

WEST LINN CITY COUNCIL

FINAL ORDER

AP-12-02

IN THE MATTER OF AN APPEAL OF A CONDITIONAL USE PERMIT AND CLASS II DESIGN REVIEW FOR THE PROPOSED EXPANSION OF THE CITY OF LAKE OSWEGO WATER TREATMENT PLANT AT 4260 KENTHORPE WAY

Background Facts:

The Planning Commission's Decision

On April 18, 2012 the West Linn Planning Commission conducted a duly noticed public hearing to consider the request by the Lake Oswego-Tigard Water Partnership (Partnership or applicant) to expand an existing water treatment plant (WTP) at 4260 Kenthorpe Way. The applicable review criteria for the Conditional Use and Class II Design Review standards are found in the West Linn Community Development Code (CDC). The approval criteria for Conditional Uses are located in Chapter 60 of the CDC. The approval criteria for Design Review are found in Chapter 55 of the CDC. The hearing was conducted pursuant to the provisions of CDC Chapter 99.

The hearing was continued to April 25 and again to May 2. On May 16, 2012 the Partnership submitted a written request to suspend the applications for the expansion of the water treatment plant to allow additional work in several areas of concern identified during the public hearing, and to allow procedural consolidation of these applications with a planned additional related application for a pipeline to serve the expanded treatment plant. The Commission granted this request and suspended the hearing on May 16, 2012.

On October 17, 18 and 25, 2012, the Planning Commission reconvened and conducted a duly noticed public hearing on two applications. The second application included a raw water and finished water pipeline, AP-12-03. After the hearing, a member of the public requested that the record be left open pursuant to ORS 197.763(6)(b) based on new evidence submitted at the continued hearing. The Commission granted this request, leaving the record open for seven days for all parties to respond to the new evidence. The applicant waived the additional seven day final written argument period provided by ORS 197.763(6)(e).

When the Commission reconvened the hearing on November 1, 2012, the applicant responded with rebuttal argument, followed by questions from the Planning Commission for City staff. The hearing was then closed, and after some deliberation, the Planning Commission voted to deny the applications. As will be discussed in greater detail below, the Planning Commission concluded that the applications were not consistent with the "overall needs of the community," the site was not suitable for the proposed plant use, and that a number of applicable comprehensive plan goals and policies were not satisfied. A final order was signed and entered by the Planning Commission on November 26, 2012.

The City Council's Review

On December 10, 2012, the Partnership appealed the Planning Commission's decision. In response to concerns raised by the Planning Commission, the Partnership included with its appeal further revisions to the plant proposal including removal of the existing Operations Building. The public hearing to consider the appeal was duly noticed on December 20, 2012.

The City Council opened the public hearing on January 14, 2013 for public testimony, the matter was then continued until January 15, to give all parties an opportunity to submit further oral testimony. At the close of the hearing on January 15, the record was left open so that all parties could submit additional written testimony until January 22. The record was then closed to all parties and the Partnership was given until January 25 to submit final written argument. The City Council reconvened on January 28 for the purpose of making a decision. As the City Council was deliberating, new evidence was presented requiring that the record be reopened for an additional seven days allowing all parties to submit any additional written responses. The Council record consists of all materials submitted before the record was closed to all parties on February 4 and the Partnership submitted additional final written argument on February 8. After discussion, on February 11, the Council voted to uphold the appeal and reverse the Planning Commission's decision.

Procedural Challenges

A number of procedural challenges were raised during this proceeding including:

Ex Parte Contacts

STOP LLC and others have asserted that Mayor Kovash's statement at the January 28 hearing regarding discussions with neighborhood representatives outside the record does not comport with the disclosure requirements of ORS 227.180(3) and that he must therefore recuse himself from participating in the decision. The Council elected to respond to the Mayor's ex parte contact by leaving the record open for response. That is exactly what the law requires. ORS 227.180(3) provides:

No decision or action of a planning commission or city governing body shall be invalid due to ex parte contact or bias resulting from ex parte contact with a member of the decision-making body, if the member of the decision-making body receiving the contact:

- (a) Places on the record the substance of any written or oral ex parte communications concerning the decision or action; and
- (b) Has a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication made at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.

The substance of the contact was placed in the record¹ and rebuttal was offered in the 7 day period.² This fully meets the legal standard. The law does not provide for cross-examination. If anyone wished to challenge the mayor's statements that he did not believe that 7 neighborhood associations opposed the project, they could do so, as Mr. Froode did.

City Council Bias

In written submittals, Gary Hitesman argued that he intended to challenge the ability of the City Council to make an impartial decision. Mr. Hitesman did not proceed with voicing this objection during the time provided at the public hearings and for that reason, the City Council finds that no formal challenge was made. Further, for the reasons set out in the Partnership's January 11 letter responding to this issue, the Council finds that Mr. Hitesman's allegations are not supported by any facts contained in the record and they provide an insufficient basis to preclude particular council members from participating due to bias. Finally, the City Council finds that because he did not explain the objection or otherwise provide evidence of bias during the public hearing or open record periods, the objection was not raised with sufficient specificity to allow the Council to respond.

Notice Issues

Karie Oakes and others raised the issue that the notice of the appeal hearing did not state the grounds for the appeal; state that the hearing is *de novo*; and, state that both the record and application was available for review. The CDC does not require that an appeal application state the grounds for the appeal³ and the applicant did not state any. Consequently, the grounds for the appeal were not included in the notice. (The applicant's appeal submittal did outline a series of issues they intended to discuss at the appeal hearing. These items are the subject of a January 3, 2013, memo from staff to City Council. Furthermore, the location of the applicant's submittal materials are referenced in the notice and were available for review at least 10 days prior to the hearing). The content of the notice regarding public testimony could only pertain to a *de novo* hearing and the staff memo, available 10 days prior to the hearing, states that the appeal will be *de novo*. Finally, the notice indicated that the application was available for review. During the hearing, the City's Attorney opined that the notice met the legal requirements and the Council agrees.

Amending the Application Requires Referral to the Planning Commission

Attorneys for STOP LLC and William More argued that revisions to the plant application amounted to a new conditional use application requiring that the City Council remand the matter to the Planning Commission for its consideration. Rather, the public hearing

¹ The Mayor, according to his statement in the record of this case, said that he spoke with two people – One was concerned that “LOT treat WL citizens right” and the other “knew nothing about LOT.” Mayor Kovash email dated February 5, 2013. That is sufficient.

² Mr. Froode took advantage of this opportunity in his email of February 4, 2013 to say that one of the supposed opposition neighborhood associations did not, in fact, oppose and that those who did, did so “in one form or another” (such as, perhaps, to urge further discussions). Moreover, he suggests that not all such associations “had quorums or are active” as well. The Mayor's point appears to be well-taken.

³ 99.250(D) states, “The appeal or review application *may* state grounds for appeal or review.” (emphasis added)

process is designed to allow an applicant an opportunity to modify proposed plans in response to testimony from the public, staff and the decision making body. The City has historically required resubmittal where revisions would result in the application of substantial new code criteria (and where new criteria apply that were not included in the mailed and published notice of the public hearing.) In this case, removing one building and slightly reconfiguring visitor parking further reduces previously anticipated impacts and does not require application of new CDC criteria and therefore does not require resubmittal. Review by the City Council was *de novo* and all parties had an opportunity to review the revised application and submit new evidence in response. The Council finds that this process is consistent with the City's Code and no party was prejudiced as they had a full and fair opportunity to review and comment on these proposed revisions.

