least twice as far to use a Thalassa Street culdesac.

Per the photos, the addition of two homes in this location would eliminate my south facing views impacting my overall property value, and causing safety concerns of 4 driveways emptying out into the same thoroughfare:

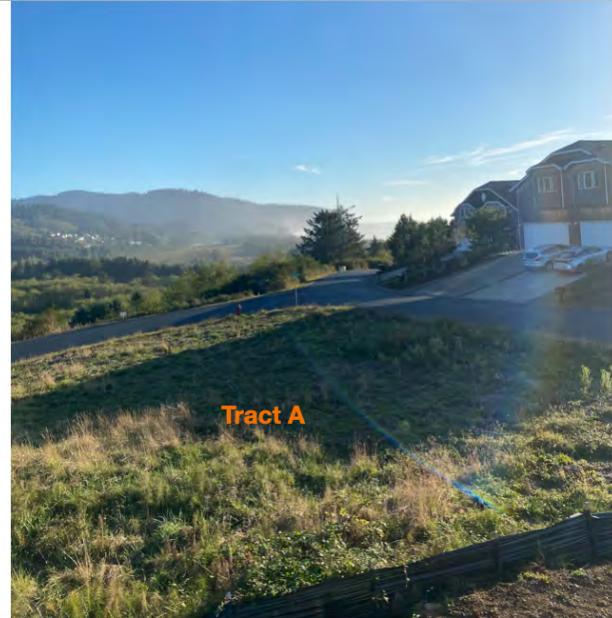


Exhibit B:



**Proposed New
Open Space - a
densely vegetated,
inhabitable, cliffside**

Tract A

Exhibit C – Bramble filled cliffside that the developer is proposing becomes the new open space.



View from Thalassa Drive



View from Heron View Road



View from Heron View Road

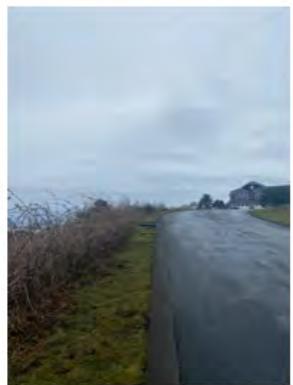
**Steep sloping, cliffside brambles are not ADA compliant,
are inaccessible and inhospitable to community.**



View from Thalassa Drive



View from Thalassa Drive



View from Heron View Road

February 15, 2022

To the esteemed members of the Tillamook County Planning Commission:

My name is Jennifer Bierce, owner of tax lot 3500, Lot 52 in Sahhali Shores; located at 45015 Proposal Point Drive, a neighboring Lot to Tract-A, which is currently under review to replat.

I would like to voice my opposition to **851-22-000003-PLNG**, specifically as it relates to the replat of Tract-A (currently designated as Open Space), to not one, but two, buildable tax lots.

Based on the materials provided, the suggested replat does not meet the following Review Criteria as outlined in Section 6.040 and Section 3.520(3)(b).

Section 6.040(3): The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.

- **Dispute:**

- The proposal requests current setback guidelines be revised from 30' at side yard to the Tillamook County minimum at just 5' – an 83% reduction. The interior yard setback requests a reduction from 15' minimum, to 5' – representing a 67% reduction from current standards. Lastly, the side street setback is requested to be reduced from 20' to 15' – a 33% reduction from current standards. Given the proposal requires a remapping of setback lines, it confirms that it is not suitable for the proposed use without extreme augmentation of current county rules and ordinances.
- In the proposal shared, the developer claims that lots 14-19 are currently too narrow to build on (approx. 50' width); however, the replotting of Tract A would make the proposed lot A1 and A2 (approx. 32'-38' width) too narrow by the proposer's own guardrails. This represents an inconsistency in the logic and guidelines within the proposal with the developer applying a different set of rules to each lot based on his desired outcomes.

Section 6.040(4): The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

- **Dispute:**

- The proposal requests current setback guidelines be revised from 30' side yard to the Tillamook County minimum at just 5 ft. – an 83% reduction. The interior yard setback requests a reduction from 15' minimum, to 5' – representing a 67% reduction from current standards. Lastly, the side street setback is requested to be reduced from 20' to 15' – a 33% reduction from current standards. My home, directly neighboring Tract A, which recently completed building in November of 2021, was subject to 15' setbacks at the side yard in line with the current Sahhali South standards to which the developer would like to reduce by 67%. It is incongruous that two neighboring lots could have such vastly different rules as it relates to setbacks and buildable space on our properties.

- Tract A is currently home to amazing wildlife including, but not limited to, deer and elk grazing on this Open Space land almost daily. The proposed removal of this Open Space in favor of two single family home lots is unlawful and in direct contradiction to the recently passed Oregon House Bill 2834, which states:
 - Relating to wildlife corridors. Whereas the state of Oregon is home to a rich array of wildlife and landscapes; and Whereas biodiversity and habitat connectivity play a vital role in Oregon's economy and in ensuring a sustainable future for current and future generations of Oregonians; and Whereas habitat loss and fragmentation are major contributors to declines in populations of native fish, marine life and terrestrial wildlife; and Whereas wildlife corridors serve to connect wildlife habitat areas and allow for the movement, migration and dispersal of fish, wildlife and plant species; and Whereas, in addition to other benefits, wildlife corridors provide ecosystem services such as pollination, air and water purification, carbon sequestration and disturbance prevention; and Whereas wildlife corridors increase public safety and are highly effective at reducing vehicle wildlife collisions and the costs associated with those collisions; and Whereas formally designating and protecting wildlife corridors is a crucial strategy for bolstering Oregon's ecosystem resiliency and for ensuring the long-term viability of wildlife population and communities; now, therefore, **Be It Enacted by the People of the State of Oregon:**
- **SECTION 1. (1)** The State Department of Fish and Wildlife shall...preserve long-term habitat connectivity for wildlife as defined in ORS 496.004. The plan shall provide guidance for all state agencies to develop benchmarks for the designation and protection of wildlife corridors in Oregon.
- In order to protect our wildlife, their migratory patterns and fragile ecosystem on the Oregon coast, we cannot replace the Tract A Open space with two buildable lots. The replacement Open Space that the developer is proposing is located on an uninhabitable, cliff side that is currently too treacherous for wild life or humans to safely navigate. (Please see Exhibit B)
- By removing this open space and converting it to two buildable lots, we will be taking away the precious habitat for our wildlife and destroying the natural beauty of the Oregon Coast. We will also increase the chances of wildlife/vehicle collisions with the increased urbanization of the community. According the Pew Research Center: Oregon's "mule deer population has been below the Oregon Department of Fish and Wildlife (ODFW) [management goals](#) for at least 30 years and declined by 95,000 animals from 2015 to 2017, in part because of collisions with vehicles". The addition of these buildable lots will further denigrate the wildlife population and result in heightened safety risks for animals and drivers alike.
- The proposed NEW Open Space is an uninhabitable cliff side that is not only not suitable to build on, but also not suitable to the animals that currently thrive in

Tract A. Please see Exhibit A and B for commentary regarding accessibility and use.

- The addition of buildable lots A-1 and A-2 would be detrimental to the neighborhood safety as these lots are located at a major North/South and East/West Intersection between the Sahhali Shores and Sahhali South communities. The addition of lots A-1 and A-2 would result in diminished (impaired) visibility for drivers and increase the danger of automotive accidents at a busy intersection between two communities.
- These 2 new lots will also add 4 concrete/asphalt driveway aprons to the east side of Proposal Point Dr. putting more cars into the nearby intersection and tangentially across from the 4 westside Proposal Point Dr. driveway aprons creating more traffic interplay.
- This proposal represents the increased urbanization of what had originally been deemed a rural community; by squeezing in two additional buildable lots to what was once Open Space, we are increasing the harmful impact on the community infrastructure, not only impacting the safety of those living within the community but also creating a detrimental impact on the coastal wildlife that currently grazes and roams on the Tract A Open Space.
- Tract A location is currently at the epicenter of the Sahhali South development and the surrounding area. Its 260' east west longitudinal lot line is significantly larger than any lots currently on the market. This extensive lot line will permit a monstrously long wall like home fitting within 144' east-west building envelope line. This huge potential structure would far eclipse any existing building now measured on the same east/west axis and “substantially limit, impair [and] prevent the use of surrounding properties” to enjoy our current community and the wildlife we love that live within it. Please note:
 - The two closest Heron View tax lots combined [#900 and #1000] on 0.20 acreage are only 62' combined east/west. More acreage but smaller east/west line interference and impairment silhouette.
 - The closest Proposal Point Dr. with tax lot homes #4400 and #4500 measure just 71' east/west line beyond the 32' concrete driveway apron.
 - These tax lots are all 50% smaller than the proposal.
- The conversion of Tract A from Open Space to two, buildable lots, would also greatly impair my current South facing Ocean views and impede on my overall property value and desirability. My south facing ocean view is currently an impressive view of the Oregon Coast’s beautiful cape bluffs, however if this proposal is approved, I would lose this view, and instead see not one but two homes directly next to my own. I purchased my land with the understanding that Tract A was Open Space and therefore would never be buildable, thus protecting my pristine ocean view, the proposal “substantially limits, impairs” and prevents the use of my surrounding property thus in direct disagreement with **Section 3.520(3)(b) (7). (Please see Exhibit A)**

Section 6.040(6): The proposed is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.

- **Dispute:**

- Tract A has been deemed Open Space since the community inception in 2005 (17 years ago). The developer submitted revisions to his community plan in 2007 – a reasonable amount of time from inception and the proper time to submit additional desired replats. Now, 17 years from inception and 15 years from his revised land use ordinance, the proposal is now requesting yet another replat, specifically of an Open Space that has remained as such for 15 years.
- According to even the most liberal statute of limitations of 10 years (in accordance with the IRS Federal Statute of Limitations), the proposer is at minimum 5 years past due his time to redraw the lines of our communities.
 - Since this statute has expired, the 3 contiguous lots – Lot 51, 52 and 79 all sold, with the understanding that after 15-17 years of designation as an open space, Tract A would remain an open space in perpetuity.
- I implore the Commission to state how many similar unit developments have gone through not one, but 3 replats since their inception, and ask over what time period those occurred? Is 15 years a reasonable amount of time to request changes that will impact the community so egregiously? Given it is far beyond even the most liberal statute of limitations, I think not.
- Furthermore, the Developer has surreptitiously failed to disclose the existence of Tract A as a designated Open Space on any of his listings at least since January 2020, likely in hopes that his proposal to replat would be approved. On the contrary, Tract A has been deemed “Open Space” annually for more than 12 years on the Tillamook County Taxation subdivision website (plot map and lot-owner matrix). If this designation can be redefined/replatted at the whim of Developers, Tillamook County Planning Board should provide a warning to all current and potential buyers that a designation of Open Space apparently means nothing, and can be changed at any time. For example:
 - WARNING: This is a notice informing you the public that Tillamook County Taxation and Assessment subdivision maps may show "open space" parcels. Do not ever assume these are permanent as the developer can apply at any future date to arbitrarily remove this designation and convert same parcel to 1 or more building lots. Caveat Emptor to all prospective buyers, these so called "open space" individual lots can be altered at any time beyond any known statute of limitations.

Section 3.520(3)(b) (2): Resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area.

- **Dispute:**
 - The proposed development would be inconsistent with the comprehensive plan provisions or zoning objectives of the area as it seeks to reduce setbacks by 67%-83% and eliminates natural, open space that is precious to the community inhabitants and surrounding wildlife. Please see previously stated disputes above as to why this development would be inconsistent with the comprehensive plan provisions.

Section 3.520(3)(b) (5): The parcel is suitable for the proposed use, considering its size, shape, location, topography, existence of improvements, natural features.

- **Dispute:**
 - Given the proposal also requires a remapping of setback lines, it confirms that it is not suitable for the proposed used without extreme augmentation of current county rules and ordinances.
 - Additionally, in the proposal shared, it claims that lots 14-19 are currently too narrow to build on (approx.. 50' width), however, the replotting of Tract A would make the proposed lot A1 and A2 (approx. 32'-38' width) too narrow by the proposer's own guardrails.

Section 3.520(3)(b) (7): The proposed use will note alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

- **Dispute:**
 - Please see dispute reasons outlined in **Section 6.040(4)** above.

Based on the above facts, it would be inconsistent for the Tillamook County Planning Commission to not maintain original open space Tract A designation and placement.

I appreciate your consideration and thoughtfulness in this decision, and hope that you choose not to approve the replat of Tract A.

Thank you,
Jennifer Bierce
Owner Tax Lot 3500 – 45015 Proposal Point Drive, Neskowin, OR 97149

Exhibit A: Photos taken from South Balcony fo Bierce Resident (Lot 52, Tax Lot 3500):
Tract A is a very gently sloping and easily accessible for all residents, including handicapped, disabled or senior citizens. Proposed Open Space is steeply sloping and inaccessible to many current or future residents, as it is discriminatory to handicapped, disabled or senior citizen as it is very challenging to use. Proposed open space would require 36 Proposal Point Lot owners to travel at least twice as far to use a Thalassa Street culdesac.

