



MEMORANDUM

DATE: October 13, 2023

TO: Gresham Planning Commission

FROM: City of Gresham, City Attorney's Office

CC: City of Gresham, Planning Staff
Leeper Development Group, Inc.

RE: Veranda Master Plan and Subdivision (SD/MIS 20-26000343 MPLAN 21-00652) Response to May 23, 2023 Schwabe Letter

This memorandum is in response to the May 23, 2023 letter issued by Schwabe on behalf of Leeper Development Group, Inc (hereinafter “the Applicant”). This memorandum seeks to provide a legal framework for responding to the wetland and water quality issues raised by the Applicant and to address the Applicant’s arguments about the perceived faults the City Staff conducted while reviewing the Applicant’s development application of the Veranda property (hereinafter “the Property”).

I. Interpretation and Application of State Law Related to Locally Significant Wetlands

A. The City’s Determination of Locally Significant Wetlands is Mandated by Law

The City’s determination that wetlands located on the Property are locally significant is not just supported by law, but mandated. Specifically, per ORS 197.279, the Oregon Department of State Lands (“DSL”) is required to promulgate rules that provide criteria and procedures that local governments must follow in identifying locally significant wetlands, as required by Statewide Planning Goal 5. *See* OAR 141-086-0300. To this end, DSL created mandatory criteria that dictate circumstances under which a local government must designate a wetland as locally significant (OAR 141-086-0350(2)) and “optional” criteria that a local government, at its discretion, can apply to designate a wetland as locally significant (OAR 141-086-0350(2)(b) and (3)).

As relevant to the Property’s wetlands, OAR 141-086-0350(2)(b) provides:

“a local government shall identify a wetland as locally significant if***the wetland or a portion of the wetland occurs within a horizontal distance less than one-fourth mile from a water body listed by the Department of Environmental Quality as a water quality limited water body (303(d)list), and the wetland’s water quality function is described as “intact” or “impacted or degraded” using OFWAM.” Emphasis added.

As applied here, the Veranda wetlands satisfy the proximity and water quality function criteria of OAR 141-086-0350(2)(b). The Veranda wetlands are within a ¼ mile of Kelley Creek, which is on the state’s 303(d)¹ list for temperature (year-round) and temperature (spawning). Furthermore, the subject wetland evaluated (Wetland 1) has water quality function that is “impacted or degraded.” Thus, per DSL rule, the City is required to designate the wetland as locally significant.

We do not understand the Applicant to dispute that the wetland on the Property meets the mandatory LSW criteria in OAR 141-086-0350(2)(b). Instead, the Applicant’s evidence and arguments relate to why, despite meeting the mandatory criteria, the Applicant believes that the wetlands should not be considered significant based upon discretionary criteria in OAR 141-086-0350(2)(b). Those arguments and evidence are addressed in Section II of this memo.

B. The City May, but is Not Required to, Consider Whether to Deem the Wetland Not Locally Significant, Even Though it Meets the State’s LSW Standards

OAR 141-086-0350(2)(b) provides a local government the discretion to deem a wetland that otherwise qualifies as locally significant as not significant but, only if the local government, at its sole discretion, elects to do so. Said differently, because the wetlands at issue meet the mandatory standards for being deemed a locally significant wetland (“LSW”), the City can rely upon that determination and not consider any further evidence about the wetland. In that case, the evidentiary and legal issues raised in Schwabe’s May 23 letter are irrelevant because they relate only to the discretionary portion of OAR 141-086-0350(2)(b).

However, if the City decides that notwithstanding the fact that the wetland meets the regulatory definition of a locally significant wetland, the City elects to determine whether there may be a basis for reaching a conclusion of non-significance, then the City may apply the discretionary portions of OAR 141-086-0350(2)(b).

This is a critically important point. To repeat, the City is not required to engage in the discretionary analysis of whether the wetland may not be significant. The balance of this memorandum addresses the evidence and arguments that the City must evaluate if it chooses to

¹ Initially the Applicant believed that the water body was not on the 303(d) list, but that was based upon a mistaken understanding that the water body was Kelly Creek instead of Kelley Creek. We understand that there is no longer a dispute that the water body is Kelley Creek and that it is included on the 303(d) list. The Oregon Department of Environmental Quality specifically assessed Kelley Creek, data derived from Kelley Creek was included as part of the Johnson Creek Watershed Assessment Unit, and was on the 303(d) list for temperature at the time the Veranda application was submitted to the City.

consider whether the wetlands are not significant. If the City instead relies upon the mandatory LSW criteria, the remainder of this memorandum is irrelevant.