New Plant rather than an Expansion Requires Review based on Standards for New Development

STOP LLC and others argued that this project represents a new proposal and it is not a restoration or expansion of an existing plant requiring application of the standards in place for new development. Because a water treatment plant exists on this site, the City Council concludes that this is an expansion and alteration. It would be considered a new plant if one had not previously existed on this site. Nonetheless, regardless of whether this is a new proposal or a restoration or expansion, the applicable approval criteria are CDC Chapter 60 for Conditional Uses and CDC Chapter 55 for Design Review. In other words, the City Council finds that the same criteria apply and would reach the same conclusions whether this were a new plant or an expansion of an existing plant.

**APPLICABLE SPECIFIC APPROVAL CRITERIA
AND FINDINGS OF FACT**

The findings supporting the City Council's decision are based on the staff reports dated April 18, 2012 and October 5, 2012, which are restated largely here, along with additional findings responding to particular objections raised during the proceedings. The applicable standards are identified in italics with the City Council's findings following based entirely on consideration of the amended plant application as submitted on December 10, 2012, and other evidence contained within the record.

As previously noted, the applicant is proposing to replace and expand the WTP located at 4260 Kenthorpe Way, as a conditional use permit for a "major utility." Chapter 2 of the CDC defines major utilities as:

"A utility which may have a significant impact on the surrounding uses or the community in terms of generating traffic or creating noise or visual effects and includes utility, substation, pump station, water storage tank, sewer plant, or other similar use essential for the proper function of the community."

A major utility, such as the WTP, is allowed as a conditional use in the R-10 zoning district pursuant to CDC Section 11.060. Expansion of a conditional use requires a new approval per CDC sections 60.030(B), 60.050(B), and 60.070(B):

“Any change in the conditional use plan or conditions of approval shall require a new application and hearing pursuant to the provisions set forth in this chapter and CDC 99.120(B).”

Further, an approved conditional use or an enlargement or alteration of an existing conditional use is subject to the provisions in CDC Chapter 55 (per CDC sections 60.070(B) and 60.030(B)).

The Council notes that the proposed WTP expansion would be part of a water treatment and distribution system that begins in Gladstone and ends in Tigard. The applicant is proposing to expand the plant’s water treatment capacity from 16 mgd (million gallons per day) to 38 mgd. The new plant will replace a 47-year old facility with obsolete and unreliable electrical, mechanical and treatment technologies with a state-of-the-art treatment facility that is energy efficient and designed to remain operable and occupiable after a magnitude 9.0 seismic event. Related features include a new administration building, new stormwater facilities, parking lot redesign, modifications to existing driveways to comply with West Linn engineering standards, and a new 2 million gallon (MG) underground water reservoir, (see September 27, 2012 applicant’s packet including Memorandum from Eric Day to Zach Pelz, Figure 6.0, Construction Management Overview, and Fire Entrance). The applicant has consolidated its property holdings totaling 9.24 acres to accommodate the new plant while maximizing setbacks from abutting properties. Although the new facility can treat more than twice the current volume of water, lot coverage will only increase by 9%.

The proposed site plan results in enhanced buffering, greater noise attenuation, a public trail connection from north to south, and large areas of open space that will be available for use by the public. The proposal includes low impact design (LID) techniques, such as green street designs, permeable surfaces, green roofs, compact site design, and minimal driveways. The upgraded facility will be safer, more reliable, and more energy efficient than the current plant.

Abutting property owners have stated that, for over 40 years, the WTP has been a good neighbor. However, the City and the applicant acknowledge that major utilities have the potential to create temporary and permanent impacts to the surrounding community. Identified potential impacts must be successfully mitigated in order to be permitted under the CDC’s Conditional Use criteria. The following section addresses principal impacts that were addressed during the proceedings.

KEY CONCERNS

The City Council heard several concerns repeatedly throughout this process. Some of those concerns related to the applicable criteria and some did not. Before turning to the criteria,

the City Council wants to address those repeated concerns and explain the City Council's perspective. The specific criteria and how they are met are addressed later in these findings.

Transportation. The WTP site generates traffic by a combination of employee commutes, operations and maintenance trips, and deliveries. Currently, the plant has 8.25 full time equivalent employees: a plant manager, six plant operators, and one part-time 'on call' operator. Typically, the plant is staffed from 5:00 AM to midnight every day from September through May and from 5:00 AM to 1:00 AM, June through August. Employees work four 10-hour shifts per week.

Currently, WTP activity generates approximately 14 to 15 Average Daily Trips (ADTs). See Exhibit PC-3, Section 10, Vehicle Trip Generation. Chemical delivery and sludge dewatering and removal accounts for approximately 0.38 ADTs, or less than 3% of all ADTs. Chemical deliveries occur during normal business hours (8:00 AM – 5:00 PM) and do not occur on weekends, except in an emergency. On average, one chemical delivery truck drives to and from the WTP each week. Additional vehicle trips to and from the WTP include delivery of chemicals and other materials, on-site maintenance of electronics, elevator maintenance, HVAC maintenance, school visits, and miscellaneous trips. The WTP manager calculates that this activity generates approximately 2 additional ADTs.

The upgraded WTP is expected to generate 16 to 17 employee-commute ADTs. This is an increase of approximately 4 employee-commute ADTs above current levels. Chemical delivery and sludge removal at the upgraded WTP will generate approximately 0.7 ADTs, a 0.32 ADT increase over present operations, or less than 2% of the projected WTP generated traffic. The total projected daily traffic is approximately 19 ADTs. This is an increase of approximately 4 ADTs over present observed levels. However, these additional trips are substantially offset by the reduction of trips generated by the three houses along Mapleton Drive that Lake Oswego proposes to remove. The reduction of 10 ADTs per house results in an overall net decrease of 26 ADTs.

Also, the total anticipated ADTs for the plant are significantly less than the ADTs that would be expected to be generated by a single-family development on the same parcel. The 9.24 acre site is zoned R-10 and could be subdivided to yield a maximum of 28 single-family homes. Assuming each home would generate 10 ADTs, the potential subdivision would generate 280 ADTs, or more than 14 times as many trips as the proposed WTP. The WTP-related truck trips that occur each week may be comparable to the number of truck trips, such as garbage collection, package delivery and service truck trips, which a 28-unit single-family subdivision might create or which occur in the RNA neighborhood today.

Although the WTP-related trips include a low level of truck traffic that differs in character from the trips generated by the surrounding neighborhood, total trips generated by the WTP at current and proposed capacity will not constitute a significant impact on the neighborhood.

The vehicle and heavy truck traffic required during construction will cause temporary impacts to the neighborhood. Consequently, staff requested, and the applicant provided, a detailed Construction Management Plan (described in greater detail below) in addition to

the Good Neighbor Plan which address employee parking (off-site), construction traffic access management, truck wash areas, equipment storage areas, and a 24-hours a day/7 days a week construction hotline to address complaints. Implementation of these plans will be required of the applicant throughout construction. Additionally, the City Council identified concerns about impacts to those with special needs as well as a desire that the applicant provide a contact number where a person empowered to make decisions would be available 24-hours a day, seven days per week. Condition of Approval 20 will ensure compliance.