Per the photos, the addition of two homes in this location would eliminate my south facing views impacting my overall property value, and causing safety concerns of 4 driveways emptying out into the same thoroughfare:

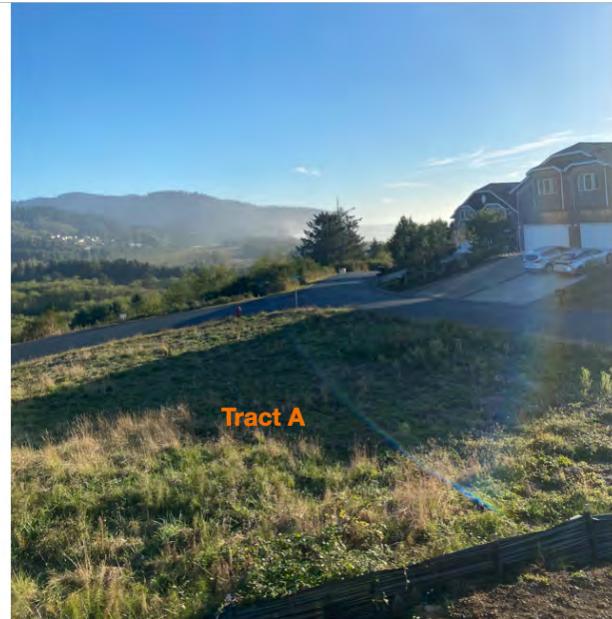


Exhibit B:

Proposed Open Space is steeply sloping, inaccessible and extremely difficult to many current or future residents, as it is discriminatory to handicapped, disabled or senior citizen residents. Proposed open space would require 36 Proposal Point Lot owners to travel at least twice as far to use a Thalassa Street culdesac.



**Proposed New
Open Space - a
densely vegetated,
inhabitable, cliffside**

Tract A

WYSE KADISH LLP

ATTORNEYS AT LAW

900 SW Fifth Avenue
Suite 2000
Portland, Oregon 97204
503.517.8119 *direct*
Patrick T. Foran
ptf@wysekadish.com
Admitted in OR and WA

April 6, 2022

By Regular and Certified Mail, Return Receipt Requested

Sahhali South Homeowners Association
c/o Richard D. Boyles, Registered Agent
840 Beltline Road, Ste 202
Springfield, OR 97477

Re: Sahhali South Homeowners Association

Dear Mr. Boyles:

I represent owners within Sahhali South Homeowners Association, who have asked me to contact you about their concerns about the current governance of the Association. If the Association is represented by counsel, please have its attorney contact me.

1. Association and Declarant Violations of Law

As you know, the Association is governed not only by its Declaration of Covenants, Conditions and Restrictions, Bylaws, and Plat, but also the Oregon Planned Community Act, ORS 94.550 *et seq.* and the Oregon Nonprofit Corporation Act, ORS Chapter 65.

The Association and the Declarant are not following the requirements of its governing documents or Oregon law in at least five respects.

First, in 2021, the Association amended its Declaration without an owner vote in violation of Section 15.6 of the Declaration and ORS 94.590. Please note that under ORS 94.590(5), the Declarant is not entitled to a weighted vote to amend the Declaration despite the contrary language in Section 3.4.2 of the Declaration. As such, this amendment is voidable. The Declarant must not engage in any further amendments without strict adherence to the governing documents and Oregon law, including all notice and voting requirements.

Second, the Declarant has failed to record its Bylaws in the Tillamook County Records as required by ORS 94.625(1)(c).

Third, my clients understand that the Declarant has negotiated with an owner a reduced setback from 10-feet to 5-feet to facilitate construction of a two-unit townhome. If the Declarant has done so, it has violated Sections 10.1.1 and 10.13 of the Declaration and county setback requirements. If this unauthorized approval has occurred, the Declarant must contact that owner and retract any agreement due to its violations of the Declaration.

As noted above, if the Declarant wishes to amend the Declaration, it must do so with a 75% vote of all owners under ORS 94.590(5), and the Declarant is not entitled to a weighted vote.

Fourth, the Association has failed to hold annual meetings in violation of ORS 94.650(1). Article 3, Section 3.5 of the unrecorded Bylaws states that annual meetings are not required until the year following Turnover. But this provision violates Oregon law. These meetings must occur annually.

Fifth, the Association has failed to properly adopt budgets. In addition to 2019 and 2021, on March 4, 2022, without a meeting, the Declarant executed a "Memorandum of Consent and Action" to adopt the 2022 Association budget. But the Declarant cannot adopt the budget. Under ORS 94.645(1), the budget must be adopted by the Board of Directors. And the Board cannot adopt the budget merely by consent, it needs to schedule a meeting, which under ORS 94.644(1) and Article 4, Section 4.15 of the unrecorded Bylaws, must be open to all Association members.

Sixth, at some point rules and regulations were created. There are no meeting minutes or a board resolution reflecting the adoption of these rules. Without a record of the adoption, these rules and regulations are unenforceable.

A few of these violations can be easily corrected if the Board holds open board meetings as required by Oregon law. My clients demand that the Board hold an immediate and open board meeting to address and remedy the violations.

2. Records Request

ORS 94.670(9)(a) requires that the Association make its records available for examination and available for duplication. Under ORS 94.670(11), my clients request that the Association provide me the following records in 10 business days. The owners are entitled to receive these documents to review prior Board decisions and to evaluate the status of the Association's finances. If there are copying costs, please let me know these reasonable costs in advance.

1. All board meeting minutes from 2007 to the present.
2. All Declarant memoranda of consent and action from 2007 to the present, if not available on the Association's website.
3. The names, addresses, and phone numbers of the Association's current directors and officers.
4. All current board resolutions that are not available on the Association's website.
5. The names, addresses, email addresses, and phone numbers of all Association members, if not available on the Association's website.
6. The Association's financial statements from 2018 to the present.

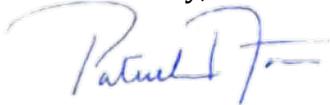
7. The Association's bank statements for both its operating and reserve account from 2019 to the present.
8. All instruments of indebtedness of the Association and any Board resolution authorizing Association indebtedness.

3. Turnover

Finally, my clients ask that I remind you that Section 4.2 of the Declaration and ORS 94.604 require the Declarant to form a Transitional Advisory Committee to provide for transition of administrative control of the Association not later than 60 days after the Declarant has conveyed 50% of all votes in the Association. My clients and the membership have the legal responsibility to assure a smooth transition to owner control.

Thank you for taking the actions outlined above and for providing me the requested documents in the next 10 business days. If you'd like to contact me, you may do so by phone at (503) 517-8119 or by email at ptf@wysekadish.com.

Sincerely,



Patrick T. Foran

cc: Clients

SUPPLEMENT TO TESTIMONY OF WYATT ANGELO ON
APPLICATION OF SAHHALI SOUTH LLC (851-21-000002-PLNG)
(April 14, 2022)

If the Planning Commission believes that approval of the Application with conditions rather than a denial for insufficiency is appropriate, the witness would submit proposed conditions as set forth below.

APPLICATION GENERALLY:

Applicant should provide the Commission with the **detailed statement** and **demonstration** as to how the proposals (s) meet all the approval criteria of the Land Use Ordinance as required in the Approval Procedures. Land Use Ordinance 10.020(6)(v)

Comment: All of the lots specifically identified in the Application were designed as town home lots. (See Sahhali South Sales Brochure submitted herewith). By redesignating them for detached homes with significantly reduced setbacks changes the character of the greater portion of the development. At a minimum a detailed statement and demonstration required as a condition should include but not be limited to the following:

1. A photographic essay of each part of the development and structures as they now exist;
2. A rendering to scale of how homes on the designated lots with the proposed setbacks would appear with existing townhomes.

Absent this detail, it is difficult if not impossible for the Commission to make an informed decision as to whether the Application meets all of the approval criteria.

Applicant should be required to file an amended application which clarifies and specifies if the Application only "involves the 13 vacant lots controlled entirely by the Declarant" or if the proposed new setbacks apply to all lots within the development, including those which are substantially larger and originally designated for detached homes.

Comment: As noted in my letter of February 11, 2022, the Applications Statement of Intent (p. 5) states that Request Number 5 (Setbacks) "involves 13 vacant lots". On the same page (paragraph 5) the Applicant states that it seeks to provide for consistent setbacks "throughout the development". These statements are inconsistent.

REQUESTS (3) PARTITION OF TRACT A:

Applicant designate an alternative property as substitute for common area/open space which is comparable to the existing open space proposed for replat as two lots.

Comment: The Applicant owns and controls other lots suitable for this purpose identified as Lots 1, 4 and 5 of Sahhali North.

REQUEST (5) ADOPT CONSISTENT SETBACKS AND AMEND CCRs SECTION 10.13

Section 15.6 of the Sahhali South CCRs provides that amendment of the CCRs by done by an 'instrument approved by not less than seventy-five percent (75%) of the total votes of each class of members that are eligible to vote."

As a condition of County Approval, the Applicant should provide the Planning Commission a certification that any proposed amendments to the CCRs separately and as contained in the Master Plan have been properly approved by 75% of total votes of each class of members.

Comment: At least one previous Applications to amend the CCRs as contained in the Master Plan were accompanied by a representation that the members had approved them by sufficient votes. This should be a requirement as a condition of approval. (See letter of Attorney Patrick Foran provided to the Community Development Department)



Sahhali Shores at Neskowin COA

44495 Sahhali Drive
Neskowin, OR 97149
Website: www.sahhalishores.org

February 15, 2022

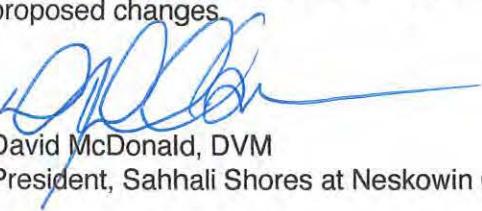
To: Tillamook County Planning Commission

Re: 851-22-000003-PLNG request for replat Sahhali South subdivision

It has come to our attention that the developer of the Sahhali South subdivision has requested a replat of that neighborhood. As our community is directly adjacent to Sahhali South any replat of that neighborhood will have a direct impact on the feel of our community. Of particular concern are two items in particular:

- 1) Changing the setbacks to allow homes to be within 5 feet of the property boarder. According to Tillamook Land Ordinance 3.320 the intent is to maintain the rural character of the Sahhali area (Sahhali Shores and South Sahhali). This will allow homes to be only ten feet apart and create much more density and take away from the rural feel of the neighborhoods that exist now with the 10 foot setbacks (which limits homes to within 20 feet of each other). Although that type of density may fit other parts of Neskowin and the County in general the Sahhali area has been specifically developed with a more rural feel with less density.
- 2) Replatting Tract A from open space/undeveloped into 2 single family lots. In addition to the density concerns as outlined above this change in development would have a large impact on homeowners in Sahhali Shores who are adjacent to this tract. Their lots and homes have been bought and plans for homes have been designed to enjoy the open space near their home based on the original plat. Allowing homes to be built on that space is unfair to homeowners who were promised open space by the original plat map.

The community of Sahhali Shores appreciates you allowing us to provide our feedback on the proposed changes.


David McDonald, DVM
President, Sahhali Shores at Neskowin COA

SAHITAI STATES AT NECKLACE
44495 SAHITAI DRIVE
NECKLAWN, OR 97149

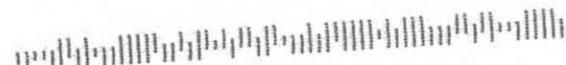


PORTLAND OR 972
16 FEB 2022 PM 5 L



TILLAMOOK COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT
1510-B THIRD STREET
TILLAMOOK, OR 97141

97141-341010



SAHARA STATES AT NEOKAWN
44495 SAHARA DRIVE
NEOKAWN, OR 97149



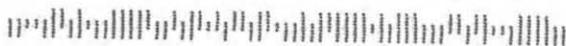
PORLAND OR 972

16 FEB 2022 PM 5 L



TILLAMOOK COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT
1510-B THIRD STREET
TILLAMOOK, OR 97141

97141-341010



February 11, 2022

TO: Tillamook County Planning Commission

This letter is being submitted as written testimony in response to the Notice of Public Hearings, Tillamook County Planning Commission, Sahhali South Replat, Date of Notice: January 26, 2022. I respectfully request that this letter be included in the packet that is to be given to the Planning Commission prior to the February 24, 2022, hearing.

Thank you for taking the time to read the responses to 851-22-000003-PLNG for replat of Sahhali South. I am the owner and full time resident of a home on Lot #7 in the community known as Sahhali South, having purchased here because of its rural nature as well as for the views of the ocean and wetlands.

The application for replat as expressed in GOALS 3, 4, 5, and 6 will significantly change the character, value and livability of the neighborhood.

GOAL 3: REPLAT OF TRACT A OPEN SPACE

The replat of Tract A, currently an open space area we had hoped to develop as a neighborhood park/meeting area, would result in two additional lots with two single family homes. This is inconsistent with TCLUO Section 3.520 (7) and Section 6.040 (4) because it would "alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone." Additionally, the proposed addition of two residential home sites would block the ocean view of an existing home in Sahhali Shores and likely block the views of one another.

GOAL 4: REPLAT OF LOTS 13A and 13B

The current location of Lots 13A and 13B may not be easily buildable but the impact of homes built on those two original lots would not have an adverse impact on the environment, view or property values that the replat would inflict. The proposed replat bordering on the wetland is on a trail used by a herd of elk going to and from its night habitat in the wetland. One might argue that the elk will create an alternative trail but the proposed 5' interior line setback between single family homes in that area, as proposed by GOAL 5, will further inhibit access of the elk to the wetland.

The original plat of 13A and 13B is not on an elk trail. The original plat would not obstruct views. However, the proposed replat of those two lots would partially impact views from existing homes on Lots 7 and 8, significantly impact views from homes on Lots 9 and 10, and potentially affect views from Lots 11 and 12. Compromised views impact property value. However, the purpose of TCLUO Section 1.020 is to "preserve and stabilize the value of property."