C. The Application of OAR 141-086-0350(2)(b) Complies with the Statutory Requirements Related to Housing in ORS 197.307

State law requires that the City apply only clear and objective standards, conditions and procedures regulating the development of housing, such as the proposed housing in the Veranda application. ORS 197.307(4). The mandatory provisions within OAR 141-086-0350(2)(b) discussed in Section I.A. of this memo are clear and objective, in compliance with ORS 197.307(4). Further, the undisputed conclusion is that the wetlands on the Property meet those standards and qualify as locally significant wetlands.

State law also provides that an alternative process that includes discretionary criteria may be made available to an applicant for housing, so long as: the applicant retains the option of pursuing a clear and objective path, the density allowed is at or above the density allowed by that path, and the process complies with applicable statewide land use planning goals and rules. ORS 197.307(6).

The discretionary criteria in OAR 141-086-0350(2)(b)² is an alternative process that complies with ORS 197.307(6). The Applicant is dissatisfied with the outcome of applying the clear and objective criteria in OAR 141-086-350(2)(b), which leads to the conclusion that the wetlands are LSW, so has requested that the City elect to exercise its discretion and apply the discretionary criteria in (2)(b) of the rule. Applying the discretionary criteria does not reduce the allowed density and the process complies with all applicable law. Accordingly, the City's application of OAR 141-086-0350(2)(b) complies with ORS 197.307.

II. Issues and Evidence Relevant to Discretionary Consideration of Whether a LSW is not Significant.

A. Evidence that Can Be Relied Upon as “Documentation” of a Wetland’s Water Quality Improvements

If the City opts to consider whether the wetlands may not be locally significant pursuant to the discretionary standards in OAR 141-086-0350(2)(b), the City's conclusions must be supported by “documentation that the wetland does not provide water quality improvements for the specified parameter(s)” that gave rise to the relevant water body's inclusion on the Department of Environmental Quality's (“DEQ”) 303(d) list—in the case of Kelley Creek, temperature.

Schwabe's May 23 memo alleges that the City has interpreted the above quoted language to mean that only an Oregon Freshwater Wetland Assessment Methodology (“OFWAM”) may be relied upon as the “documentation” required under OAR 141-086-0350(2)(b). The City does not interpret the rule in such a limited manner. Instead, the City will consider any documentation that the Applicant offers, including the Oregon Rapid Wetland Assessment Protocol (“ORWAP”) submitted by the Applicant. However, accepting documentation does not mean that

² Subsection (3) also includes discretionary criteria, but that section of the administrative rule is not at issue here.

the documentation provides substantial evidence to conclude that the wetland does not provide water quality improvements to the temperature of Kelley Creek. The August 23, 2023 analysis from Pacific Habitat Services (“PHS”) details why City Staff is not persuaded by the documentation submitted by the Applicant, which is summarized in Section II.B of this memo.

B. Water Quality Improvements Provided by the Veranda Wetlands

As noted above, the optional discretionary consideration of whether a LSW should nonetheless be characterized as not being locally significant is to be based upon “documentation that the wetland does not provide water quality improvements for the specified parameter(s)” that gave rise to the relevant water body’s inclusion on DEQ’s 303(d) list—in the case of Kelley Creek, temperature.

The Applicant offers five (5) reasons it believes that the wetlands on the Property do not provide water quality improvements for temperature; each of which is summarized below. Analyzing each of these issues requires the City weigh conflicting expert testimony that reaches different conclusions about whether the criteria are met. Following the summary of the technical issues, Section II.C of this memo details the credentials of the experts that City Staff have relied upon to make its recommendations.

i. Degraded Status of Veranda Wetlands Does Not Alter the Local Significance Findings

The Applicant repeatedly references the Veranda wetland resources as degraded. As a threshold matter, the degraded condition does not alter the City’s obligation to find those wetlands meet the mandatory locally significant wetland criteria in OAR 141-086-0350(2). To the contrary, one of the mandatory standards is whether a wetland is described as “intact” or “impacted or degraded” using OFWAM.