Construction traffic mitigation. The WTP and pipeline projects will generate construction traffic over a 28-month period. Not all the associated construction traffic will occur simultaneously. (See Applicant's Packet, September 27, 2012, Figures 1 and 2.) The Applicant prepared several traffic studies which considered the traffic impacts associated with the construction management plan. DKS Associates, June 18, 2012, August 14, 2012, January 4, 2013, and LOTWP memorandum dated November 1, 2012. The Partnership also contracted with Greenlight Engineering, a traffic engineering and transportation planning firm, to peer review the earlier submittals. (See Greenlight Engineering memorandum January 4, 2013.) Greenlight concluded that the construction management plan "is well designed, safe, utilizes recognized best management practices and minimizes inconvenience and maximizes safety for West Linn residents." Greenlight concluded that the mitigation measures proposed in the Construction Management Plan (CMP) are feasible and can accommodate the anticipated construction traffic without any significantly adverse traffic capacity issues. In addition to the traffic control and mitigation measures recommended by DKS, Greenlight proposed additional mitigation measures including the appointment of an ombudsman and reducing the speed limit for construction traffic to further enhance the safety and livability of West Linn residents. The Partnership has adopted the mitigation measures recommended in the CMP including appointment of an ombudsman and will enforce a reduced construction speed as recommended and the City Council concurs that they should be implemented. This is addressed by Conditions of Approval 15 and 20.

Circulation. The circulation hierarchy of the site starts with the main loop road serving employees and deliveries on an as-needed basis coming in and out of the plant via Kenthorpe Way. Pedestrian routes are designed to avoid conflict with this loop and create an easy, logical pedestrian movement to, from, and through the plant and site. Pedestrian routes in both the public and private areas are clearly delineated using indicative materials, surface treatments, and signage limited to certain key locations and building facades. In the plant's accessible areas, the design provides opportunities for walking as well as rest, in the form of trails and small-scale seating areas on the Mapleton and Kenthorpe sides of the property, where much of the area will remain forested or be planted, a pedestrian trail makes access to Kenthorpe and nearby schools and parks more convenient.

Emergency access has been provided consistent with the recommendation from Tualatin Valley Fire and Rescue (TVF&R). This new accessway will double as a pedestrian connection between Mapleton Drive and Kenthorpe Way. Access by emergency vehicles only occurs during emergencies.

Frontage improvements. West Linn requires the construction of half-street improvements across the property frontages on Kenthorpe Way and Mapleton Drive including water quality facilities and sidewalks. This is addressed by Condition of Approval 16.

The frontage improvements are consistent with City codes and neighborhood plans. Features include 'green street' improvements along both rights-of-way, substituting pedestrian- scaled lighting for large, unnecessary street lights, meandering sidewalks to preserve existing trees, and not requiring dedication of right-of-way or pavement widening along either street.

Noise. The proposed WTP will satisfy the City's noise limitation standards. The current WTP meets all applicable local and state noise standards, and the proposed updated WTP will meet noise standards through a range of mitigation measures. ENVIRON International Corporation (ENVIRON) completed an assessment of the current and potential future operational sound levels at five locations along the perimeter of the WTP site (applicant's 8/20/2012 submittal, Section 11, page 5). ENVIRON identified the regulatory noise limits applicable to operation of the WTP, and analyzed the results of sound level measurements taken near both the existing WTP and the Willamette River Water Treatment Plant (WRWTP) in Wilsonville, Oregon (this facility was used for comparison because the water processes it employs were designed by the engineering team working on the WTP and are very similar to those proposed for the WTP), as well as the methods and conclusions of the noise assessment of the proposed updated WTP.

Chapter 5.487 of the West Linn Municipal Code (WLMC 5.487) defines noises that are considered a nuisance, such as noise from dogs and amplified music. Both these subjective nuisance-based noise standards and the quantitative noise standards contained in Oregon Administrative Rules (OAR) 340-035 apply to this project.

Noise from traffic on public roads and construction activities is exempt from the noise regulations (per OAR 340-035-0035(5)). However, the City's nuisance code restricts construction to the hours between 7 AM to 7 PM Monday through Friday and 9 AM to 5 PM weekends and holidays (WLMC Subsection 5.487(B)(4)). With regard to potential noise impacts from ongoing operations, CDC Section 55.110(B)(11) requires a determination of existing ambient sound levels for proposed land uses that may generate noise. Therefore, ENVIRON measured existing sound levels at locations representing residences near the existing and proposed updated WTP.

The sound level measurements of typical daytime operations at the existing WTP easily complied with the state's daytime noise limit of 55 dBA at each of the measurement locations. Because the sound levels of the typical operations at the WTP and WRWTP easily complied with the daytime noise limits at nearby locations, the Council finds that the sound levels of typical operations at the upgraded WTP will also meet the daytime noise limit of 55 dBA.

ENVIRON compared the sound levels measured during daytime operations at both the existing WTP and the WRWTP to the state's nighttime noise limits. The measured sound levels of the typical operations at the existing WTP comply with the nighttime noise limit of 50 dBA. However, ENVIRON was not able to reach a definitive conclusion regarding

nighttime compliance at the WRWTP based on the available measurement data, due to non-plant related noise generated by the architectural water feature along the west side of the WRWTP and a gravel producing operation to the east. Consequently, ENVIRON recommended consideration of one or more of the following noise mitigation techniques and practices during final WTP design (see also Condition of Approval 4):

- Installation of noise producing equipment indoors, when feasible;
- Use of appropriate noise attenuation features on buildings, including acoustical louvers on air intakes/outlets and silencers;
- Use of appropriate noise attenuation features such as acoustical enclosures or barriers, pipe lagging around noisy pipes or ducts for equipment installed outside; and
- Selection of residential grade equipment, particularly for HVAC systems.

With careful design and implementation of noise mitigation measures, the City Council finds that noise levels from ongoing plant operations will comply with the nighttime noise limits. In addition to continuous operations, ENVIRON considered potential future sound levels associated with the elimination of certain existing treatment processes. Processes to be eliminated include mechanized removal of water plant solids, the 30-foot tall lime silo and associated bin vibrator, lime building blower, and CO2 tank. A new backup generator will be fitted with a residential grade silencer and set in a noise dampening enclosure to replace an existing generator without those features.

Based on its analysis of existing and future sources of noise ENVIRON concluded that the remaining operation of concern will be the intermittent noise associated with periodic chemical deliveries and weekly garbage pickup.

To mitigate this remaining concern, ENVIRON recommended the use of “plant air” (i.e., compressors installed inside a building) in lieu of truck-mounted compressors to eliminate the noise associated with chemical unloading. ENVIRON also recommended that chemical unloading be restricted to daytime hours only (this is addressed by proposed Condition of Approval 4).

Most of the existing exterior noise-producing intermittent activities will be eliminated. ENVIRON concluded that the upgraded WTP should comply with all daytime noise limits established by OAR 340, Div. 035.

The City Council imposes Condition of Approval 4, based on the recommendations of the acoustical engineer; these include the ENVIRON Noise Mitigation recommendations and a post-construction noise analysis to document that noise limits have been met.

Visual Impacts. Chapter 55, Class II Design Review, requires the applicant to demonstrate that a proposed conditional use is functionally and physically integrated into the neighborhood in which it will be located (see findings 4-6 for details). The applicant reports that the landscaping, site design, and architecture of the proposed WTP are designed to minimize adverse visual impacts while maintaining the functionality of the WTP. The WTP has been a significant feature within the neighborhood for over 45 years.

The intent of Design Review is to analyze how the proposed changes will ensure that the proposed WTP remains compatible with the neighborhood.