In the application for replat the Declarant wishes "to swap" TRACT A Open Space on nearly level land for steep, unusable portions of the current Lots 13A and 13B. This is hardly an equitable trade off. It also violates our current Sahhali South Covenants, Section 6.4 entitled "Owners Easement of Enjoyment"

Anthony and Kristy Ryan
6425 Heron View Drive
Neskowin, OR 97149

Tillamook County
Department of Community Development
Building, Planning & On-Site Sanitation Services
Attn: Melissa Jenck (Project Planner)
1510 – B Third Street
Tillamook, OR 97171
(503) 842-3408 (x3301) mjenck@co.tillamook.or.us

February 7, 2022

RE: 851-22-000003-PLNG (Sahhali South Replat) & 851-22-000003-PLNG-01 (Conditional Use request)

Dear Melissa,

This letter is being submitted as written testimony in response to your letter titled "Notice of Public Hearings, Tillamook County Planning Commission, Sahhali South Replat", Date of Notice: January 26, 2022. As the owners of Sahhali South, Lot 10, we respectfully request that this response be included in the packet that is to be mailed to the Planning Commission prior to the scheduled February 24, 2022, hearing regarding this matter.

Regarding Application Request (Amendment to the Sahhali South Master Plan) Goal 3 - Tract A Partition to create Lot A-1 and Lot A-2:

We strongly disapprove this proposal for the following reasons.

1. Tract A is currently classified as Open Space area and as such, serves to enhance the character of the Sahhali South neighborhood, livability of surrounding homeowners and the general enjoyment of ocean views, territorial views, flora and fauna for the enjoyment of residents and visitors. The proposed addition of two residential home sites in that area would detrimentally impact those characteristics and would be inconsistent with TC Land Use Ordinance Section 6.040(4) and Section 3.520(7) which both state that "the proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone".
2. Tract A (Open Space) has development potential as a neighborhood park, or similar use which would be consistent with the underlying goals and policies of the Comprehensive Plan, by enhancing the character of the surrounding area for its intended use.

Regarding Application Request (Amendment to the Sahhali South Master Plan) Goal 4 – Replat Partition to create Lots 13a, 13b, Open Space:

We strongly disapprove this proposal for the following reasons.

have consistently indicated specific lots designated for either attached, or detached SFH construction. The dramatic reduction in side yard setbacks (from 15 feet to 5 feet) for detached SFH, in an apparent effort to encourage the construction of detached SFH on lots originally designed for and designated as attached SFH, will negatively impact and alter the character of the surrounding neighborhood and as such, is inconsistent with the recorded C, C & Rs document on file for the Sahhali South Planned Development community, as well as the goals and policies of the Comprehensive Plan.

2. Reducing side yard setbacks will negatively impact the apparent building density and proportion of landscaping, further altering the character of the Planned Development Community, affecting views, property values and wildlife movement. There will also be an increased risk of fire spread between homes and difficulties associated with building access and maintenance.

We appreciate your time and thoughtful consideration of our concerns regarding the untimely and ill-conceived proposal put forward by the Developer, Mr. Richard Boyles.

Respectfully,



Anthony B. Ryan



Kristy L. Ryan

GENERAL MERRILL A. MCPEAK, USAF (RET.)
3550 SW BOND AVENUE, UNIT 2204
PORTLAND, OREGON 97239

February 6, 2022

Subject: 851-22-00003 PLING request to replat Sahhali South

My wife and I own a property in the Sahhali South development, specifically Lot 26, the plat thereof recorded February 16, 2007, in Plat Cabinet B-987-0, as 2007-001312, Records of Tillamook County, Oregon.

I object to the proposed replat. My wife and I are original owners of this property, the sale to us closing on April 15, 2009. We purchased the unit on the understanding that the community would be developed in a certain way, under rules and restrictions aimed at producing a harmonious and pleasing result. As near as I can see, some of the conditions we relied on during the sale process are now to be changed without our agreement or input, or in fact, any discussion at all with us. I am particularly concerned about a change to setback requirements and proposed modifications that would allow for construction of carports and other structures not in keeping with the character of the neighborhood.

As a minimum, I request that public discussion and a decision about the requested replat be delayed until my wife and I (and, I understand, others in the community), have an opportunity to present our case against the proposal. Better yet, the proposed replat should be rejected out of hand as being an unfair and potentially illegal violation of the original sale provisions.

A handwritten signature in black ink, appearing to read "Merrill A. McPeak", is written over a horizontal line. The signature is fluid and cursive, with a large, stylized "M" at the beginning.

Todd Karakashian & Paul Fukui
45060 Proposal Point Drive
Lot 42, Sahhali South
Neskowin, OR 97149

February 12, 2022

Tillamook County Department of Community Development
1510-B Third Street
Tillamook, OR 97141
Attn: Melissa Jenck, Project Planner
Letter to be presented to the Planning Commission

RE: 851-22-000003-PLNG and 851-22-000003-01

This letter constitutes the written testimony of Todd Karakashian and Paul Fukui, owners of lot 42, Sahhali South, on which our townhouse is built. This expresses some of our concerns, but due to the lack of adequate time to fully review and understand the 208 pages of the proposal, there may be additional concerns that we will identify as we have time to review it in further depth. Also, as far as I know, there has been no environmental impact analysis of the proposed changes – Sahhali South directly abuts the National Wildlife Refuge.

Concern #1: Changes to dwelling types and setbacks

When we purchased our lot and unit in 2020, we understood from the existing plan that future lots would be developed in the form of townhomes, each pair consisting of one duplex building that straddles two adjacent lots, similar to ours. This allows for ample space between buildings, preserving the relaxed, open layout of the development with lots of green space, ample room for the elk and deer to wander, and allowing for good views for all owners. My understanding is that the developer now wishes to allow single-family homes on all lots, and not just the replats, so he can sell each lot individually. These lots were not laid out for this purpose! In order to shoehorn a single-family home onto each lot he wants to relax the setbacks between buildings so they are much closer together. This will radically change the character of the development, making it feel far more crowded, perhaps closer in style to the oceanfront part of The Capes development in Oceanside, rather than the spacious development that it is today, which is well-integrated with the natural surroundings.

Concern #2: Replat of Lots 46, 47, 48

These lots are directly between our lot and our view of the ocean. While I have no objection in general to these lots being developed, I am concerned that the changes to the plats along with the reduced setbacks will make it easier to develop tall structures that will block our views. There is view protection built in to the CC&Rs, but it also seems the developer can override any element of the CC&Rs if he wishes to.

Concern #3: Loss of usable community open space

The developer wishes to seize the current open space that is set aside for the Sahhali South community and make it into additional cramped single-family lots that he can sell. In return for this, he proposes to give the community a very steep, overgrown lot on which nothing productive can be developed for community use. We oppose this without reservation. This land grab is emblematic of the whole attitude the developer has shown towards the Sahhali South residents.

Ron and Lynell Bohr
Lot 37, Sahhali South
Neskowin, OR 97149

February 11, 2022

Tillamook County Department of Community Development
1510-B Third Street
Tillamook, OR 97141
Attn: Melissa Jenck, Project Planner
Letter to be presented to the Planning Commission

email + hard copy

RE: 851-22-000003-PLNG and 851-22-000003-01

Please regard this as our written testimony in response to the above referenced replat requests.

My wife and I have been owners of lot 37 in Sahhali South since 2008. The proposed changes are being presented to Tillamook County with no requested input from the owners. These changes will significantly affect the character and esthetic value of the community.

We specifically object to:

1. Goal 3 (Partition Tract A: Open Space into 2 lots) and Goal 4 (Replat Partition lots 13a and 13b into 2 lots and 1 open space Tract A).
These items will move the Open Space area to an area that is basically unusable for its intended purpose (an open space to enhance the esthetic value of the community) and benefits only the developer to sell an area that is more suitable for building and sale.
2. Goal 5 (Consistent Setbacks). This change would allow for a reduction in setback requirements for interior side yards from 10' to 5' for **detached** single family dwellings for lots that were originally designed for **attached** single family dwellings (which all the currently built homes are). This would essentially allow for "row houses" not conducive to the initial design criteria and expectations of all owners. Better would be to convert the 2 lots designed for **attached** single family dwellings into 1 lot for 1 **detached** single family dwelling and adhere to the original 10' setback.

Conclusion:

These changes would negatively affect the esthetics as well as property values of this beautiful ocean side community. Due to the current state of the home buying frenzy, the developer is obviously trying to maximize profits to the detriment of the owners.

Sincerely,

Ron and Lynell Bohr
ronbohr@cox.net

Tillamook County Planning Commission
1510 - B Third Street
Tillamook, Oregon 97141
RE: 851-22-000003-PLNG

February 9, 2022

I am the owner of lot #36 in Sahhali South and live here full time. I am responding to the "Request for replat of a subdivision plat approval for a portion of "Sahhali South" together with Conditional Use request #85 1-22-000003-PLNG-01, to amend the Planned Development Master Plan." This is my written testimony to be included in the staff report on the Sahhali South Application for Replat application #851-22-000003-PLNG.

I am registering my objection to the following items in this Land Division Application request as presented to Tillamook County Planning Commission, and request that they not be approved.

Item 1 – no objection

Item 2 – no objection

Item 3 – OBJECTION Partition Tract A: Open Space into (2) Lots. I object to the open space conversion to building lots.

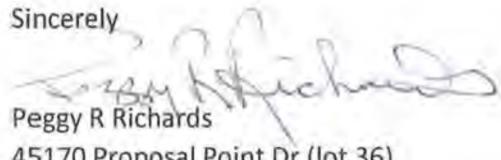
Item 4 – OBJECTION to replating and exchanging open space to the east of current 13B for the open space proposed to the west of 13A. This is not an acceptable open space exchange for the current open space now referred to as A-1 and A-2. It is also not acceptable because the new 13B proposed replat blocks the view line for lots 9 – 12.

Item 5 – OBJECTION to the change in setbacks

- a) The Proposed Amendment to Recorded CCR Section 10.13 will increase the density of the development, reduce views and will affect properties outside of the "subject properties boundaries" in the application identified in Exhibit A page 7.
- b) This does not meet Tillamook Land Use Ordinance Section 1.020 Purpose. The proposed setbacks will not serve the purposes listed which are to "encourage the orderly development of land, ...to preserve and stabilize the value of property; aid in the provision of fire and police protection; facilitate the provision of community services (water, propane) prevent undue concentration of population, protect and enhance the appearance of the landscape and to protect and promote public safety.
- c) Under Tillamook Land Use Ordinance section 6.040 Review Criteria:
 - section 3: The remaining lots in the subdivision are not suitable for a setback change based on size, shape, location, existence of improvements
 - section 4: The proposed new setbacks will alter the character of the surrounding area in a manner which impairs or prevents the use of surrounding property for residential, recreational purposes.
- d) This is a substantial change to the appearance of the subdivision as it exists. Currently all dwellings are spaced 20 feet apart.

Item 6 – OBJECTION The Proposed Amendment to Recorded CCR Section 10.3.1 removes the requirement for full compliance with the zoning restrictions of Tillamook County. It makes the allowed land uses less restrictive, is subject only to the developer run Architectural Review Board which allows no other owner or resident participation. It is not in the best interest of the resident owners of the development.

Sincerely


Peggy R Richards
45170 Proposal Point Dr (lot 36)
Neskowin, Oregon 97149
prmcelroy@msn.com
503-720-7585

Tillamook County Planning Commission
1510-B Third Street
Tillamook, OR 97141

February 9, 2022

I'm responding to a request for replat approval # 851-22-000003-PLNG-01 with objections.

There are specified tax lots listed in the opening paragraph of exhibit A, and outlined in red in the Sahhali South plat map. What are not defined are the proposed changes on the other lots seen on the table on pages 17 and 18, specifically Lots 20-45. This table shows Lots 20-45 allowing either a detached 1 family or an attached 2 family home. This is addressed briefly in the narrative in Section 3.520(3)(a): "...the application clarified that both attached and detached dwellings are allowed on lots 1-45..."

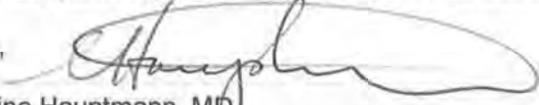
When I purchased lot 28 in 2008 there was no such understanding. Proposal Point Drive was intended for attached 2-family homes, ie. the townhomes. The proposed clarification will negatively alter the aesthetic properties of the neighborhood as originally conceived and advertised.

The neighborhood was intended to be built with well-spaced and complementarily designed townhomes. The new proposal says that smaller, more crowded homes can be built in their place. These can have architectural designs that are quite disparate without neighborhood input.

The increase in construction density caused by building 2 separate 1-family homes will directly impact the enjoyment of and the value of my home. Lot 30 and Lot 31 (formerly 30/31) are to be sold as 2 separate 1-family homes. There will be 2 separate construction crews working simultaneously in a very concentrated area over an extended period of time (construction delays caused by supplies and manpower shortages). The doubling of construction crews, machinery, noise, and traffic is not healthy for the wildlife residing in the contiguous wetlands and national animal refuge. It also negatively impacts the peace and enjoyment of my home and neighborhood. In addition, lot 24, on the other side of my home has a pending sale which adds yet another construction site near my home. That would place 3 construction sites in the Proposal Pt. cul-de-sac simultaneously.

Please vote against replatting lots 1-45 in Sahhali South as described in 851-22-000003-PLNG-01.