City Staff and multiple third-party reviewers are in agreement that the Applicant’s documentation of the degraded status of the wetland resources does not alter the local significance findings. Most urban and agricultural wetlands are degraded in comparison to wetlands in areas more distant from land use impacts. An additional technical response to the issue of whether Veranda wetlands are degraded is addressed in the August 23, 2023 PHS memo.

ii. “Lower” ORWAP Rating Does Not Mean that the Wetland Does Not Provide Water Quality Improvements for Temperature

The ORWAP analysis from the Applicant’s wetland expert, AKS, resulted in a finding that the wetland’s water cooling functions are “lower,” which led AKS to conclude that “...wetlands on the project site do not contribute meaningful water cooling (temperature) improvements to Kelley Creek.” The August 23, 2023 PHS memo provides a detailed analysis of AKS’s ORWAP analysis and related conclusions, which resulted in PHS concluding “it is our best professional judgement that AKS’s memo does not adequately document that the wetlands on the Veranda site do not provide water quality improvements for the parameters for which Kelley Creek is 303(d)-listed (i.e., year-round water temperature and temperature for spawning) and as described

below, we do not find their assessment proves that the wetland should not be identified as locally significant.”

PHS is unable to find adequate support for AKS’s claims that there is no cooling benefit provided by the Veranda wetlands to Kelley Creek due to the absence of field data collected for the purpose of substantiating the timing and degree of subsurface connection. In review of the evidence AKS offered by means of ORWAP assessment, PHS disagreed with AKS based on three concerns:

- Inconsistencies and data gaps within AKS’s ORWAP analysis, which when corrected by PHS resulted in a “higher” finding;
- Inconsistencies between AKS’s analysis and the wetland delineation report prepared by Schott & Associates, Inc. for the Veranda site, which was accepted by DSL and is supported by photographic evidence (also see Section III.C of this memo for additional discrepancies); and
- A “lower” finding in ORWAP is a score relative to other wetlands in the state; a lower rating does not mean that the wetland does not provide water temperature functions.

iii. Kelley Creek’s Specified Parameters is a Year-Round Water Temperature Concern; Not a Seasonal One

Much of AKS’s analysis focuses on whether the wetlands on the Property provide water quality improvements during the summer months. That is too narrow of a view that is not supported by the basis for Kelley Creek being designated as a water quality limited water body.

Kelley Creek is 303(d)-listed for having impaired year-round temperature and temperature for spawning. Therefore, the analysis of whether the wetlands provide water quality improvements for temperature must consider conditions year-round. PHS’s memo explains that AKS’s memo cannot be relied upon to reach the discretionary conclusion of local non-significance because the memo “does not provide documentation that the documented discharges from the wetlands do not provide water quality benefits to downstream waters in the winter months or during the early part of the growing season.” Further, the PHS memo highlights available evidence that the benefits persist further into the growing season (providing photos from mid to late March in multiple years) and extends into the warm weather season (providing photos from early to mid May in 2022).

iv. The Extent of the Surface Water Connection Between the Wetlands and Kelley Creek is Not the Only Consideration; Groundwater Connections Can Also Provide Water Quality Improvements

AKS’s memo claims a lack of a surface water connection between the wetlands and Kelley Creek, particularly during the summer months. PHS’s memo addresses this issue by raising three points:

- Photographic evidence, site visits and the Schott delineation provide contradicting evidence that show a surface water connection;
- The surface water connection argument improperly focuses on only the summer months, but the 303(d) listing is relevant to a year-round analysis; and
- Photographic evidence, site visits and the Schott delineation support a conclusion that there is a groundwater connection persisting between the wetlands and Kelley Creek, both within and outside of the cool wet season.

v. The Applicant’s Suggested Tree Planting Mitigation Is Not Relevant to the Water Quality Benefits Provided by the Wetlands, and is Not a Functional Replacement

The Applicant has emphasized mitigation and voluntary riparian tree planting enhancements that are intended to benefit stream temperatures. OAR 141-086-0350(2)(b) evaluates whether the existing wetland provides the specified water quality improvements. Mitigation or other efforts to improve water quality, such as riparian tree planting, are irrelevant to the analysis of whether a LSW may be considered locally not significant. Further, the efficacy such mitigation and related considerations, such as mitigation not being a functional replacement and temporal loss of ecological functions, are detailed in the attached September 1, 2023 Natural Resources Staff Review Memo.