Due to the public facility nature of the uses and buildings, the applicant centered as many buildings as possible in the interior of the site and proposed “landscape layering” and other screening to minimize the appearance of the plant. The idea of landscape layering is to establish a variety of attractive screens and filters that soften the presence of the WTP for the community, and maintain an overall transparency and cohesiveness while avoiding disconnectedness or an alien appearance. One specific example of this concept is the proposed approach to fencing. Taller security fencing is proposed to be subdued behind layers of vegetation within the core WTP area, distant from street view. The street edges along Mapleton Drive are proposed to be delineated by split-rail fencing (with openings) and good neighbor fencing which contribute to a residential neighborhood character. In addition to fencing, other layers that subtly screen and secure the site are the preserved woodland edges, vegetated stormwater facilities, and the buildings themselves, which create a continuous façade shielding the most intensive plant operations from view.

The landscape design’s planting concept follows a sustainable approach which promotes the use of native species which are adapted to the Northwest climate and do not require significant irrigation, or maintenance. There are six different planting types being proposed: Woodland with native trees and understory planting; Meadow with native grasses, perennials and wildflowers; Orchard with flowering non-fruiting accent trees and understory; Rain Garden, where stormwater runoff will be treated and detained in depressed wetland - like planted swales and basins; and Green-roof, where native meadow plantings will be re-applied to roof surfaces with other drought tolerant succulents. According to the applicant, the proposed site plan reflects a collaborative effort to balance the most viable engineering concepts with the greatest realization possible of the neighborhood goals for visual presence. Summarized site strategies, developed with neighborhood involvement, are as follows:

- Maintain the north edge of the property as the front door and public entry: this keeps the southern edge of the property along Mapleton Drive free from new WTP circulation patterns, thus maintaining the buffer created by the current distance from the plant’s south edge.
- Centralize the plant layout: Several space-saving alternatives have resulted in a much smaller plant footprint. With this configuration, the site layout provides for setbacks from the south, east, and west that significantly exceed requirements. This aspect of the design allows landscaping and distance to be maintained as the primary buffers.
- Screen the internal plant activity with building edges, walls, and artful screening elements which tie the architectural design and the landscape design together. Buildings placed on the WTP edge are designed to integrate into the residential context using materials, color, orientation, form, and proportion. Site-specific constructed screens will also be employed to mitigate views. These will be comprised of vertically oriented reclaimed wood slats on timber or steel frames, tying into the semi-wooded nature of the site. Lastly, low walls in the landscape, inspired by dry-stacked rubble walls typical of a farm or orchard inferred by the fruit trees that are now growing on

site, will reinforce the site's semi-rural character and draw the viewer's eye towards the foreground. Together with the buffers of distance and landscape, these landscape and architectural elements will serve as visual mitigation.

- In addition, the Partnership proposes to plant three clusters of vegetation, approximately 12- to 14-feet tall, at three locations around the core to provide additional screening and buffering. (See Applicant's Packet, September 27, 2012, Figure 12.0A, Planting Plan Colored Overview.)
- When the current Operations Building is removed, the Applicant will install a landscaped stormwater management facility. The additional landscaping and trees will screen the necessary architectural security wall. Together with the earlier proposed landscaping along Kenthorpe Way, the revised facade of the WTP facility will be adequately screened from public view. (See Applicant's Packet, September 27, 2012, Figure 12.0A, Planting Plan Colored Overview.)

Mr. Gary Hitesman expressed concern that demolition of the existing Operations Building will create off-site glare. In response the Partnership revised Figure 5.5, Full Illumination Lighting Plan, to reflect the removal of the Operations Building. The figure shows that neither the deck lighting nor the visitor parking area will create glare beyond the property line. Revised Figures 12.0A, Planting Plan, and 11.0, Planting Legend and Notes, show that the Partnership will plant trees between the filter deck and the visitor parking lot that will block the glare. In addition, the tree protection area between the parking area and Kenthorpe Way, which consists of mature trees and landscaping as well as new plantings, will provide a substantial vegetative screen. The mature vegetative screen between the parking lot and the residence to the east is unchanged.

Revised Figure 3.0 shows that the filter deck and ozone contactor will be set back 121 feet from the edge of the Kenthorpe Way right-of-way. The free-standing and wall-mounted filter deck lights and ozone contactor lights will be 10 feet above the floor of the deck which is approximately 10-13 feet above grade. All lights are compact fluorescent type, fully shielded, and operated manually. When the plant is operating normally, the filter deck lights and ozone contactor lights will be off. Extraordinary circumstances may require illumination of these processes at night, but under such circumstances lighting will be fully screened.

Architecture. The applicant states that the proposed architectural design is intended to reflect the building materials articulation, scale, and forms that occur in the neighborhood. The neighborhood is primarily made up of single-story ranch-style homes, most of which were constructed in the 1960s. Predominant roof forms found throughout the neighborhood tend to be low slope shed roofs and gable roofs, as well as a few flat roofs, and the predominant cladding is lapped siding or vertical board and batten wood siding. Many of these ranch-style homes sit with their broad side facing the street, with their long, low pitched roof forms overhanging facades with lap siding, ultimately displaying a common pattern of horizontality. This horizontality is proposed to be carried throughout the design of the plant.

The primary materials for building facades are proposed to be brick and horizontally articulated metal siding. Light colored composite panels and wood are secondary materials

for elements like soffits, accents, and screens. New process buildings on the edge of the plant include the Electrical Building, the Finished Water Pump Station (FWPS), and the Mechanical Dewatering Building. Process buildings on the interior of the plant such as the Chemical Building will also employ these design elements, though in modified form.

The proposed natural earth-toned brick atop a cast in place concrete stem wall rising from the landscape to a height of 12 to 16 feet is proportional to the residential scale. These walls will be long and low, with windows and louvers appropriately placed to break up the form and activate the edge. Above the brick will be a recessed frieze, clad in a light colored composite panel material. The predominant roof form is proposed as a long plane that is topped with a garden roof system helping to integrate the buildings with the landscape below. These buildings will be articulated by shed roof forms; these volumes are essentially mechanical penthouses to keep all of the equipment indoors, out of view, acoustically isolated, and weather protected. These penthouses will be pushed to the far interior side of the process building and be constructed with shed roofs sloping to a high side towards the plant interior. They will be dark, allowing the form to recede from view.

The face of the WTP to visitors will be the façade created by the Administration/Operations Building and a landscaped stormwater feature. (See Applicant's Packet, September 27, 2012, Figure 3.0, Site Plan and 10.0, Composite Elevations North South, 10.3, Administration/Operations Building Elevations; and Figure 12.0A, Planting Plan Colored Overview). This complex will be both a professional work environment and a reception and education area. Though still buffered from Kenthorpe Way by landscape design and setback distance, the new façade will face the community. A new main entrance will provide direct pedestrian access from Kenthorpe Way through the street-side landscaping, across the visitor parking lot and into the visitor reception area. Its materiality will draw from the same palette of materials as described for the process buildings, and it will take similar cues from the neighborhood context in terms of form and horizontality, but more so than the other buildings on the site, it will be designed to be outward-facing and inviting. Together with wide buffers, these site design, landscape, and architectural elements will serve as visual mitigation.

Significant Trees. The WTP site includes a variety of trees including significant trees. Most noteworthy are the mature Oregon White Oaks, Western Red Cedars, and Giant Sequoias, as well as exotics including American Sweetgum, Deodar Cedar, Red Oak, and Spruce. Remnant orchards of apple and cherry are found on the southern side of the site.