Sincerely,


M. Christine Hauptmann, MD
45250 Proposal Point Drive (lot #28)
Neskowin, OR 97149

February 11, 2022

Tillamook County Department of Community Development

1510-B Third Street

Tillamook, OR 97141

Re: Application 851-22-000003-PLNG

This is the written testimony of Wyatt Angelo and Linda Angelo, owners of Lot 49, Sahhali South, with reference to the above Application and addresses Request 3, "Partition Tract A," and Request 5, "Adopt Consistent Setbacks, Amend CCRs Section 10.13, Addendum to Master Plan." ***We also request the opportunity to present oral testimony at the hearings in February and April.***

BACKGROUND

Sahhali South Development is situated approximately 25 miles south of Tillamook, west of Highway 101. It is bounded on the west and south by a wildlife refuge. Currently there are 63 residential lots, the majority of which are adjacent to the Sahhali Shores subdivision and are serviced by a common access road (Sahhali Drive) from Highway 101. There are 7 lots in a standalone unit approximately 250 yards south of the main development and serviced by a separate access road from Highway 101 (Pelican Point Drive).

The lots in the northern area of the development average about .12 acres, and all of the structures constructed there today are attached (townhomes). The lots on Pelican Point Drive average approximately .25 acres; and currently there is one detached home on Lot 49, belonging to the undersigned.

The Homeowners Association (HOA) is essentially non-functioning by choice of the developer/applicant, who controls the affairs of the association (including Architectural Control Board) per the CCRs and percentage of ownership. No meetings of the Association have been noticed, called or scheduled in the last two years. Non-affiliated lot owners receive, and are required to pay, an annual bill for dues which are set by the developer. Approximately 46% of the dues paid by owners in 2021 were used for 'common area operations' and another 27% of those dues were levied for the 'common area capital fund.' The applicant is exempt from paying HOA dues.

THE APPLICATION IS DEFICIENT/INCOMPLETE

The County Development Approval Procedures (LUO 10.020 (6)(v) mandates that an application contain "a detailed statement that *demonstrates* how the proposal meets *all* approval criteria . . ."

The Application's "detailed statement" as to approval criteria 4 (LUO SECTION 6.040) at page 22 states:

"The 2021 Amendment to Sahhali South Planned Development Subdivision does not alter the character of the surrounding area in any way that substantively limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone. The 2021 Amendment to Sahhali South continues the development character of detached and attached single-family-dwellings with the Sahhali South 2005 and 2007 decisions."

In short, an application itself is deficient if it does not make the detailed showing as to each of the criteria set forth in the Approval Procedures. The applicable language of this Application is conclusory

and devoid of detail as to ANY of the six Goals of the Application. Because the Application does not conform to the LUO standards, it should be denied without a hearing. Should the Community Development Department or the Planning Commission wish to allow the applicant to supplement the Application, all hearings should be continued to allow further community input on the supplemented Application.

GOAL 3, PARTITION TRACT A

Tract A is open space at the entrance to both Sahhali South and Sahhali Shores. Applicant proposes to remove Tract A from 'open space' and divide and sell it as two lots. This has been identified open space for the development (common area as defined by statute) since inception and is the only common space which is relatively level, centrally located and accessible. This is not true of the property to be substituted. The naked assertion that taking Tract A from open space "will not alter the character which substantially limits, impairs or prevents the use of surrounding properties for permitted uses" is completely lacking in the detail required and inconsistent with the applicant's own goals for the development. See above.

GOAL 5, ADOPT CONSISTENT SET BACKS

CHANGE OF CCRs BY APPLICATION OF TILLAMOOK COUNTY LAND DEVELOPMENT ORDINANCE (LDO)

We do not believe that the provisions of the Tillamook County Land Development Ordinance can be applied to a change to the CCRs as set forth in Application Goal 5. The Land Development Ordinance prohibits changes to CCRs as part of that review process. Application p. 27, LDO Section 120 (3)(c).

CHANGE OF CCRs BY APPLICATION OF TILLAMOOK COUNTY LAND USE ORDINANCE (LUO)

Introduction.

The Application seems inconsistent, in that the Statement of Intent (p. 5) specifically states that the request "involves 13 vacant lots controlled entirely by the Declarant." This is misleading because reading further, on page 5 at paragraph 5 the Application states that it seeks to amend the Master Plan and CCRs to provide for "consistent setback requirements throughout the development." The Staff should clarify this with the applicant and modify the Application accordingly, with an appropriate period for supplemental input by lot owners.

CCRs are not a "USE"

As we read it, Application Goal 5 seeks to alter the CCRs originally filed as part of the master plan in order to change side yard setbacks from 15 feet to 5 feet for each lot on which a detached residence is constructed via the CONDITIONAL USE PROCEDURES AND CRITERIA in ARTICLE V of the LUO. "USE" is defined in the LUO as "The purpose for which a structure is designed, arranged, or intended, or for which a unit of land is developed, occupied or maintained." LUO DEFINITIONS 11.030. The CCRs and setbacks themselves are clearly not a "purpose," and therefore the provisions of the LUO should not apply. This would seem to make sense, as neither setbacks nor CCRs are listed in the LUO as either a conditional use or use as a matter of right. The Planning Commission and the County should reject this part of the Application as beyond the authority granted to them under the LUO.

Standing

Even assuming the provisions of the Land Use Ordinance apply, Section 10.020 of the Land Use Ordinance prohibits the Applicant from applying for such a change to setbacks for property it does not own. It, therefore, has no standing to seek to modify property owned by others.

Authority to Change CCRs

The Sahali South CCRs provide for changing the CCRs by vote of the owners (CCRs Section 15.6). The Applicant has not availed itself of the very process it created. Insofar as the Application seeks to change CCRs, it is at least premature and probably seeks to persuade the County to act where it has no authority. To now seek to use the County Planning process to change CCRs after properties within the development have been purchased and built on by third parties is manifestly unfair, and the County should not allow itself to facilitate it.

Neither the Land Division Ordinance or the Land Use Ordinance apply to changing CCRs. The request is beyond the authority of the County to act through the planning process and should be denied.

Tillamook County Land Use Ordinance SECTION 6.040 REVIEW CRITERIA

If the County believes changing CCRs is a "USE" to be reviewed, we now address REVIEW CRITERIA (3) Suitability of Parcel and (4) Alteration of Character.

Suitability: LUO REVIEW CRITERIA Section 6.040 (3)

The Application seeks to change setbacks established by the current CCRs in a substantial and dramatic way. The proposed change to the side yard setbacks in the CCRs from 15 feet to 5 feet for detached homes (a 66% reduction of side yard space) is not suited to the location of the Applicant's lots. Those lots are currently intermingled in a subdivision wherein 16 attached (townhomes) and 1 detached (single family) residence have been constructed. The townhomes have a 10 foot side yard setback or distance of 20 feet between structures.

To now permit the construction of detached homes with side yard setbacks of 5 feet - interspersed beside and between townhomes with larger setbacks - will substantially change the character and aesthetics of the development. Furthermore, the setbacks proposed are urban in nature, not rural residential.

Neskowin Rural Residential zoning allows for 5 foot setbacks where the minimum lot size is 20,000 square feet (LUO 3.320(4)). The majority of the vacant lots that are the subject of this Application were designed for townhomes and average less than 6000 square feet. Reducing side yard setbacks by 66% for detached homes is not *compatible* with the development and improvements as they exist today. In considering "suitability," the County must consider the size, location and existence of other improvements, including those other homes constructed within the development (LUO Section 6.010 and Section 6.040(3)).

Alteration: LUO REVIEW CRITERIA 6.040 (4)

The implications of a 10 foot total distance between structures in a non-urban area are substantial and alter the character of the Development. A limited few are discussed below.

Privacy

Privacy impacts on adjacent homeowners cannot be ignored. While visual 'trespasses' may be mitigated by fencing, the CCRs in Section 10.11 state that no fence is permitted within the minimum setback line and the property line. It is physically impossible to build a fence in this space without building within the setback or encroaching on the adjacent property. People's everyday privacy concerns about what goes on in their homes should be paramount. They are substantially and adversely impacted by closer setbacks.

Normal day-to-day activities related to homeownership and maintenance are limited and impaired (LUO REVIEW CRITERIA 6.040(4)).

As an example, one cannot safely erect a ladder for second story or roof maintenance within a 5 foot side yard setback. The height limitation in the CCRs range from 24-35 feet (Neskowin RR). One cannot safely erect a ladder to a 24 foot roof with less than 6 feet of space for the base of the ladder from the wall.

Quiet Enjoyment

The adverse impacts of construction and excavation on adjacent properties, their occupants, and their ability to enjoy their homes are substantial with smaller setbacks. Noise, excavated material and access by equipment to sites will impinge on adjacent properties if smaller setbacks are permitted. Current setbacks are adequate to mitigate these impacts; the proposed side yard setback is not.

Public Safety

Risk of fire spread from one home to another by virtue of radiant heat transmission is greatly increased by reducing the distance between structures. This is particularly applicable in Sahali, where winds are constant and normal gusts dangerous in fire situations.

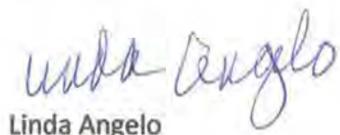
THE APPLICATION CONSIDERED IN ITS ENTIRETY

When considered together, the overall impact of the Application requests is greater than those of the individual parts. Chopping space between homes by 66%, changing lot configurations to interfere with owner view corridors, 'taking' and selling the only centrally located and accessible common space - all in a relatively small/compressed area of homes - is devastating to the character, value, and desirability of the Development and the legitimate expectations of current owners regarding the enjoyment of their homes. Granting Requests 3 and 5 will violate the purposes of the LUO. See LUO PURPOSE, SECTION 1. The Application's statement (p. 22) that the proposed changes "will not alter the character of the surrounding area" is conclusory and devoid of the detail required to consider or grant the Application.

Thanks to the staff and the Planning Commission for the opportunity to present written testimony.

Sincerely,


Wyatt Angelo


Linda Angelo

Address: 6375 Pelican Point Drive, Neskowin, OR 97149

Phone: 970-275-3630

Email:

Submitted by email February 13, 2021 addressed to and
. Original is signed and delivered on February 14, 2022

February 10, 2022

Tillamook County Planning Commission
1510 - B Third Street
Tillamook, OR 97141

Re: Permit ID # 851-22-000003-PLNG

I am a permanent resident and homeowner of Lot 43 in Sahhali South and have been living here full time since October 31, 2019. I am responding to the "Request for replat of a subdivision plat approval for a portion of "Sahhali South" together with Conditional Use request #85 1-22-000003-PLNG-01, to amend the Planned Development Master Plan." This is my written testimony to be included in the staff report on the Sahhali South Application for Replat application #851-22-000003-PLNG. I ask to also be included in providing oral testimony.

I am registering my objection to the following items in this Land Division Application request as presented to Tillamook County Planning Commission, and request that they not be approved.

Item 1 – I do not have an objection

Item 2 – I do not have an objection

Item 3 – OBJECTION Partition Tract A: Open Space into (2) Lots. I object to the open space conversion to building lots:

- a) When I was considering purchasing a home in Sahhali South (more specifically Lot 43), I did so while factoring in the open space immediately across the street. Since the existing homes were a bit close together, I felt the space would provide a sense of openness that would offset any density from the other homes. The relocation of this open space for the more steeply sloped, inaccessible areas of lots 13A and 13B is not a comparable exchange.
- b) Having worked for new home construction developers for most of my 40 plus year career (one builder for over 18 years), I had an expectation the developer would continue with the plan presented to me prior to my purchase. I always made sure I worked for developers who committed to do the right thing by honoring the proposed plan and promised expectations of their homebuyers. This is not consistent with the goals and policies of the Sahhali South Comprehensive Plan. Also, adding to the number of building lots increases the density of the development and decreases the views of residents to both the mountains and the ocean.
- c) The residents of Sahhali South have been considering uses for the open space on the corner of Heron View and Proposal Point. The central location of this open space and the flat ground area make this a perfect location for a community gathering place, recreation or potentially a future community center (as identified on page 14 of the Master Development Plan). Several residents

have already taken the time to clear some of the weeds and plant wildflowers and plants. Elk and deer graze in this area contributing to the character of the community.

- d) This change would alter the character of the surrounding area in a manner which limits and impairs the use of the surrounding area and non-beach recreational opportunities in the development. The community will be unable to utilize the open space currently in lots 13A and 13B steep slope.

Item 4 – OBJECTION to replatting and exchanging open space to the east of current 13B for the open space proposed to the west of 13A. Note that this is not an acceptable open space exchange for the current open space now referred to as A-1 and A-2. It is also not acceptable due to the fact that the new 13B proposed replat blocks the view line for lots 9–12.

Item 5 – OBJECTION This change to setbacks would require a vote by the owners of Sahali South to amend the CC&R's.

- a) Applicant does not have the sole right to amend SS CC&R's as set forth on page 13 of application.
 - CC&R'S section 3.4.1 provides that I am a class A member of the association.
 - Setbacks for lots are found in section 10.13 of the CC&R's.
 - The sole procedure for amending the CC&R's is set forth in section 15.6 requires a vote of association members of both classes and the approval of not less than 75% of each class of members.
 - No such vote has been held, scheduled or even noticed and the Applicant has been silent on doing so.
- b) The Proposed Amendment to Recorded CC&R Section 10.13 will increase the density of the development, reduce views and will affect properties outside of the “subject properties boundaries” in the application identified in Exhibit A page 7.
- c) This does not meet Tillamook Land Use Ordinance Section 1.020 Purpose. The proposed setbacks will not serve the purposes listed which are to "encourage the orderly development of land, . . . to preserve and stabilize the value of property; aid in the provision of fire and police protection; facilitate the provision of community services (water, propane) prevent undue concentration of population, protect and enhance the appearance of the landscape and to protect and promote public safety."
- d) Under Tillamook Land Use Ordinance section 6.040 Review Criteria:
 - Section 3: The remaining lots in the subdivision are not suitable for a setback change based on size, shape, location, existence of improvements.
 - Section 4: The proposed new setbacks will alter the character of the surrounding area in a manner which impairs or prevents the use of surrounding property for residential, recreational purposes.
- e) Close setbacks on the side like this will make it difficult to repair or install utilities along sides of house.
- f) This is a substantial change in the appearance of the subdivision as it exists and the landscape, as currently all dwellings are spaced 20 feet apart.