C. Experts that City Staff have Relied upon to Conclude that the Wetland Does Provide Water Quality Improvements to the Temperature of Kelley Creek

As explained in Section I.A. above, the wetlands on and adjacent to the Property meet the mandatory definition of a locally significant wetland. If the City elects to engage in the discretionary analysis of whether the wetlands provide water cooling benefit in Kelley Creek, Staff believe the review and feedback of experts supports a conclusion that those water quality improvements are present, so the wetlands qualify as LSW under the discretionary standards in OAR 141-086-0350(2)(b).

Between January 17 and March 8, 2023, the City’s Natural Resources staff collected the opinions of experts in the field of wetland science, water quality, hydrogeology, Johnson Creek basin geology, and stream geomorphology. The experts reconsidered the City’s 2017-2022 findings that the wetlands within the Property constituted locally significant wetlands per the discretionary standards in OAR 141-086-0350(2)(b). This reconsideration included the review of the Applicant’s position statements within the AKS memorandum submitted to the City on January 16, 2023. As compiled and presented in the March 22, 2023 “Majidi Memo,” City staff along with the external experts concluded unanimously that the Veranda wetlands qualified as locally significant due to (1) their compliance with the standards in OAR 141-086-0340(2)(b); and (2) the Applicant’s failure to provide the City with adequate documentation demonstrating the Veranda wetlands provide no water quality improvements to Kelley Creek’s temperature pursuant to the discretionary standards in OAR 141-086-0340(2)(b).

On May 24, 2023, the Applicant also submitted a memorandum prepared by AKS to the City providing additional rebuttal to the City's continued finding of local significance. This memo included additional ORWAP and OFWAM assessment material, and conveyed their argument that planned wetland and ESRA mitigation efforts would provide more benefits to Kelley Creek than what the existing Veranda wetland resources provide. The PHS memo dated July 14, 2023, is expert evidence that responds to the Applicant's ORWAP and OFWAM assessments, as well as Applicant statements related to AKS's rationale as to why the Veranda wetlands do not interact with Kelley Creek via groundwater in a manner that provides a water-cooling benefit.

The experts City Staff have relied upon are qualified to review and assess local significance of Veranda wetland resources relevant to their water cooling benefits and surface and groundwater connections to Kelley Creek. The Applicant states in their letter, "Ms. Majidi claims her memo is supported by individuals at a state agency, in consultant groups, and a law firm. None of the individuals are named, nor did any of those individuals***produce an analysis supporting the Majidi memo." Moreover, the Applicant states, "no reasonable person would rely upon the unproven or secret claims over the expert opinion and analysis provided by AKS." The Applicant's accusations are not warranted, and summary expert response to the primary question of local significance made by Craig Tumer of PHS was provided verbatim and his full ORWAP analysis was included in the Majidi memo. For additional transparency, the City's experts, their job titles, and a summary of their analysis of the wetland issue for the Property is attached as **Exhibit A**.

III. The Applicant's Perceived Faults in City Staff's Conduct While Reviewing the Veranda Application

Throughout the May 23, 2023 Schwabe letter, the Applicant makes several statements about its perceived faults in City Staff's conduct while reviewing the Veranda application. The City responds to the Applicant's statements accordingly.

A. The Majidi Memo Addresses Technical Points Related to the City's Recommendation About the Local Significance for Veranda Wetlands; Only the Planning Commission or City Council Can Make the Determination

The Majidi Memo is a technical resource for Planning Staff and City decision makers. It does not speak to the City's approval or denial of the Veranda subdivision and Master Plans. Schwabe's May 23rd letter states, "the Majidi Memo argues that the City must deny the Veranda Subdivision and Master Plans because Wetlands, 1, 2, 3, and 5-located on the project site- are locally significant." The City would like to make clear that the purpose of the Majidi memo is only for the City's Natural Resources Staff to provide the City Planning Staff and Planning Commission with information as to why they concluded the Veranda wetlands are locally significant. Planning Staff will consider the Majidi memo, and all evidence and argument that is in the record, when it makes its recommendation in its staff report to the Planning Commission. The City's determination as to approval or denial of the Veranda Subdivision and Master Plans still requires a separate analysis at a public hearing by the Planning Commission, and if

appealed, the City Council. Thus, the City has not yet reached a conclusion or findings of whether to approve or deny the Applicant's Veranda subdivision and Master Plans, and approvability of those applications is not addressed in the Majidi memo.