Trees are regulated by CDC 55.090(B)(1) &(2), CDC 54, WLMC 8.500 (West Linn Community Tree Ordinance. No. 1503), WLMC 8.610-8.620 (Tree Removal Permit), WLMC 8.710.798 (Heritage Trees) and the "West Linn Tree Technical Manual". The WTP site does not contain any Heritage Trees, but the City Arborist identified 42 significant trees or significant tree clusters on-site (See applicant's submittal 8/20/2012, Section 21, Tree Area). The proposed site development would entail removal of up to six significant trees, the loss of which would be mitigated. The combined Diameter-at-Breast-Height (DBH) for these trees is 182 inches. Based on the 182 inches of significant tree DBH removal, mitigation would require 182 inches of DBH replacement. The project proposes to achieve this mitigation by planting 91 sapling trees at 2-inch caliper for a total of 182 inches. In addition to the 91 trees needed for significant tree mitigation, an additional 217 trees will

also be planted. This will result in a total of 308 trees being planted on-site. The applicant proposes to remove exotic species where appropriate and return the site, to the greatest extent possible, to a native Northwest environment.

Public Safety. Key safety concerns have centered on construction safety, pedestrian and vehicle safety, hazardous materials, and emergency response. The site can be divided into three zones: the “unsecured” zone along Kenthorpe Way, the secure plant zone, and the “unsecured” zone along Mapleton Drive. While preserving the screen of trees along Kenthorpe Way, a small water feature, meandering pathways, seating niches, and a secluded rain garden are integrated into this public zone. By placing occupied spaces along the plant perimeter, both public and plant safety is reinforced. Some opponents argued that the applicant failed to address emergency safeguards built into the system including the storage of hazardous chemicals, maintaining an emergency response plan as required by OAR 330-061-0064 and identifying a procedure for emergency shut-off in the case of a leak. The reliability features identified in the application include:

- Mechanical and electrical redundancy
- Durable building materials
- New emergency access route
- Redundant warning and alarm system
- Fire detection and suppression systems
- Triple redundant chemical overflow system
- Isolation shutoff valves
- Pumping of water will only occur when the plant is staffed.
- New design has no CO2 tank or gaseous chlorine, a chemical of concern raised by opponents
- Chemicals on site are not toxic and will not form a plume
- Auger cast piles under all structures to ensure seismic safety
- The facility will be staffed when it operation

The OAR 330-061-0064 required emergency response plan is imposed for existing plants and not new ones. The applicant’s current plant maintains such a plan and a new one will be completed when the new plant is online. The Council finds that the new plant will be more secure than the existing plant. Further, the existing plant has a perfect safety record with regard to chemical spills and leaks.

To date, the applicant has implemented a full suite of measures that have prevented safety problems. In over 45 years of operations, there have been no safety violations or safety related complaints from Tualatin Valley Fire & Rescue (TVF&R), the City, State, Federal agencies, or neighbors. The applicant intends to build upon this record through enhanced design and operation to further minimize any safety risks associated with the proposed WTP during construction and future operations.

As part of the plant expansion approved by the City in 1996, neighbors raised questions concerning vehicle traffic along Kenthorpe Way and plant safety, in particular the use of gaseous chlorine to process and purify water. To address pedestrian and vehicle safety

concerns along Kenthorpe Way, Lake Oswego implemented a construction management plan to guide the 1996 approved upgrade to the WTP. There were no reported conflicts between neighborhood pedestrians and drivers during the construction period. Similarly, since the 1996 construction phase ended, there have been no reported conflicts involving trucks delivering materials to the WTP and local vehicular or pedestrian traffic.

As a condition of approval, the applicant also prepared a Hazardous Materials Management Plan (HMMP). The HMMP was reviewed and approved by TVF&R and WTP operators have since implemented the HMMP in close coordination with local emergency responders - TVF&R and West Linn Police Department. There have been no safety violations involving hazardous materials. Use of chlorine gas was discontinued and the plant substituted liquid sodium hypochlorite (bleach) for water disinfection. TVF&R inspects the plant facilities at least annually. In event of an emergency, the HMMP establishes communications protocols between plant operators, emergency responders, and plant neighbors.

As requested by TVF&R, the applicant has prepared a Hazardous Materials Inventory Statement (HMIS) for the proposed plant that includes but is not limited to: chemical name, amount, location (above ground, below ground, in a building etc.), container sizes, and amount in use (closed & open systems).

TVF&R advised the applicant that it is more appropriate to discuss and consider hazardous materials during the design process rather than the preliminary phase of design and land use review. During the final design process, prior to issuance of building permits, TVF&R requires the applicant to meet with them and review the type, amount, location and transport of hazardous materials so that the site will be safe. The result of these efforts will yield an updated Hazardous Materials Management Plan (see Condition of Approval 3).

In addition to meeting the requirements of the Oregon Fire Code and the West Linn Building Department, WTP staff will implement the following neighborhood communication strategies:

- The HMIS and HMMP will be available at the WTP for review and inspection by the public during the normal business hours of 8 AM to 5 PM.
- An open house/tour at the treatment plant will be held once or twice per year.
- Neighbors will be informed about the pertinent plant activities through community meetings, website and email updates, mailings, and presentations at Robinwood Neighborhood Association meetings. With the proposed additional safety measures for construction, vehicle safety, emergency access, and hazardous materials, the applicant believes that it has proposed an appropriate response to reasonable West Linn and neighborhood concerns regarding public safety during construction and during future WTP operations.

The WTP will be designed to meet site specific seismic conditions. A site specific seismic analysis has been conducted and the findings and conclusions from this analysis are available to the Planning Director and Building Official to better understand the potential for hazards at this site.

The Geotechnical Engineering Report identifies the key geologic hazards at the site - seismic liquefaction of the saturated silty sand deposits during the design earthquake events; a condition which is consistent with other 'High Zone A' seismic sites in the region.

The Geotechnical report recommends auger-cast piles as the preferred method to mitigate differential and total settlements of critical structures including the proposed new buried clearwell. Additional seismic mitigation details are proposed during the building permit phase of the project. See Condition of Approval 13.

The Partnership also provided additional expert geotechnical information. (New Albion Geotechnical, Inc., January 7, 2013, discussing seismic and liquefaction hazards; GeoDesign, Inc., January 7, 2013, discussing the suitability of the site in regards to lateral spreading and liquefaction; and Dr. Scott Burns, Portland State University, a well-respected expert on slope stability and the Missoula Flood deposits.) All experts concluded that the proposed design and seismic hazard mitigation techniques are proven and appropriate to achieve the performance objective of facilities that remain operable and occupiable after a magnitude 9.0 Cascadia Subduction Zone (CSZ) earthquake.

The Council notes that construction of the proposed pipelines and plant will eliminate the most significant seismic risks associated with the existing plant facilities and pipelines.

Construction Management. Construction of the upgraded treatment plant is proposed to occur during the 2013 through 2015 timeframe with the heaviest construction activity occurring over an estimated 28-month period from August 2013 through July 2015. Mitigating the potential impacts of construction on the neighborhood is a concern to the City Council. The applicant provided a preliminary Construction Management Plan (CMP). The applicant states that they will refine the CMP through the final design phase and will require the contractor to meet all requirements of the CMP and all public safety requirements. The CMP includes the provisions described below:

- Traffic control/safety: This plan will include haul routes and details for establishment of temporary traffic control changes and signage in compliance with City requirements and the Manual on Uniform Traffic Control Devices
- Neighborhood safety: Only materials directly related to construction activities will be permitted on site. On site fuel transfer will be limited to designated construction staging areas. Typically, the contractor will not store fuel, oil, or other hazardous materials on site but will bring fuel to the site via maintenance vehicles on a daily basis.
- Maintenance of public street access: Access to private properties along Kenthorpe Way and Mapleton Drive will be maintained throughout the construction period, with few exceptions. When the need for temporary interruptions to normal access to private properties are identified, advance notice will be provided to affected property owners in accordance with the approved CMP and Communications Plan.
- Noise: Construction-related noise will meet City of West Linn noise ordinances for construction work. The Applicant acknowledges that work outside of the City of West Linn approved construction hours (M-F, 7am-7pm and Sat-Sun, 9am-5pm) may periodically be required to minimize the duration of plant outages. This is

allowed by the City's Code and, in those instances, the applicant will notify the City of West Linn Public Works Director, the City Manager as well as the Chair of the Robinwood Neighborhood Association seven days prior to work outside of approved construction hours.