Item 6 – OBJECTION This change to allowed land uses would require a vote by the owners of Sahhal South to amend the CC&R's. Section 15.6 of the CC&R's states that each class of ownership has to approve a change in the CC&R's by 75%. No such request for change has been presented to the residents and owners of property in the development, nor has a vote been conducted. The Proposed Amendment to Recorded CC&R Section 10.3.1 removes the requirement for full compliance with the zoning restrictions of Tillamook County. Making the allowed land uses less restrictive and subject only to the developer run Architectural Review Board, that allows no other owner or resident participation, is not in the best interest of the resident owners of the development.

I look forward to discussing these issues with the Commission in the hearings scheduled for February and April.

Sincerely,



Pam Johnson
45050 Proposal Point Drive (Lot 43)
Neskowin, OR 97149
pami714@gmail.com
(949) 933-9012

Tillamook County Planning Commission
1510 - B Third Street
Tillamook, Oregon 97141

February 9, 2022

Duplicate of
e-mail submittal
KJH

RE: 851-22-000003-PLNG

I am an owner of lot #44 in Sahhali South and have been living here permanently since September 2020. I am responding to the "Request for replat of a subdivision plat approval for a portion of "Sahhali South" together with Conditional Use request #85 1-22-000003-PLNG-01 , to amend the Planned Development Master Plan." This is my written testimony to be included in the staff report on the Sahhali South Application for Replat application #851-22-000003-PLNG. I ask to also be included in providing oral testimony.

I am registering my objection to the following items in this Land Division Application request as presented to Tillamook County Planning Commission, and request that they not be approved.

Item 1 – no objection

Item 2 – no objection

Item 3 – OBJECTION Partition Tract A: Open Space into (2) Lots. I object to the open space conversion to building lots.

- a) The residents of Sahhali South have been considering uses for the open space on the corner of Heron View and Proposal Point. The central location of this open space and the flat ground area make this a perfect location for a community gathering place, recreation or potentially a future community center (as identified on page 14 of the Master Development Plan). Several residents have already taken the time to clear some of the weeds and plant wildflowers and plants. Elk and deer graze in this area contributing to the character of the community.
- b) When I purchased my lot in Sahhali South, I did so with the knowledge and expectation of enjoying the open space across the street that compensated for the close proximity of dwellings. The relocation of this open space for the more steeply sloped, inaccessible areas of lots 13A and 13B is not a comparable exchange.
- c) This change would alter the character of the surrounding area in a manner which limits and impairs the use of the surrounding area and non-beach recreational opportunities in the development. The community will be unable to utilize the open space currently in lots 13A and 13B steep slope.
- d) This is not consistent with the goals and policies of the Comprehensive Plan. Also, increasing the number of building lots increases the density of the development and decreases the views of residents to both the mountains and the ocean.

Item 4 – OBJECTION to replating and exchanging open space to the east of current 13B for the open space proposed to the west of 13A. Note that this is not an acceptable open space exchange for the current open space now referred to as A-1 and A-2. It is also not acceptable due to the fact that the new 13B proposed replat blocks the view line for lots 9 – 12.

Item 5 – OBJECTION This change to setbacks would require a vote by the owners of Sahhali South to amend the CC&R's.

- a) Applicant does not have the sole right to amend SS CCRs as set forth on page 13 of application.
 - CCR section 3.4.1 provides that I am a class A member of the association
 - Setbacks for lots are found in section 10.13 of the CCRs
 - the sole procedure for amending the CCRs is set forth in section 15.6 requires a vote of association members of both classes and the approval of not less than 75% of each class of members.
 - no such vote has been held, scheduled or even noticed and the Applicant has been silent on doing so.
- b) The Proposed Amendment to Recorded CCR Section 10.13 will increase the density of the development, reduce views and will affect properties outside of the "subject properties boundaries" in the application identified in Exhibit A page 7.
- c) This does not meet Tillamook Land Use Ordinance Section 1.020 Purpose. The proposed setbacks will not serve the purposes listed which are to "encourage the orderly development of land, ...to preserve and stabilize the value of property; aid in the provision of fire and police protection; facilitate the provision of community services (water, propane) prevent undue concentration of population, protect and enhance the appearance of the landscape and to protect and promote public safety.
- d) Under Tillamook Land Use Ordinance section 6.040 Review Criteria:
 - section 3: The remaining lots in the subdivision are not suitable for a setback change based on size, shape, location, existence of improvements
 - section 4: The proposed new setbacks will alter the character of the surrounding area in a manner which impairs or prevents the use of surrounding property for residential, recreational purposes;
- e) Close setbacks on the side like this will make it difficult to repair or install utilities along sides of house
- f) This is a substantial change in the appearance of the subdivision as it exists and the landscape, as currently all dwellings are spaced 20 feet apart.

Item 6 – OBJECTION This change to allowed land uses would require a vote by the owners of Sahhali South to amend the CC&R's. Section 15.6 of the CCRs states that each class of ownership has to approve a change in the CCRs by 75%. No such request for change has been presented to the residents and owners of property in the development, nor has a vote been conducted. The Proposed Amendment to Recorded CCR Section 10.3.1 removes the requirement for full compliance with the zoning restrictions of Tillamook County. Making the allowed land uses less restrictive and subject only to the developer run Architectural Review Board, that allows no other owner or resident participation, is not in the best interest of the resident owners of the development.

I look forward to discussing these issues with the Commission in the hearings scheduled for February and April.

Best Regards,


45040 Proposal Point (Lot #44) Katherine Hammack
Neskowin, Oregon 97149
hammackk@gmail.com
602-370-1005

Lisa A. Bentson
6435 Heron View Drive
Neskowin, OR 97149

Tillamook County
Department of Community Development
Building, Planning & On-Site Sanitation Services
Attn: Melissa Jenck (Project Planner)
1510 – B Third Street
Tillamook, OR 97171
(503) 842-3408 (x3301) mjenck@co.tillamook.or.us

submitter hard copy only

February 12, 2022

RE: 851-22-000003-PLNG (Sahhali South Replat) & 851-22-000003-PLNG-01 (Conditional Use request)

Dear Melissa,

This letter is being submitted as written testimony in response to your letter titled “Notice of Public Hearings, Tillamook County Planning Commission, Sahhali South Replat”, Date of Notice: January 26, 2022. As the owners of Sahhali South, Lot 9, we respectfully request that this response be included in the packet that is to be mailed to the Planning Commission prior to the scheduled February 24, 2022, hearing regarding this matter.

Regarding Application Request (Amendment to the Sahhali South Master Plan) Goal 3 - Tract A Partition to create Lot A-1 and Lot A-2:

We strongly disapprove this proposal for the following reasons.

1. Tract A is currently classified as Open Space area and as such, serves to enhance the character of the Sahhali South neighborhood, livability of surrounding homeowners and the general enjoyment of ocean views, territorial views, flora and fauna for the enjoyment of residents and visitors. The proposed addition of two residential home sites in that area would detrimentally impact those characteristics and would be inconsistent with TC Land Use Ordinance Section 6.040(4) and Section 3.520(7) which both state that “the proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone”.
2. Tract A (Open Space) has development potential as a neighborhood park, or similar use which would be consistent with the underlying goals and policies of the Comprehensive Plan, by enhancing the character of the surrounding area for its intended use.

Regarding Application Request (Amendment to the Sahhali South Master Plan) Goal 4 – Replat Partition to create Lots 13a, 13b, Open Space:

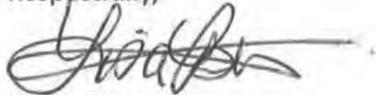
We strongly disapprove this proposal for the following reasons.

have consistently indicated specific lots designated for either attached, or detached SFH construction. The dramatic reduction in side yard setbacks (from 15 feet to 5 feet) for detached SFH, in an apparent effort to encourage the construction of detached SFH on lots originally designed for and designated as attached SFH, will negatively impact and alter the character of the surrounding neighborhood and as such, is inconsistent with the recorded C, C & Rs document on file for the Sahali South Planned Development community, as well as the goals and policies of the Comprehensive Plan.

2. Reducing side yard setbacks will negatively impact the apparent building density and proportion of landscaping, further altering the character of the Planned Development Community, affecting views, property values and wildlife movement. There will also be an increased risk of fire spread between homes and difficulties associated with building access and maintenance.

We appreciate your time and thoughtful consideration of our concerns regarding the untimely and ill-conceived proposal put forward by the Developer, Mr. Richard Boyles. *This letter, among the numerous others you will receive represents a substantial percentage of the Homeowners (sold lots with homes already built). Please give our concerns the consideration they deserve as it represents most of the people living here and calling it home.*

Respectfully,



Lisa A. Bentson

Peter and Stephanie Sammons
3508 SW Gale Ave
Portland, OR 97239

February 10, 2022

Sarah Absher, CFM, Director
Tillamook County Department of Community Development
1510-B Third Street
Tillamook, OR 97141

Dear Sarah-

We are writing in regard to Notice of Public Hearing 851-22-000003-PLNG, Sahhali South Replat.

We have owned our home in Sahhali South (Lot #29) since August 2008. We are concerned about the Sahhali South Replat Amendment Requests that are being proposed and the impact these changes will have on maintaining the value of our home and the integrity of our neighborhood.

The specific amendments that we are most concerned with are the following:

3. Partition Tract A: Open Space into (2) Lots:

We feel that the trade between the open space and Lots 13a and 13b is not an equitable trade. The open space is flat and Homeowners have been discussing using it to create a community gathering place or neighborhood park. Lots 13a and 13b are very steep and would not be usable for a community park or gathering space.

5. Consistent Setbacks: Master Plan and CCR Section 10.13 Amendment Language:

Currently, the side setback on single family homes is 15 feet (CCR 10.13) but the amendment requests that single family homes be allowed with a side setback of 5 feet. The original 15 feet setback for single family homes and 10 feet side setback for attached living units (townhomes) was established to preserve and stabilize the value of the property; aid in the provision of fire and police protection; preserve access to adequate light and air; facilitate the provision of community services such as water supply, utilities and propane delivery; and to protect and enhance the appearance of the landscape. We are concerned the change in side setback for single family homes from 15 feet to 5 feet (page 11 of Replat Amendment Request) will devalue our property, change the consistent "Planned Community" (CCR 1.13) that exists today and potentially impact the "Natural Features" (CCR 8.1) including flora, fauna and wildlife corridors that exist between our properties.

6. Allowed Land Use: Master Plan Amendment Languages:

We are concerned that this request is being made. Our current CCR (15.6 Amendment) states that a vote is needed to change the CCR: "this Declaration may be amended at any time

by an instrument approved by not less than seventy-five percent (75%) of the total votes of each class of members that are eligible to vote".

These amendment requests were not presented to the Class A Members of the Association for either discussion or vote. In forwarding this proposal to the Tillamook County Planning Commission without adhering to the CCR 15.6 Amendment requirements, it appears the Declarant is not fulfilling the fiduciary responsibility to act in the best interest of all Sahhali South owners.

We feel that both of the amendment requests 5 and 6, which are detailed on page 11 of the Sahhali South Replat Amendment Request document, are in violation of CCR 15.6. The sentence that is the most concerning is: "The Architectural Review Board may approve a proposal that does not comply with these setback requirements pursuant to CCR Section 11 Architectural Review Board". We feel this amendment request is too general and allows too much freedom to the Class B Member (the Declarant) in making decisions that could impact the overall value and integrity of Sahhali South. These requests may also be in violation of the Neskowin Rural Residential Zone (NeskRR) land use.

We are also concerned with the language change in CCR 10.3.1 on page 12 of the Amendment Request document. Currently our CCR states the following: "shall be maintained in full compliance with the zoning restrictions of Tillamook County". The amendment request asks that the language be changed from being compliant with Tillamook County zoning to "consistent with Applicable Criteria and the Sahhali South Planned Development decisions". We believe this request is not in the best interest of the Sahhali South minority owners and will jeopardize the consistent future development of Sahhali South and the value of our property.

In conclusion, we are concerned with the requests being made to change not only the replat of Sahhali South but to make amendments to the CCR. When we purchased our property, we believed the CCR was designed to protect both Class A and Class B Members. The amendments that are being presented lean strongly in favor of the Class B Member (the Declarant) and do not reflect responsibility to minority owners.

We appreciate your consideration,



Peter Sammons



Stephanie Sammons

February 13, 2022

Tillamook County Department of Community Development

1510-B Third Street

Tillamook, OR 97141

Re: Application 851-22-000003-PLNG

Submitted for acceptance is this written testimony of the Brenda Freshman, Trustee for Brenda Freshman Living Trust, owner of Lots 2 and 3, Sahhali South, with reference to the above Application. These comments are submitted to addresses Request 3, "Partition Tract A," and Request 5, "Adopt Consistent Setbacks, Amend CCRs Section 10.13, Addendum to Master Plan."