B. City Staff has Not Sought to Block the Applicant's Efforts to Develop the Veranda Property

The Applicant states they "strongly disagree that the City's Natural Resources staff have sought to offer assistance or support him as the applicant." City Staff have attempted to help the Applicant with his development application from the start because of the complexity of factors at the Property. A sampling of some of Staff's efforts include:

- In 2017, the Applicant submitted their initial Veranda pre-application to the City and the City informed the Applicant that the Property had extensive unmapped wetlands that would likely be found to be locally significant.³
- The City informed the Applicant that because of the various wetland indicators, a delineation would need to occur. On August 27, 2018, the Staff connected the Applicant with a wetland mitigation banker named Brent Haddaway.
- For the last six years Staff have assisted the Applicant to the best of their abilities on concurrent project sites of the Applicant, including the Veranda subdivision. This includes answering the Applicant's questions and concerns via email, meetings, and phone calls, and providing rapid response to Planning staff working on the Applicant's subdivision projects.
- The Staff have proactively worked to plan for the permitting and mitigation necessary for floodplain, wetland, and stream impacts associated with public works improvements that would likely be implemented as this area of Pleasant Valley develops.

It is not accurate to say the City's Staff have attempted to block the Applicant's efforts to develop the Property when, on the contrary, the Staff have availed themselves to help the Applicant through this process. Staff have appropriately served their expected role in reviewing this project to ensure resources are appropriately identified, mapped, and mitigated for when impacts are unavoidable. Serving the public's interest in that role should not be mis-represented as working against a developer or blocking a proposed development.

It's worth noting that the Applicant has been aware of the likelihood of the City's findings that the wetlands at the Property could be found to be locally significant. The Applicant states, "it is both unfair and incorrect for staff to assert that the applicant should have known starting in 2017 that the wetlands at issue were locally significant." Although, at the pre-application stage the City cannot make a finding of a locally significant wetland, the City did inform the Applicant of the high possibility of the Veranda wetlands being classified as locally significant since 2017

³ As demonstrated in the City's Excerpt from the March 2017 Pre-application Meeting Summary Comments provided to the Applicant in the Majidi memo as Attachment 2.

because of the readily apparent wetland indicators, soil types, and specific landscape position. Therefore, it is fair to say the Applicant has been on notice since 2017.

C. City Staff Did Not Trespass Onto the Veranda Property; Site Visits Were Needed to Evaluate Discrepancies in the Reports Filed by Applicant's Two Experts

The City staff did not illegally trespass onto the Property. The Applicant states, "The efforts to block the development have escalated recently with PHS's apparent City-directed trespass on the Veranda property for the purpose of conducting an unauthorized site visit for their ORWAP assessment." The Applicant throughout his letter makes other similar statements accusing the City of illegal trespass onto the Property. No City trespass has occurred because the Applicant granted the City written permission to enter the Property.

As the Applicant acknowledged in his letter, he signed the City's development permit application, providing the City with authority to enter the site for inspection. The City's Development Permit Application states, "By signing, I/we authorize the City of Gresham employees, Hearings Officer, Planning Commissioners, Design Commissioners and all other City of Gresham officers, agents, authorized representatives and/or independent contractors to enter the site described above for inspection of site in conjunction with this land use application." The Applicant reviewed and signed the development application, which included this language on December 21, 2020. Therefore, the Applicant was aware and agreed that the City or those listed above could enter the Property to inspect at any point while his development application was pending. PHS entered the Property for inspection on January 31, 2023, while the Applicant's development application was pending.