- A digital video record will be created prior to construction to document existing conditions within the public right-of-way abutting the project site. This record will establish the condition of visible surface improvements and conditions within the public rights-of-way that abut the property boundaries of the WTP site.
- A Communications Plan will be developed that includes detailed information of communication means, methods, schedules, and key contacts for the project. A copy of this plan will be provided to the West Linn Public Works Department, and chairs of each Neighborhood Association within West Linn and will also be posted to the project website.
- DKS Engineering provided a subsequent review of potential construction impacts along OR 43 and within the Robinwood neighborhood. DKS considered factors such as estimated construction traffic, OR 43 capacity impacts, Robinwood Neighborhood capacity impacts, bicycle and pedestrian safety, and recommends mitigation measures to enhance traffic mobility and safety during the entire construction project. The DKS mitigation measures will be included in the conditions of approval and the CMP.

CHAPTER 11, R-10 SINGLE-FAMILY RESIDENTIAL DETACHED ZONING DISTRICT

11.060 CONDITIONAL USES

The following are conditional uses which may be allowed in this zoning district subject to the provisions of Chapter 60 CDC, Conditional Uses.

9. Utilities, major.

FINDING NO. 1:

The City Council finds that the requested water treatment plant meets the CDC definition of a major utility and therefore may be permitted in this zoning district pursuant to the conditional use criteria established in CDC Chapter 60.

11.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in CDC 60.070(A) and (B).

FINDING NO. 2:

The City Council is the approval authority in an appeal from the Planning Commission. As discussed in greater detail below, the City Council has determined that the site area is appropriate for the proposed use pursuant to the applicable sections of CDC Chapter 60. See Findings No. 4 and 5 regarding CDC 60.070(A) and (B). Those findings support the City Council's determination that the site area is adequate for the proposed use.

11.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

A. *The following standards apply to all development including permitted uses:*

1. *Chapter 34, CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.*
2. *Chapter 35 CDC, Temporary Structures and Uses.*
3. *Chapter 42 CDC, Clear Vision Areas.*
4. *Chapter 44 CDC, Fences.*
5. *Chapter 46 CDC, Off-street Parking, Loading and Reservoir Areas.*
6. *Chapter 48 CDC, Access, Egress and Circulation.*
7. *Chapter 54 CDC, Landscaping.*

B. *The provisions of Chapter 55 CDC, Design Review, apply to all uses except detached single-family dwellings, residential homes and residential facilities.*

FINDING NO. 3:

Findings regarding the above "Other Applicable Development Standards" are included under the associated Chapters later in these findings.

CHAPTER 60, CONDITIONAL USES

60.070 APPROVAL STANDARDS AND CONDITIONS

A. *The Planning Commission shall approve, approve with conditions, or deny an application for a conditional use, except for a manufactured home subdivision in which case the approval standards and conditions shall be those specified in CDC 36.030, or to enlarge or alter a conditional use based on findings of fact with respect to each of the following criteria:*

1. *The site size and dimensions provide:*
 - a. *Adequate area for the needs of the proposed use; and*
 - b. *Adequate area for aesthetic design treatment to mitigate any possible adverse effect from the use on surrounding properties and uses.*

FINDING NO. 4:

Major utilities are a conditional use pursuant to CDC 11.060(A), and CDC 2.030 states that a major utility is:

A utility facility or service that will have, or the installation of which will have, a significant impact on the surrounding uses or the community in terms of generating or disrupting traffic, interfering with access to adjacent properties, creating noise or causing adverse visual effects. "Major utility" includes, but is not limited to, a

substation, pump station, water storage tank, sewer plant, transmission lines for water, drainage or sewerage collection systems, gas or electric, or other similar use.

The definition of major utility requires the City to take the significant impacts associated with installation into account when determining whether the site size and dimensions provide adequate area to mitigate “any possible adverse effect[s] from the use on surrounding properties and uses.” The Council finds that, as the definition of major utility recognizes, such utilities are distinctly different from other conditional uses because in many circumstances it is the construction of the utility itself that impacts the adjacent properties more than the end use on the site. Thus, to approve the project the Council must determine that there is: 1) adequate area to mitigate any possible adverse effect from the end use on surrounding properties and uses, and 2) there are adequate measures taken to mitigate for the possible adverse effects of the installation of the utility on surrounding properties and uses.

Post-construction Use of WTP Site

The applicant has indicated that the property size is sufficient to accommodate the needs of the WTP, and the applicant has provided evidence and testimony in the record to support that. Accordingly, the Council concludes that the site does have adequate area for the needs of the proposed use.

The WTP has been in operation for over 45 years without any code complaints from the City or surrounding neighbors. This suggests that the existing plant does adequately mitigate adverse effects, and the testimony shows that the increased overall parcel size of 9.24 acres, and the comparably small increase in plant footprint of approximately 9%, coupled with significant aesthetic improvements, will work to mitigate any adverse effects. In addition, placing the buildings toward the center of the site and away from residences allows for setbacks to be much larger than those required by Code, and the placement results in a design and location that also mitigates adverse effects. The City Council finds that the baseline for satisfying the obligation to “mitigate any possible adverse effect from the use” is set by taking into account the adverse effects likely to result from permitted uses on the site or single family residences. The City Council finds that the adverse effects from this plant are less. The cross shaped lot permits more immediate off-site adjacency but the centrality of the location, designed with Robinwood Neighborhood involvement, far exceeds the minimum Floor Area Ratio (FAR), lot size and setbacks in the R-10 zone. In addition, the number of vehicle trips per day associated with the plant is fewer than the number of vehicle trips that would be attributable to a subdivision, which would be permitted on the site under the existing zoning district. Also, although the setback and other dimensional requirements for uses permitted outright in the R-10 Zoning District are not applicable to this conditional use request, the applicant’s proposal meets or exceeds all these standards as shown below.

The closest point to a building or structure from the property boundaries is proposed as follows:

Setback	Required (ft) R-10	Proposed at closest point to a building or structure (ft)
Front (Kenthorpe)	20'	114' 9" to Administration/Operations Building; 46' 2" to parking lot
Side – interior	7.5'	315' 2" to Washwater Equalization; 82' 5" to Electrical Transformers
Side – Street (Kenthorpe)	15'	156' to Mechanical Dewatering
Rear (Mapleton)	20'	180 ' 10" to Electrical Building

The applicant's site design also locates noise generating facilities to mitigate impacts to adjacent properties. Additionally, an acoustical study was provided indicating that the proposed facility will likely meet all applicable noise standards. To ensure compliance, Condition of Approval 4c requires demonstration of compliance with the noise standards after operations of the upgraded facility begin (see also Finding 10). Based on these factors, the City Council finds that there is adequate area for the use, and the design treatments provided mitigate any adverse impacts resulting from noise generated by this use.

The neighbors have testified that the current plant design is sterile, cold, and institutional in appearance. Even though past West Linn planning decisions found the current building's appearance to be compatible with the neighborhood, the applicant's proposed design is much softer, incorporating residential design elements and materials, such as varied facades broken up by several lower scale structures and small, non-intrusive parking lots.