I also request the opportunity to present oral testimony at the hearings in February and April.

My current written comments to be forwarded to the Department of Community Development, and Planning Commissioners are as follows:

THE APPLICATION IS DEFICIENT/INCOMPLETE

The County Development Approval Procedures (LUO 10.020 (6)(v)) requires that applications "contain a detailed statement that demonstrates how the proposal meets *all* approval criteria . . ."

The Application's "detailed statement" as to approval criteria 4 (LUO SECTION t6.040) at page 22 states:

"The 2021 Amendment to Sahhali South Planned Development Subdivision does not alter the character of the surrounding area in any way that substantively limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone. The 2021 Amendment to Sahhali South continues the development character of detached and attached single-family-dwellings with the Sahhali South 2005 and 2007 decisions."

I disagree with the applicants assessment as the proposed amendments would directly change the character of the landscape and the use of the property.

The statement in the Application is vacant of the detail required to address how the changes sought do "not alter the character of the surrounding area." The Application does not appear to conform to the LUO standards.

GOAL 3, PARTITION TRACT A

Tract A lies is open space at the entrance to both Sahhali South and Sahhali Shores. Applicant proposes to remove Tract A from 'open space', and divide and sell it as two lots. These lots have been designated as open space for the development since inception. Additionally these lots are the only common space which is relatively level, centrally located and accessible. The substitute property is NOT of the same quality or character. I take issue with the implication that taking Tract A from open space "will not alter the character which substantially limits, impairs or prevents the use of surrounding properties for permitted uses." Furthermore the application lacks detail that describes their assertions and positions.

GOAL 5, ADOPT CONSISTENT SET BACKS

CHANGE OF CCRs BY APPLICATION OF TILLAMOOK COUNTY LAND DEVELOPMENT ORDINANCE (LDO)

I do not think the provisions of the Tillamook County Land Development Ordinance can be applied to a change to the CCRs as set forth in Application Goal 5. The Land Development Ordinance prohibits changes to CCRs as part of that review process. Application p. 27, LDO Section 120 (3)(c).

Alteration: LUO REVIEW CRITERIA 6.040 (4)

The implications of adjusting the distance between structures in a non-urban area. The proposed changes would have substantial impacts on the safety, and privacy of daily life as well change the character of the Development.

Thank you in to the staff and the Planning Commission for the opportunity to this testimony.

Sincerely,

Brenda Freshman

Address: 6715 Pacific Overlook Drive, Neskowin Oregon, 97149

Phone: 541-921-7593

Email: Brenda.Freshman@csulb.edu

Submitted by email February 13, 2021 addressed to mjenck@co.tillamook.or.us and ltone@co.tillamook.or.us.

February 10, 2022

Tillamook County Planning Commission
1510-B Third Street
Tillamook, OR 97141

RE: Application 851-22-000003-PLNG

This letter is submitted as written testimony by Boyce Heidenreich and Brooke Heidenreich, owners of Lots 32, 33, and 34 in the Sahhali South Development. We request that it be included in the packet being prepared for the Planning Commission for its scheduled hearings on the above referenced application. We would like to address Application Request 3 (partitioning Tract A into Lots A-1 and A-2) and Application Request 5 (adopting consistent setbacks).

REQUEST 3, PARTITION OF TRACT A

This particular tract is on level, easily accessible land at the entrance to the Sahhali South development. To our knowledge it is the only open space in the development that could be used as a small neighborhood park.

We object to the Applicant's request that this tract be divided into two purchasable lots, A-1 and A-2, and that a very steep, inaccessible parcel of land be substituted as the community's open space. The Applicant's new open space would be located next to proposed Lots 13a and 13b. Not only would this eliminate any suitable, accessible space for a neighborhood park, but it is inconsistent with TCLUO Section 3.520(7) and Section 6.040(4) that state "the proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone."

In addition, this violates our current Declaration of Covenants, Conditions and Restrictions of Sahhali South (CCRs). Section 6.4 of our CCRs, entitled "Owners' Easement of Enjoyment," states that "every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Property, which shall be appurtenant to and shall pass with the title to every Lot." This is simply not possible on the proposed steep, inaccessible land the Applicant is proposing as common property. In other words, it appears to us that Request 3 disregards the interests of current and future owners while focusing solely on the interests of the Applicant.

REQUEST 5, ADOPT CONSISTENT SETBACKS

We are not against the development of our community but we have assumed it would be done in ways consistent with our adopted and recorded CCRs. We have been well aware that we will have neighbors living next to our property but we were not expecting them to be 5 feet from us. The current setbacks,

as set forth in our CCRs are between 10-15 feet. Our objections to the proposed 5' setbacks are as follows:

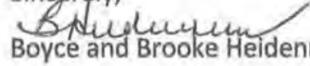
- 1) It is inconsistent with current setbacks for the homes in Sahhali South and the nature of the development. As such, it violates TCLUO 6.040, sections 3 and 4 as quoted above. Five foot setbacks and the potential of homes being built with only 10' between them significantly alters the character of the surrounding area.
- 2) It increases the risk of fire spreading rapidly to adjacent structures. Although we are fortunate to have a dedicated and skilled fire department serving our community, it is located in Hebo. Given the time it would take for firefighters to respond to fires in our development, decreasing setbacks and building homes within 10' of each other would substantially increase the likelihood of fires spreading rapidly to other structures. One of the provisions in Section 1.0202 of Article 1 of the TCLUO is "to aid in the provision of fire and police protection." Approval of the Applicant's request does not, in our opinion, ring true to this provision.
- 3) Given the increased possible impact of fire with structures this close to each other, this proposal will detrimentally affect homeowners' insurance premiums.
- 4) In constructing new homes on lots with only a 5' setback on each side, how will it be possible to get heavy machinery and large construction vehicles and apparatus along the sides of lots? Where will excavated materials be placed? Where will building materials and supplies be unloaded and kept until used? We believe this could also "substantially limit, impair or prevent the use of surrounding properties" – most specifically our Lot 32 – along with any lot in the development that borders new construction.
- 5) This proposal is inconsistent with Section 3.320 of the Neskowin Rural Residential (NeskRR) Zone. In item 4 (k)(2) of this section it states that "Building width at all points shall not exceed 70% of the distance between opposite side lot lines (measured as close to perpendicular as possible)." Given that Lot 31 next to us is approximately 40' wide, that means a home could be only 28' wide. That results in 6' setbacks, not the 5' setbacks the Applicant is asking the Planning Commission to approve. While the difference may not be large, adhering to the NeskRR provisions is important to us.
- 6) This proposal, by being submitted to the Planning Commission for approval, is side-stepping our adopted CCRs and asking the County to be party to vacating the clearly defined process for changing our CCRs outlined in Section 15.6 of that document. Our reading of the County's Land Development Ordinance is that it prohibits changes to CCRs as part of the review process. Section 120(3)(c) states that limitations on replatting include that it does not act to "vacate any recorded covenants or restrictions." Approval of the Applicant's request would do just that.
- 7) The scope of the Applicant's request to change setbacks is not clear. While the Applicant is asking the Planning Commission to approve changes that will provide "consistent setback requirements throughout the development," his application is inconsistent in that it also states that the request "involves 13 vacant lots controlled entirely by the Declarant." Which is it? If the Applicant wants to change all setbacks, we believe Section 10.020(1)(a) of the

TCLUO prohibits this. The Applicant cannot ask for changes to setbacks for property he does not own. We believe he has no jurisdiction to modify the setbacks on our Lots 32 and 33.

- 8) Not only is the Applicant ignoring the duly recorded CCRs of our community, but he initiated the request to have the Planning Commission approve a change to the setbacks with no prior notice to current owners. In fact, we were told about the proposed new 5' setbacks by prospective buyers who said that the County would be approving them within the next two months. In other words, real estate agents and prospective buyers have known about this long before property owners found out about it from the County's January 26, 2022, notice. While this may not violate any rules or procedures, it is a disheartening way for owners to be treated.

We appreciate the opportunity to present this written testimony to the Planning Commission and thank the members of the commission for your consideration of our views. We also would like to thank County staff, particularly Melissa Jencks, for her amazingly prompt replies to our questions and requests.

Sincerely,


Boyce and Brooke Heidenreich

January 1, 2026

Tillamook County Planning Commission
1510 - B Third Street
Tillamook, OR 97141

Re: Permit ID # 851-25-000549-PLNG

I am a permanent resident and homeowner of Lot 9 in Sahhali South and have been living here full time since 2021. I am responding to the "Request for replat of a subdivision plat approval for a portion of "Sahhali South" together with Conditional Use request #851-25-000548-PLNG, to amend the Planned Development Master Plan." This is my written testimony to be included in the staff report on the Sahhali South Application for Replat application #851-25-000549-PLNG. I ask to also be included in providing oral testimony.

I am registering my objection to the following items in this Land Division Application request as presented to the Tillamook County Planning Commission, and request that they not be approved.

Item 1 – Replat existing lots 14-19, I do not have an objection

Item 2 – OBJECTION I object to replatting of lots 46 - 48. Whereas the new lots 47 and 48 are within the development guidelines, the newly created boundaries of lot 46 result in a lot that is unbuildable for either a single family or town home. This lot would not have the necessary setbacks from a road that are the foundational characteristics of both this neighborhood and the adjoining Sahhali Shores development. South. The required 20-foot front-yard setback is a defining design element of the neighborhood and contributes to its consistent streetscape, safety, and livability.

The applicant is attempting to remedy this by getting an exception to setbacks from the road. If a single family home is attempted to be built here, it would be objectionably close to the road, and be the only home that is 5 feet from a road in the entire two neighborhoods. Granting this exception would allow a dwelling to be constructed approximately five feet from a public roadway on a corner lot, creating visibility issues and posing a danger to pedestrian and vehicle road traffic. This would become the only residence in either subdivision with such a minimal setback, establishing an isolated and incompatible development pattern that is inconsistent with the surrounding built environment. This resulting development is not consistent with comprehensive plan provisions nor zoning objectives of this area.

Item 3 – OBJECTION While the applicant is welcome to designate more lots as open space for the benefit of the community, the exchange of lot 13 (a steep lot that is difficult to access) for community space (designated as Tract A) is unacceptable. The characteristics of lot 13 have not changed since the applicant set out the original plat. The long driveway to lot 13 (also called Thalassa) borders several townhomes and was never envisioned to be used as a road to a community open space. This resulting exchange is not consistent with the comprehensive plan provisions nor zoning objectives of this area.

Item 4 - OBJECTION Partition Tract A: Open Space into (2) Lots. I object to the open space

conversion to building lots:

- a) When I was considering purchasing a home in Sahhali South, I did so while factoring in the density of the built environment in balance with open spaces.. Since the existing homes were a bit close together, I felt the space would provide a sense of openness that would offset any density from the other homes. The relocation of this open space for the more steeply sloped, inaccessible areas of lots 13A and 13B is not a comparable exchange.
- b) The applicant is not honoring the proposed plan and promised expectations of the homebuyers. This is not consistent with the goals and policies of the Sahhali South Comprehensive Plan.
- c) The residents of Sahhali South have been considering uses for the open space on the corner of Heron View and Proposal Point. The central location of this open space and the flat ground area make this a perfect location for a community gathering place, recreation or potentially a future community center (as identified on page 14 of the Master Development Plan).
- d) This change would alter the character of the surrounding area in a manner which limits and impairs the use of the surrounding area and non-beach recreational opportunities in the development. The community will be unable to utilize the open space currently in lots 13A and 13B steep slopes.

Item 5 – OBJECTION While there has been one single family home built to date in this townhome development, the character of the development does not lend itself to many more. Merging townhome lots into single family home lots, across the street from townhomes, is inconsistent with the zoning considerations in this area.

Item 6 - no objection. Lot 48 has always been advertised as a single family home lot, as it is tucked behind the majority of townhomes. This is not a change to the existing plan and so it is confusing as to why it is listed by the applicant as a plat change.

Item 7 – OBJECTION This change to setback for lot 46 from 10 feet to 5 feet would require a vote by the owners of Sahhali South to amend the CC&R's.

- a) Applicant does not have the sole right to amend SS CC&R's.
- b) The Proposed Amendment to Recorded CC&R will increase the density of the development, reduce views and will affect properties outside of the "subject properties boundaries" in the application.
- c) This does not meet Tillamook Land Use Ordinance Section 1.020 Purpose. The proposed setback will not serve the purposes listed which are to "encourage the orderly development of land, . . . to preserve and stabilize the value of property; aid in the provision of fire and police protection; facilitate the provision of community services (water, propane) prevent undue concentration of population, protect and enhance the appearance of the landscape and to protect

and promote public safety.”

- d) Under Tillamook Land Use Ordinance section 6.040 Review Criteria:
 - Section 3: The remaining lots in the subdivision are not suitable for a setback change based on size, shape, location, existence of improvements.
 - Section 4: The proposed new setback will alter the character of the surrounding area in a manner which impairs or prevents the use of surrounding property for residential, recreational purposes.
- e) This is a substantial change in the appearance of this and adjoining Sahalli Shores subdivisions as it exists, as currently all dwellings are spaced 20 feet from existing roads.

This application is substantially similar to one submitted in 2022. At that time the residents of the Sahalli neighborhood strongly voiced their objections and the application was withdrawn. In the past, Tillamook County has expressed the condition that *“All areas designated as open space, common area, wetlands or the areas designated for development shall not be further subdivided for development purposes.”* This application is trying to subdivide an open space, common area.

I respectfully request that this application be denied.