Inspection of the wetlands on the Property by City NR staff and PHS was done only in response to the Applicant's request for further scrutiny of the City's prior local significance determination, and was necessary to resolve discrepancies between the documents prepared by the Applicant's different wetland consulting firms, particularly AKS's ORWAP evaluation and Schott & Associates' wetland delineation report. These discrepancies include:

- AKS's ORWAP evaluation which characterized the wetland's hydroperiod as "ephemeral" (surface water present for less than seven consecutive days during an average growing season); however, the Schott & Associates wetland delineation report described flowing water in a ditch within the wetland and provided a photo of significant flowing water in the ditch on March 26, 2019, which suggests surface water present for much longer than 7 consecutive days within the growing season.
- AKS's ORWAP evaluation stated that no water flows out of Wetland 1; however, the Schott & Associates wetland delineation report states that water flows out of the wetland and into a roadside ditch, which flows to Kelley Creek.

- AKS’s ORWAP evaluation stated that herbaceous cover within the wetland consisted of 100% forbs; however, the Schott & Associates wetland delineation report described the vegetation community to be dominated by grasses.
- AKS’s ORWAP report stated that Wetland 1 contained 5-20% bare ground; however, the data sheets contained in the Schott & Associates wetland delineation report showed 100% vegetative cover and 0% bare ground in the majority of sample points in Wetland 1.

Due to the conflicting information in the documentation by the Applicant’s wetland consulting firms, per the City’s request, PHS entered the Property to conduct an inspection to resolve the discrepancies to adequately review AKS’s ORWAP evaluation.

Further, the Applicant has submitted other development permit applications with the City before for various other projects and is well aware of the City’s ability to enter the project site when an inspection is necessary.

D. The City is Required to Engage in Wetland Protection When Wetlands are Present

The Applicant states, “Ms. Majidi has sought to have DSL designate roadside ditches located adjacent to the Veranda property as jurisdictional waters of the state.” In 2019 City Operations Staff requested a wetland determination for all arterial right of way ditches in Pleasant Valley in order to avoid unintended impacts to wetlands during road and ditch maintenance activities. Accordingly, in July 2019 PHS assessed all arterials and their associated ditches throughout Pleasant Valley, including 190th Avenue, for areas where wetland indicators within and adjacent to the ditches indicate that regulatory thresholds needed to be observed during City road and ditch maintenance activities. That mapping effort resulted in a map created for City Operations & Maintenance use.

Later, the Applicant requested that DSL overturn the DSL-approved Schott delineation of 5.52 acres in favor of the 0.12-acre wetland report for Veranda provided by the Applicant’s subsequent consultant, Castle Rose Environmental. As part of its review, DSL requested that the City share resource presence data it had on file, so the City provided the July 2019 right of way wetlands map to DSL.

In the delivery of these materials to DSL, 2019 notes about when to submit delineations for these ditches were re-reviewed and noting that the City had decided to delay formal delineation until impacts to the ditches were in the foreseeable future, City staff requested that PHS complete the full delineation process for the SE 190th Drive ditches. The delineation was pursued because of the likelihood of the frontage improvements and related road impacts along SE 190th Drive within the next 5-years (the timeframe that a DSL wetland concurrence is valid), at which time the City would be legally obligated to assess projects impacts to jurisdictional resources.

City Staff agrees that, as the Schwabe memo points out, property with delineated wetlands have increased permitting and mitigation costs. However, it is the presence of underlying wetland, not the delineation process, that is the reason for increased permitting and costs. Delineation of existing wetlands must occur prior to development. Having wetland delineated in advance of the design phase of improvements increases project efficiencies because it can influence project design, allow the requisite time for planning and permitting mitigation, and prevents delays in implementation.

Were the City to ignore the existence of potential jurisdictional wetlands that need to be protected or mitigated, the City would be acting contrary to DSL's rules and procedures as well as contrary to City code. City Staff recognition of state laws and City code should not be misconstrued as a targeted action against development.