Therefore, the City Council finds from the facts and related considerations in these findings that with Condition 4c the site contains adequate area to accommodate the end use, and includes aesthetic treatments, design, and siting to mitigate adverse effects from the use.

Installation of WTP

The Council finds that some of the adverse effects of installation and construction at the WTP site on surrounding properties are mitigated by the applicant's CMP. The following list includes some of the requirements in the CMP aimed at mitigating adverse effects:

General

- Conduct a preconstruction assessment (video documentation) to ensure areas impacted by construction are restored to equal or better quality.
- Retain a certified arborist available to observe, manage tree care, and direct the contractor on tree protection measures during construction as needed to ensure that impacts to trees are minimized.
- Conduct work between the hours of 7:00 am to 7:00 pm weekdays and 9:00 am to 5:00 pm Saturdays (except work on Highway 43). Activities outside of these hours will require approval from the City of West Linn.
- Employ erosion control best management practices (BMPs, otherwise known as mitigation measures) and plans per West Linn, Clackamas County, and DEQ

standards per an approved 1200-C permit. These approved BMPs will prevent tracking or flowing of sediments onto public rights-of-way and control construction dust.

- Use temporary site security fencing around the perimeter of construction areas to provide both site security and public safety functions.

Public Outreach

- Develop a communications plan with West Linn Public Works, TVF&R, the Robinwood Neighborhood Association, and other impacted stakeholders.
- Provide the City of West Linn with copies of all written correspondence and notice of telephone contacts from citizens regarding construction.
- Employ a representative to answer questions, coordinate special needs, and ensure impacts are kept to a minimum. Contact info will be provided with 2 week and 48 hour notices.
- Hold up to two meetings per month with residents and members of the Robinwood Neighborhood Association to address residents' needs and concerns.
- Retain the services of an ombudsman to promote communication among all project stakeholders.
- Attend weekly coordination meetings with TVF&R and West Linn Police.
- Notify TVF&R on a daily basis for all construction activities and locations (in a manner acceptable to TVF&R).
- Notify all affected public agencies, commercial property owners, tenants, and residents no less than 2 weeks before the start of construction activities. Notice to be provided via email, door hangers, or phone calls.
- Notify all affected public agencies, commercial property owners, tenants, and residents a second time within 48 hours of construction activities. Notice to be provided via email, door hangers, or phone calls.

Traffic

- Use only two haul routes to and from the WTP and pipeline construction areas. These haul routes are Highway 43 and McVey/Stafford Rd to and from I-205.
- Provide a 5-foot wide pedestrian and bicycle access way around the work zone.
- Provide pedestrian access at all times to all trails in MSY Park from the end of Mapleton Drive.
- Provide a 12-foot wide access for emergency vehicles to pass through the work zone (except at 4 locations on Mapleton Drive where not feasible due to the pipeline alignment).
- Re-open and maintain fully functional streets (i.e., no road closures or equipment on the roadway) outside of work hours.
- Limit the duration of any residential driveway closure resulting from construction activities to no more than one work shift at a time.
- Provide temporary parking within 200 feet of a resident's home during the time that any residential driveway is not accessible.

- Comply with the Americans with Disabilities Act, to the extent practical, for all pedestrian access around or through the construction work area to homes and businesses.
- Maintain at least one driveway or access for vehicles to every business that has operating hours which overlap with nighttime construction hours.
- Bus all craft-level workers to and from all construction work areas on Mapleton Drive, Kenthorpe Way, and Highway 43 to minimize traffic impacts.
- Construction vehicles shall only make right turns in or out of Mapleton Drive at the intersection of Mapleton Drive and Highway 43 (no left turns allowed).
- Construction vehicle traffic shall be approximately evenly split between Mapleton Drive and Kenthorpe Way to decrease the traffic impact on any single street. During Mapleton Drive open-cut pipeline work, the WTP Contractor shall only use Kenthorpe Way to access the site.

Noise

- Utilize auger cast rather than driven piles to minimize noise during WTP construction.
- Provide advanced notice to stakeholders when unusually noisy construction activities or approved activities outside of normal work hours are anticipated.
- Minimize reverse direction travel and use broadband, ambient-sensing backup alarms on all on-site equipment requiring backup indicators as permissible by OSHA requirements.
- Conduct any jackhammering for pipeline construction work within public rights-of-way within a noise tent or sound enclosure.
- Minimize banging dump truck tailgates with procedural methods or with the use of rubber gaskets.
- Use portable noise barriers or enclosures around discrete, stationary equipment during nighttime work.
- Place stationary equipment as far from affected residences as possible.
- Use properly sized and maintained mufflers, engine intake silencers, and engine enclosures (for cranes, excavators, generators, etc.). Equipment shall be equipped with a "residential" or "critical" grade silencer if possible.
- Use acoustical blankets, pads, straps, and/or boards to control metal-on-metal noises such as picking up drill pipe if possible.
- Limit dumping of materials onto the ground, especially metallic or other hard materials, and when possible move/place materials with a crane or excavator rather than by dumping. This restriction does not apply to the dumping of excavated or imported backfill material.
- Minimize the idling of heavy mobile equipment and dump trucks.

The City Council finds that the mitigation strategies listed above, if enforced through the imposition of conditions of approval, are an effective means of minimizing negative impacts to surrounding residents and businesses. The peer review conducted by Bill Hawkins of CH2MHill concludes that the Plan offers a “comprehensive and sound approach to impact

mitigation that equals and in some cases, exceeds mitigation measures typically provided for projects of similar size and scope.”

Although the CMP addresses many of the construction and installation impacts related to the WTP, the Council finds that the CMP is not sufficient to mitigate all of the adverse effects. For example, the CMP does not address citizens with special needs. Eric Jones asserted on January 14, 2013, that the project would shut water off to Mapleton residents for 8 hours per day for 6-7 weeks and that his mother’s medical conditions would not tolerate this. The project plans show that the new pipe and service lines will be installed on a parallel alignment. The applicant believes this can be done without taking the existing pipe out of service until the final changeover is made, likely in a single work shift. To further accommodate residents who may have special needs or disabilities the City Council has imposed Condition of Approval 20 requiring the identification of those with special needs and accommodating their access needs. The applicant has also agreed to create a hotline that will be in operation 24-hours per day, seven days per week during construction. The Council heard safety concerns about students getting safely to school and to address that concern, Condition of Approval 20 also requires that the applicant provide a 5-foot wide pedestrian and bicycle access way around the work zone. The City Council believes that contractors who violate the terms of the Construction Management Plan should be subject to penalties; Condition 20 addresses these concerns.

To the extent that the CMP does not provide a means of limiting the noise impacts on residents, limiting parking congestion, protecting residents from construction traffic, and accommodating residents with special needs, the Council has added Conditions of Approval 2, 4, 12, 15, and 20. The Council determines that reasonable measures have been taken to mitigate the identified adverse effects. The Council determines that with the conditions of approval, the proposal will adequately “mitigate any possible adverse effect from the use on surrounding properties and uses.”

2. *The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and natural features.*

FINDING NO. 5:

Size. As described in Finding No. 2 and Finding No. 4, the City Council finds that the size of the site is suitable for the proposed use.

Shape. The site is cross-shaped, which permits more immediate adjacency of off-site structures than would be permitted by a square-shaped lot. In working with the Robinwood Neighborhood Association, the applicant has proposed a consolidation of prominent structures toward the center of the site. As stated above, the R-10 base zone setbacks are not applicable to this conditional use proposal; however, the applicant’s site plan far exceeds the setback requirements for uses permitted outright in this zone. These include the FAR, lot size, and setbacks. The City Council finds that the shape of the property is suitable for the proposed use.