I look forward to discussing these issues with the Commission in the hearing scheduled for January.

Sincerely,

Lisa Bentson
6435 Heron View Drive (Lot 9)
Neskowin, OR 97149
lisabentson@gmail.com
(760) 390-7099

Ms. Sarah Thompson
Tillamook County Planning Commission
1510-B Third Street Tillamook, OR 97141
Sent via email: sarah.thompson@tillamookcounty.gov

Re: 851-25-000549-PLNG/851-25-000548-PLNG

My husband and I are residents of Sahhali Shores, the community that is next to Sahhali South. We own a home at 44570 Sahhali Drive and the lot that is behind our home. We vehemently opposed the replat application in 2022 (see letter attached from April 2022) from the developer of Sahhali South and oppose the current application:

- The proposal takes an open piece of land that has been deemed open land for over 22 years and requests being able to build two homes on this small area with side and back setbacks that are not consistent with rural standards. From the application: "Existing 'Open Space Tract 'A" (Tax lot 5900) is to be divided into two (2) residential lots and numbered as Lots 57 and 58. Relocates the existing 'Open Space Tract 'A" (Tax Lot 5900)."

Also from the applications: "Condition #7: All areas designated as open space, common area, wetlands, or the areas designated for development shall not be further subdivided for development purposes. Applicant requests to repeal this condition, to allow for the division of Tract 'A' to allow for two (2) residential lots. "

There is no justifiable reason to request this condition be repealed other than the open space today might be deemed to be more "saleable". That is not a justifiable reason. The other lot is buildable (as has been evidenced by other lots similar in topography that have been built in Sahhali Shores.)

- There is consistent reference in the document to not adding to the number of lots – without commenting that the configuration changes the setbacks which will result in a changed density in the community.
- "Lot 48 will be reconfigured and expanded to include portions of the existing Lot 48b. The lot will access Proposal Point Drive via Vanora Street, which is a shared access driveway and panhandle portion of the proposed Lot 47." I don't understand this at all...has anyone from the Planning Commission come to see what the developer is proposing. There is no private shared access driveway/road on Vanora. "Lot 47 will access Proposal Point Drive via the existing panhandle portion of this

lot. The panhandle portion of the existing Lot 48b (new proposed Lot 47) is a private shared access driveway (or road as defined in LDO) referred to as Vanora Street on the Major Partition plan (MP 08-02).” There is a not helpful

- “Change Thalassa Drive from a local private street to a maintenance road and driveway, thereby removing the requirement to maintain Thalassa Drive to local street standards.” This makes no sense – it is a dead end street. Will this be closed to the community?

This application is 143 pages. Many in Sahhali Shores were only made aware of this a couple of weeks ago – and I agree with neighbors that the developer tried to put through this application at a time that owners would be busy and this could get ignored. How do you even accept a 143 page application document that does not show simple, easy to read “before and after” maps? I can’t find them anywhere.

I am sorry if I sound overly frustrated but I am concerned about the attempt to change aspects of Sahhali South that together with Sahhali Shores, make for a beautiful rural community.

We are hopeful that this Planning Commission carefully considers the implications of what is proposed and denies the replat application.

Regards,

Maria Veltre

Maria Veltre

Owner: 44570 Sahhali Drive, Neskowin and Lot 45 in Sahhali Shores

April 2, 2022

To Tillamook County Planning Commission:

My husband and I live in Sahhali Shores (44570 Sahhali Drive). We were very concerned to learn of the proposed **851-22-000003-PLNG**, the replat of Sahhali South.

We came to Sahhali Shores because of the tranquil, quiet neighborhood. We are dumbfounded to learn that after over 15 years of the developer having maintained the same neighborhood design, that he is proposing to densify the Sahhali South community, bringing more homes and less open space in the area. This would materially impact Sahhali Shores and the tranquility of the community to now be surrounded by a neighborhood with 5' setbacks between homes.

More specifically, the suggested replat does not meet the following Review Criteria as outlined in Section 6.040 and Section 3.520(3)(b):

Section 6.040(3): The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.

Section 6.040(4): The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

- **Dispute 1: Significant impact/impairment to the macro surrounding area of Neskowin and Highway 101**
 - Visual Impairment would ensue if Tract A open space plat is split into the proposed 2 building lots. The developer shows a permissible building envelope on A-1 with the east/west longitudinal building's 144' width. This length structure will dwarf all existing Sahhali South and Sahhali Shores structures' width by at least 70'. Note: tax lots 900 and 1000 on Heron View Drive are only 51' wide while the Proposal Point Drive tax lots 4400 and 4500 are just 71' wide.
 - Combined with the developer's 30" height, whatever McMansion railroad train elongated structure is built here will permanently alter the landscape views from Highway 101 and Neskowin. The above-mentioned tax lot 4500 has just a 24' height structure but its nighttime light illumination is visible from Hwy 101.
 - Since A-1 elevation is equal to that of tax lot 4500 and will be 6' higher at 30', the proposed allowable building envelope is 144' east west long, it can be assumed this structure will be always visible, day or night.
 - When combined with the developer's 83% side setback downsizing, the very narrow 10' distance between A-1 and A-2 building structures will create a single east/west structure noticeable from Highway 101 that will appear as just one monstrous structure, not two.
- **Dispute 2: Reputational impairment to the lovely town of Neskowin may occur when this permissible 144' wide A-1 structure is finished. Additionally, while the proposal may seem in accordance with Tillamook County setback requirements of a minimum of 5', when you take into account the vertical building heights of this proposal, Neskowin would have the most restrictive side yard requirements.**

- According to City of Tillamook zoning - there is a requirement to add 0.5' for each foot structure above 15' high. Since the developer's ARB height is 30', this results in an additional 7.5' to be added to the minimum 5'. Thus, the total side lot setback becomes 12.5' in the city of Tillamook vs. just 5' in Neskowin. This urban Tillamook County city then enjoys a 12.5' / 5' or 250% greater side setback requirement than one proposed for the bucolic rural Neskowin hamlet. This onerous stipulation drastically impairs the surrounding area as its side setbacks reduce the natural resource amenities view corridor by 58% [7.5' / 12'] over whatever view corridor exists in the City of Tillamook.
- Additionally, should structure be built in the proposed A-1 lot, the resulting industrial warehouse length building incursion into a rural residential neighborhood may hurt the Neskowin aura of idyllic hills and untouched Oregon coastal landscapes.
- Removing the 17-year-old Tract A open space designation and converting the same into two building lots may also tarnish and stigmatize Neskowin as placing developer profits over environmental sustainability of our beautiful Oregon coast lines.
- The developer's proposed downsized setback requests are the Trojan horse included to ensure that Tract A platted open space can be subdivided into not one but two buildable lots that will completely alter the nature of what is currently deemed to be a rural, coastal community.
- The 17-year developer reconfirmed [15 years ago] the 30' side interior setback currently prohibits any building on Tract A despite the developer's attempt to slice it into 2 buildable lots.
- More specifically, the proposed side setback reduction from 30' to 5' adds 25 additional buildable feet to each north/south building perimeter. The 83% setback shrinkage generates 25' more feet on either side. So, the math is 30'- 5'= 25' additional feet. $25'/5' = 500\%$ increase in allowable footage allowed on each north and south total length.
- Also contributing to a greater building envelope is the proposed side street setback decreasing 25% from 20' to 15'. This reduction in setback increases the building envelope where relevant by 33%.
- These huge building envelope increases, and much less restrictive setbacks proposed are rifles designed to hit the Tract A bullseye and restrict all surrounding area views; depriving current and future residents of the area's natural beauty and forever altering the conditions of the Neskowin coastline.
- **Dispute 3: Significant impact/impairment to the Micro surrounding area with significant densification to a once rural enclave.**
 - The proposal would result in increased density on Proposal Point Drive (PPD) but especially on PPD between Heron View Road and Tyee Loop Ct. The developer's division of Tract A into two lots increases by 20% from 5 lots [tax lots: 4300, 4400, 4500 4600, and 4700] to 6 lots [tax lots 4300,4400, 4500, 4600, plus A-1 and A-2 tax lot numbers].
 - This increased density generates four new east side PPD driveway aprons possibly interlocking or overlapping with tax lots 4400 and 4500 own 4 driveway aprons. Tax lot 4600 two driveway aprons will add to potential interlocking A-2 two driveway aprons.
 - Not only does it generate increased density, but also much additional traffic that intrudes on Sahhali Shores tax lots located on PPD and Tyee Ct.
 - The developer's density at what is the only major north/south and east/west intersection of Proposal Point Drive and Heron View Rd. could be reduced via Section 160 "Dead End Street". This states for roads under 2000' long, there's a potential available permitting up to

18 dwellings. This would alleviate traffic on Proposal Point Drive and decrease density as well.

- Density could also be eliminated by keeping the proposed combined lot 48 as 48-A and 48-B separate. According to [realtor.com](https://www.realtor.com) both of these lots were Listed on Feb 4, 2021 and both went to sign contracts Pending March 24, 2021. It would be helpful to see these two signed contracts and ascertain why they are now proposed as combined.
- **Dispute 4: Tax Lots 3400 and 3500 will be substantially impaired** as the developer's proposed 260' property line, and creation of irregular, sliver lots will shut down both tax lots direct south facing views. Combined with the much narrower side lot setback will obstruct if not obliterate any view once the two 30' structures are built.
 - Each building will now be 25' closer to each tax lot. Once a developer selects his desired setback formula for detached homes. it should become permanent after 17 years. The Tillamook County Planning Board should maintain its 2005 and 2007 consistent and coherent, disciplined reaffirmation of the 30' side setback requirement.
 - The developer's setback downsized request is squarely aimed at converting irregular Tract A into two buildable lots while his lot #14-19 front street widening negates any required downsized setbacks as does revised lot 46. 48 and 13-a and 13-b.
 - According to "Exhibit 2.1: Developers Summary Statement for Sahhali South Master Development Plan", the developer asserts "The proposed development is designed to replicate in feel and look this development. The proposed layout of the development will not impact the scenic views of the adjacent subdivisions." Respectfully, this is an utter lie, and the Planning Commission must disaggregate this assertion.
 - As a resident of the "adjacent subdivision", the eradication of Tract A open space plat and its proposed split into 2 lots will substantially marginalize/destroy somewhere between 90-150 degrees south and east of the existing unblocked 360-degree panoramic vistas.
 - Under the current setback rules, tract A 's single plat affords unlimited and unhindered scenic views. The new downsizing setbacks are singularly designed to ensure Tract A can be converted into buildable lot status with no recognition or acknowledgement of scenic view corridor destruction that will inflict on neighboring lots in adjacent subdivisions.
 - The developer's proposed downsized setback adjustments will only further impair the limited scenic view incursion proposed above by the developer's unsubstantiated need to split Tract A into two building lots now after a 17-year status quo permanency as a single plat.
 - Why not add 1 lot or 2 or more on the new cul-de-sac Thalassa Drive proposed road whose unique Dead End Designation is mentioned by the developer himself? As he states, its unusual parameters permit additional homes without any density implications.
- **Dispute 5: For the immediate surrounding area, reversing the developer's 17-year-old twice affirmed detached home 30' side setback to the proposed minimum 5' does not reflect consistency but rather developer inconsistency, contrary to the developer's proposed assertion.**
 - 2005 Exhibit A conditional Planning Board approval was conditioned that "All areas designated as open space, common area or wetlands shall not be further subdivided for development purposes." The December 2007 Planning Board again re-stipulated the 2005 condition in its own 2007 Exhibit A Conditional approval word for word.

- On a micro level, these inconsistent proposed downsizing setbacks could be interpreted as designed solely to permit the developer to build on Tract A's two divided lots which are not currently buildable under the current 17 developer selected setback settings.
- The developer in his original CCRs claims the right to choose which lots to build or annex; he expressly does NOT grant himself the right to request setback stipulations after 17 years. Granting the developer's proposed detached home new minimum setbacks would greatly impair the current 18 Sahhali South homeowners who bought believing the twice affirmed setback restrictions were permanent.
- The current Sahhali South and Sahhali Shores lot/homeowners would also be impaired. What was considered a permanent view vista in place for 17 years is now proposed to change and impaired 83% narrower viewing bandwidth. These greatly reduced setbacks narrow or extinguish surrounding lot/homeowner views.
- This added restricted and diminished vistas devalue their property investment as what was fixed and in place is now proposed to be arbitrarily changed.
- As proposed, the new setbacks are asymmetrical and inconsistent with Sahhali Shores own setback parameters which the developer had previously affirmed twice 15 and 17 years ago. The increased building envelope permitted under these proposed new setbacks will not "replicate the feel and look" of Sahhali Shores with its greatly reduced side and interior yard setbacks. These downsized setbacks will create an inconsistent and very uneven mix while greatly destroying much of the scenic views neighboring lot owners in adjacent subdivisions currently enjoy and can experience. There will be a tale of two cities in these neighboring communities.
- **Dispute 6: According to Tillamook County Article 4.11: Exception to Yard Setback Requirements – The proposed request does not align to any of the small lot exceptions outlined and therefore must be denied by the Planning Commission.**
 - **4.11.5a: SMALL LOT EXCEPTIONS:** In the RR, CSFR, RC, CC, CR-1, CR-2, CR-3, RMH and RMD zones and including those communities with adopted community growth boundaries, a front or rear yard, but not both, may be ten feet, provided the following apply to the subject parcel:
 - (a) The parcel is 7500 square feet or less in size.
 - (b) At least one side yard is ten feet or more wide.
 - (c) Required off-street parking is provided.
 - (d) The right-of-way width at the front of the lot is at least thirty feet. In the case of right-of-ways under 30 feet in width, a ten-foot yard may be approved if it is approved by the Public Works Department.
 - (e) The lot is not a corner lot. If the lot is a corner lot and meets the above criteria, the front yard may be 15 feet.
 - Developer proposed Lot A-1 is 9285 square feet and is 124% larger than the [a] required maximum 7500 square feet exception and therefore is NOT eligible for either a front or rear yard exception of 10' for detached homes contrary to Table 1 page 17 submission.
 - Not only is Lot A-1 ineligible for detached homes, but also NOT eligible for attached homes. Lot size again 9285 square feet exceeds the necessary exception limit of 7500 square feet.
 - Developer proposed Lot A-1 is presented as having each side yard being just 5'. Since the [b] exception requires at least 1 side yard setback being 10', the developer's proposed Lot A-1 fails this threshold test. Lot A-1 is therefore ineligible for the Section 4.11

exception. Again, NOT eligible for detached homes contrary to Table 1 page 17 submission.