EXHIBIT A

Organization	Name	Job Title/Role	Analysis
Oregon Department of Environmental Quality	Lesley Merrick	Water Quality Assessment Program Lead	DEQ confirms Kelley Creek was 303(d) listed for temperature at the time of the Veranda submittal
Oregon Department of Environmental Quality	Travis Pritchard	Water Quality Analyst - Water Quality Standards Program	Per the 303(d) data set he manages: Kelley Creek, assessed as part of the Kelley Creek Watershed, was considered a water quality impaired water body on the 303d list by Oregon DEQ in the 2018/2020 Integrated Report for temperature (year-round) and temperature (spawning)
Pacific Habitat Services	John Van Staveren	President & Owner of PHS. Senior Professional Wetland Scientist Served on the state technical advisory committee that developed the Oregon's Locally Significant Wetland Criteria	Veranda wetlands are locally significant
Pacific Habitat Services	Amy Hawkins	Professional Wetland Scientist	Conducted OFWAM assessment on Veranda (both the 4.97-acre Wetland 1 from Schott delineation and the 0.12 acre Wetland A from Castle Rose) and found either to be locally significant due to proximity to Kelley Creek
Pacific Habitat Services	Craig Tumer	Professional Wetland Scientist	Reviewed all AKS materials, QA/QC'ed their ORWAP, found discrepancies between AKS and Schott statements about the wetlands, and conducted the field work to assess those discrepancies. Found no evidence in AKS statements that contradicts

			PHS finding that Wetland 1 is locally significant.
River Design Group	Melanie Klym, PE, RG/LG, ENV SP	Licensed Water Resources Engineer & Geologist who worked extensively in the watershed as long-time board member of the Johnson Creek Watershed Council	Reviewed and did not find sufficient documentation in the AKS memo to demonstrate that there is not a subsurface connection between the wetlands on the site and Kelley Creek, and provided the references from USGS and Johnson Creek research that support the groundwater connection benefits to Kelley Creek.
Waterways Consulting	John Dvorsky	Principle Scientist, Geomorphologist. Has conducted stream/floodplain improvement projects in the Johnson Creek Watershed and studied Kelley Creek reaches.	Found that an analysis (informed by geotechnical investigations that define the connection between the wetland and local shallow groundwater elevation) would be needed to support argument of wetlands being not locally significant. Noted contradiction in AKS statements about lack of groundwater connection though tile drains were installed in order to lower shallow groundwater table for the growing season, and damaged tile drains are now resulting in the formation of wetlands (those wetlands are maintained by groundwater).
Stoel Rives	Aaron Courtney	Partner	Provided framework for City response and legal review related to 303(d) listing and local significance criteria.
Gresham's Water Quality Program	Katie Holzer, PHD	Watershed Scientist – Water Quality Program. Leads City's water quality monitoring prog., including temperature monitoring on Kelley Creek. Chairs the	Reviewed with DEQ the 303(d) listing background materials and compiled all of the DEQ feedback that was provided to the Applicant. Provided water quality monitoring data, updated fish presence, macroinvertebrate

		Johnson Creek Watershed Council Inter-Jurisdictional Committee of agency scientists working on water quality and habitat within the Johnson /Kelley Creek basin	presence, fish barrier and in-line pond data in collaboration with the Johnson Creek Watershed Council
Gresham Natural Resources Program	Mike Wallace	Field Ecologist implementing city riparian & wetland restoration and mitigation projects. Conducts riparian and wetland related surveys. Worked 8 years as wetland biologist for HDR before coming to Gresham in 2015.	Reviewed AKS statements against his field familiarity with the Veranda site stemming from his 6 years of work overseeing implementation of mitigation work in PV, including for Brookside-related impacts on the north side of Kelley Creek directly across from Veranda
Gresham Natural Resources Program	Jeff Lesh	Data Analyst who oversees environmental overlay mapping updates. Collected PHS's wetland determination data for the Pleasant Valley Right of Way wetlands mapping project in 2019 that included wetlands identified in 190 th ditches.	Provided all spatial analysis needed for assessment of Veranda preliminary site plans, identifying the missing tributary in the Northwest corner of the site, conflicts in buffer geometries used in applicant's site plans, and observations derived from aerial photo analysis.
Gresham Natural Resources Program	Kathy Majidi	Program Manager. 22 years experience in Johnson/Kelley basin, including new community (Pleasant Valley & Springwater) planning. Oversees capital projects for streams/wetlands. Technical advisor for utilities and Planning on butte drainage issues, resource	Provided review and feedback to Planning staff from the initial pre-application stage in March 2017 to present.

		conflicts, survey needs, and mitigation planning	
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