- Proposed Lots A-1/A-2 is non-conforming and therefore not eligible for any exceptions offered in Section 4.11.5a and 4.11.5b; thus the Planning Board should deny its creation.
- **Dispute 7: Tract A is currently an environmentally sensitive habitat for elk and deer.** It is also centrally located within Sahhali South, and ADA compliant for all humans young and old to enjoy the natural views. It is easily accessible and very easy to use. Please see original submission, as current proposal is in direct violation of Oregon House Bill 2834 that seeks to protect wildlife corridors.
- **Dispute 8: Neskowin is renowned for its very severe Pacific storms generating a lot of wintry rain and off the charts wind speeds; the proposal will increase opportunities for the creation of wind tunnels that can damage property and harm residents.**
 - Per the developer's Geotech report submitted with his large 5 lot Sahhali North April 2013 annexation, is a statement reporting wind gusts in the area are normally up to 110 mph. This 100+ mph wind was echoed in the developer's landscape section. Narrowing the setbacks 83% to just 5' will result in both A-1 and A-2 having just a combined 10' between their two structures. Since the same wind volume must travel through a smaller opening, the wind's velocity will increase potential debris impairment to leeward homes, traffic, and pedestrians.
 - The developer's proposed narrower side setback to 10' [2 x 5' each lot] between adjoining lots A-1 and A-2 will increase the wind force on Heron View Road humans and property as the current 60' setback [2 x 30' each lot] allows for the wind to dissipate instead of accelerating through the much smaller opening between the 2 building lots.
 - This increased danger to human life and property on these highest elevation Sahhali South lots should not be permitted as safety first concerns should override this.

Section 6.040(6): The proposed is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.

- **Dispute 1: If replating was “timely” the proposed requests would have been included in one of the two previous requests for rezoning by the developer.**
 - Although the developer could have used Tillamook County's 12/18/2002 Section 35 allowable 5' side setback in both its 2005 and 2007 reaffirmation, he did not. He chose the same consistent 30' side setback that Sahhali Shores elected. The choice of the matching Sahhali Shores 30" side setback may have been to account for public health and safety concerns as well have 500% wider scenic natural view corridor for all to enjoy.
 - The developer is the only beneficiary to these downsized setbacks that afford him a 500% increase on 2 sides on the building home sides for adjoining lots to the detriment and impairment of surrounding lot/homeowners. Without these proposed downsized setback new figures, Tract A would no longer to be suitable to the developer to be sliced and diced into two building lots.
- **Dispute 2: Sahhali South has experienced a boom in recent sales activity, it can only be assumed that those sales were made with the understanding that the 17-year-old community open space (Tract A) would not be significantly altered.**
 - No need to alter the current setback factors as the current 18 Sahhali South homeowners are fully adjusted to the current requirements. Sahhali South is experiencing brisk sales

activity under the current existing setbacks so again there is no reason to adjust the setbacks. Within the past year as of today's date [March 24, 2022] according to www.realtor.com 8 Sahhali South lots are Pending: Lot # 6, 24, 25, 30, 31, 40, 48-A, and 48-B.

- I assume the 8 Sahhali South lots pending will close scheduled post this application. When added to the existing homeowners, the combined total of current and pending future individual lot owners = 26, just 3 shy of the majority of current 56 lots. As soon as this happens, the developer loses his control over the Board of Directors of the Sahhali South Homeowners Association.
- The proposed setback changes seem laser-focused to convert Tract A open space into 2 buildable lots to benefit the developer now. It seems incoherent he proposes this now when the market seems to have recognized the current open space as attractive. Given his brisk sales. These current/future buyers like his consistent 17-year-old prior setback attestations that bring a sense of permanence to them.
- If the developer is so inclined to add additional buildable lots, why does he not replat the massive 10 acres lot of Sahhali North or any of the other Sahhali North lots planned that span 100' wide on Heron View Road? This appears to be an attempt to conceal the developer's further intent to densify the neighborhood – despite annexing the Sahhali North lots in April 2013, he does not acknowledge their existence in his most recent replat request. (https://www.realtor.com/realestateandhomes-detail/Heron-View-Dr-Lot-1_Neskowin_OR_97149_M95860-69433)

Section 3.520(3)(b) (2): Resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area.

- **Dispute 1: Tillamook County defines “open space” as equivalent to “undeveloped land or park facilities belonging in common to the members of a property owners association. The open space, development density, and the layout of the streets in Cluster developments are designed to maintain the natural or scenic amenities of a site, and the minimum lot sizes in Cluster subdivisions are reduced to allow a proportionate increase in the density of the developed portions of the tract.”** The above Tillamook County Section 020 definition equates open space as being synonymous with public park facilities. As such implicit in "open space" is the assumed human interactive component requiring ease of access and ease of use.
 - Inherent in the developer's proposed "swapping" open space from the Tract A (0.34 acreage) for his lot 13 (0.38 acreage) is his incorrect assumption of fundamental equivalence for the 2 parcels. He glosses over his "gently sloping terrain" description of Tract A and immediately equates it to his "steeply sloped" lot 13 statement as being equal substitutes.
 - The problem with this developer assumption is it completely removes the human interaction component requiring ease of access and ease of use for children, handicapped, disabled, and senior citizens to enjoy. It also seems to contradict his earlier 2005 and 2007 submissions to those then serving Tillamook County Board representatives who I'm sure applauded his thoughtful foresight to lay out Tract A as the most accessible and easy to use "open space" central to ALL Sahhali South lot/homeowners.
 - Instead of certifying to his earlier thoughtful open space inclusion near the major Sahhali South intersection, He has now shunted the proposed "open space" designated area to a

peripheral cul-de-sac requiring current Proposal Point Drive homeowners to travel up to 3x the original distance to visit. Moreover, his suggested substitute on lot 13 all but ensures that unlike the aforementioned public park similarity, there is no ease of access or use for many humans.

- Please see **Exhibit C** – Bramble filled cliffside that the developer is proposing becomes the new open space.

Based on the above facts, it would be inconsistent for the Tillamook County Planning Commission to not maintain original open space Tract A designation and placement. I appreciate your consideration and thoughtfulness in this decision, and hope that you choose not to approve the replat of Tract A.

Thank you,
Maria Veltre and Jon Wapner
Owners, 44570 Sahhali Drive, Neskowin, OR 97149

Exhibit A: Tract A is a very gently sloping and easily accessible for all residents, including children, handicapped, disabled or senior citizens. Proposed Open Space is steeply sloping and inaccessible to many current or future residents, as well as discriminatory to handicapped, disabled or senior citizen. Proposed open space would require 36 Proposal Point Lot owners to travel at least twice as far to use a Thalassa Street culdesac.



**Proposed New
Open Space - a
densely vegetated,
inhabitable, cliffside**

Tract A

January 4, 2026

Tillamook County Planning Commission
1510-B Third Street
Tillamook, OR 97141

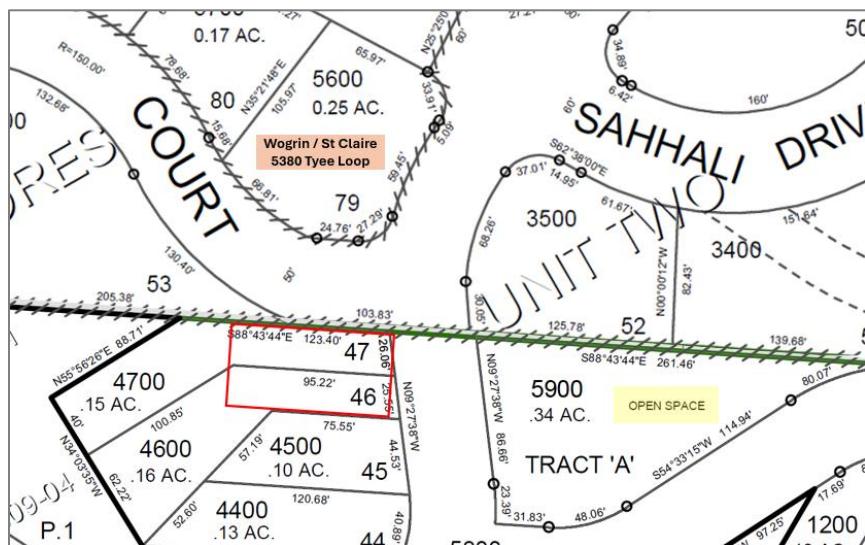
**Re: Permit ID #851-25-000549-PLNG
Conditional Use Review #851-25-000548-PLNG**

I am a full-time resident and homeowner of Lot 79 in the Sahhali Shores subdivision, located at 5830 Tyee Loop. My wife and I have lived at this property full-time since September 2023.

I submit this written testimony in response to the applicant's request for a replat of a portion of the Sahhali South subdivision, together with the associated Conditional Use Review to amend the Planned Development Master Plan. This testimony is intended for inclusion in the staff report for Replat Application #851-25-000549-PLNG and Conditional Use Review #851-25-000548-PLNG.

Basis of Position:

At the time we evaluated and purchased our property in Sahhali Shores, we relied on the recorded plats, approved Planned Development Master Plan, and adopted development standards governing the adjoining Sahhali South subdivision. Because our property is located directly across Tyee Court from Sahhali South subdivision, we specifically reviewed the approved plats to understand the intended configuration and future development of the adjacent land.



Those plats and related sales material clearly showed that the vacant area across Tyee Court was designated as a driveway serving a townhouse bridging the back of lots 46 and 47.

The parcel identified as Tract “A” across Proposal Point was established as open space, intended to offset the density associated with the townhome development and to preserve neighborhood character, visual relief, and consistency with the approved Planned Development concept.

Our purchase decision was also based on the established residential setback standards that apply uniformly throughout both Sahhali Shores and Sahhali South. The required 20-foot front-yard setback is a defining design element of the neighborhood and contributes to its consistent streetscape, safety, and livability. Because our lot is bounded by streets on three sides, our building envelope was subject to 20-foot setbacks on three sides, reinforcing the reliance interests shared by other property owners in both subdivisions.

Additionally, the Neskowin Community Plan and the associated zoning and subdivision regulations provided clear dimensional standards for residential development, including minimum front, side, rear, and street-side setbacks. These standards are not discretionary design preferences; they are adopted criteria that must be satisfied for a replat or conditional use to be approved.

Objections to Replat:

The proposed replat of Lots 46 and 47 does not meet these approval criteria. As proposed, the reconfiguration of Lot 46 would result in a parcel that does not comply with the minimum 20-foot roadway setback standards that have been consistently applied throughout both Sahhali South and Sahhali Shores. Rather than redesigning the lot to meet these standards, the applicant seeks an exception to the required setbacks.

Granting this exception would allow a dwelling to be constructed approximately five feet from a public roadway on a corner lot, creating visibility issues and pose a danger to pedestrian and vehicle road traffic. This would become the only residence in either subdivision with such a minimal setback, establishing an isolated and incompatible development pattern that is inconsistent with the surrounding built environment. Approval of a setback exception under these circumstances would undermine the purpose and intent of the setback standards, which are designed to ensure uniformity, safety, visual consistency, and compatibility among neighboring properties.

In addition, the proposed configuration of Lot 46 is located on a significant side slope, further calling into question whether the lot is reasonably buildable under the County’s development standards. The site’s topography, when combined with the reduced setbacks, severely constrains practical building options and is inconsistent with the home designs presented by the applicant in marketing and sales materials, including the Adair Homes models identified as representative of development within Sahhali South.



Request for Denial:

With these considerations, the proposed replat of Lots 46–48, the requested setback exception, and the proposed removal of Tract “A” as permanent open space fail to satisfy the applicable approval criteria for land divisions and conditional uses. These actions are inconsistent with:

- The approved Planned Development Master Plan for Sahhal South;
- The dimensional and setback standards applied throughout the neighborhood;
- The adopted Neskowin Community Plan; and
- The reasonable reliance interests of existing homeowners who purchased property based on the recorded plats and approved development framework.

Approval of these requests would materially alter the character, density mitigation, and established development pattern of the community in a manner not contemplated by the original approvals.

For these reasons, I respectfully request that the Planning Commission make findings that the application does not meet the applicable approval criteria and deny:

1. The proposed replatting of Lots 46–48 as currently submitted; and
2. The proposed elimination of Tract “A” as designated open space.

We hereby formally object to these elements of the Land Division Application and respectfully request that they not be approved. I appreciate the Planning Commission’s careful consideration of this testimony in connection with Replat Application #851-25-000549-PLNG and Conditional Use Review #851-25-000548-PLNG.

Sincerely,



Robert Wogrin & Joanna St Claire

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