Location. The WTP has existed at this location since 1967. The WTP received approval from the City of West Linn to increase processing capacity or to modify the water treatment process in 1980, 1988, and 1996. A majority of homes in the Kenthorpe Tracts Plat were built in 1973, with the average age of homes dating to 1972. A majority of homes in the Maple Grove Plat were constructed in 1955, with the average age of all homes dating to 1943. The City Council is not aware of any significant negative impacts that the existing facility has had on the neighborhood.

Another important consideration about the site location is to note that the City of West Linn's emergency intertie with Lake Oswego is located, and must continue to be located, on the finished water side of the WTP.

A number of opponents argued that the applicant must look to alternative WTP sites before it can conclude that the location is suitable. Opponents Thomas Sieben and others have looked to the Division of State Lands Draft Alternatives Analysis as a basis for finding this requirement. The CDC contains no obligation to consider alternatives as a necessary precondition to finding that this location is suitable. Major utilities are allowed as conditional uses in all zoning districts and the water treatment plant use has existed on the site for many years.

The City Council finds that the location of the site remains suitable for the proposed major utility use.

Topography. The WTP site is relatively flat with less than 2 percent slopes throughout. The WTP sits on a mid-elevation bench (approximately 130-feet above sea level) between the Willamette River and Highway 43.

The Planning Commission identified seismic risk as a primary concern making the site location and topography unsuitable for the proposed use. The Planning Commission found a "potential for seismically induced liquefaction and lateral spreading of soils in this area as the result of a deep-seated pre-historic landslide as well as the potential for slope failure north and east of the plant." The Planning Commission went on to find that the existence of the historic landslide suggested that a buttress of more consolidated and stable soils is not present east of the plant site.

At the outset, the Council notes that construction of the proposed pipelines and plant will eliminate the most significant seismic risks associated with the existing plant facilities and pipelines. Elimination of these risks contributes to making the site suitable for the proposed use. The Council determines that to the extent the site and the WTP may be vulnerable to seismic activity, the risks associated from such an event can be further reduced by limiting the capacity of the underground clearwell to a maximum of two million gallons, which is required by Condition of Approval 22.

After the Planning Commission's decision, Dr. Scott Burns of Portland State University provided an independent peer review considering the area's susceptibility to landslides

caused by earthquakes or other heavy rain events. The evidence of landslides in the area occurred as part of the Missoula Floods, approximately 15,000 calendar years ago, and since that time it has endured a substantial number of CSZ earthquakes. Dr. Burns' analysis states:

I see little danger posed to the pipeline and water treatment plant from lateral spread related to these landslide slopes or even the steep slopes of the area that have no landslides on them. To have a lateral spread, one needs to have water saturated soils from high ground water tables, and these Missoula Flood sediments are basically well drained.

According to Dr. Burns, the small historic landslide to the east of the plant was climatically induced and occurred as a result of heavy rainfall in 1996, resulting in a slide of less than 200 cubic yards of material, and such events will not affect the pipeline or treatment plant. Dr. Stephen Dickenson of New Albion Geotechnical, Inc. and formerly a professor at Oregon State University, reviewed the liquefaction and lateral spreading studies concluding that ground displacements have been well identified and appropriately mitigated. The City Council has reviewed these studies and concludes that seismically or climatically induced landslides will likely have no effect on the treatment plant, and the enlarged plant will not increase the likelihood of lateral spread or impact the existing steep slopes.

Therefore, the City Council finds that the topography of the site will be suitable for the proposed use with the inclusion of Condition of Approval 22.

Natural features. The site does not contain areas identified as habitat conservation areas; significant Goal 5 riparian areas; Goal 5 wetlands; significant streams or stream corridors; heritage trees; or Type I or II Lands. There is a small, unregulated drainage swale in the northwestern corner of the property. The site does contain 42 trees that have been deemed significant by the City Arborist. The applicant is proposing to remove 6 significant trees in order to develop the property. The City Council finds the use is suitable for the site given the lack of natural resources and the tree preservation efforts outlined later in these findings.

- 3. The granting of the proposal will provide for a facility that is consistent with the overall needs of the community.*

FINDING NO. 6:

The Planning Commission interpreted the term "community" to include the City of West Linn and a facility that is consistent with the community needs is one that "is designed and sized to serve the needs of the residents and land uses within the city." The primary purpose of the proposed facility is to serve Lake Oswego and Tigard rather than the overall needs of West Linn and therefore, the Planning Commission concluded that the regional scale of the proposal indicates that the facility is not "of a scale to serve the community of West Linn." A number of opponents made similar claims.

The City Council interprets the term “community” more broadly. When words are not defined within the CDC, they are to be given the meaning set forth in Webster’s Third New International Dictionary (CDC 2.010(D)), which includes the following partial definition of “community:”

1. A unified body of individuals: as
 - a. State, Commonwealth
 - b. The people with common interests living in a particular area
 - c. An interacting population of various kinds of individuals
 - d. A group of people with a common characteristic or interest living together within a larger society – the region itself
 - e. A group linked by a common policy

The “overall” needs of the community must look at what is in the best interest of the City of West Linn as a whole. Considering the term “community” in the context with “overall,” this term does not suggest that a use must be exclusive and cannot serve the needs of West Linn while also serving the needs of Lake Oswego and Tigard, in addition to those of West Linn.

In order to identify which “overall needs” require protection, the Council considers the goals and values protected within the Comprehensive Plan, other adopted City plans and policies, as well as general municipal needs, such as fiduciary, public infrastructure, and public safety needs. Thus, one of the “overall needs of the community” is identified in the Water System Master Plan as the need for a clean and safe water supply that will benefit the City of West Linn as a whole.

With regard to the water system, the Planning Commission interpreted the term “overall needs” to mean that the conferred benefit must exist for the life of the project. The Council finds that when determining whether the “overall needs” are met, the decision-maker will consider both the short and long term needs that are being met by the project. The new pipelines and plant enhance the existing interconnectivity with facilities that will be seismically secure; this is critical because, as the Water System Master Plan explains, the City of West Linn has a deficiency in its emergency supply capability. An intertie with Lake Oswego is the preferred means of meeting the need for emergency water in the Water System Master Plan. If it were possible for West Linn to obtain the necessary development permits to install a new parallel transmission main across the river, which is the next best Water System Master Plan option, the cost for West Linn would be about \$11.6 million but would provide far less redundancy and reliability than expanding the intertie. The Council finds that the provision of 4 mgd, available until at least 2041, as proposed by the applicant, is a benefit that will last for at least 25 years, and it should be considered as an asset that helps to meet a need of the West Linn community for emergency water. The intertie gives West Linn access to water from a system designed to be much more secure than the system it relies on today. Condition of Approval 21 requires execution of an intergovernmental agreement to ensure that the intertie agreement cannot be terminated without mutual written consent of all parties.

Additional testimony was received asserting that emergency water could not be provided

without emergency power generation, and the proposed WTP upgrade does not include a generator. The City determines that the applicant can provide water to West Linn by gravity or by electricity in an emergency by including the redundancy of dual power feeds; therefore, the intertie will be available to meet the emergency water needs of the citizens of West Linn.

With regard to providing a plant that is compatible with the needs of its residents, the City Council finds a number of Robinwood-specific needs will be met including: upgrading seismically vulnerable plant and underground pipes serving the intertie; environmentally sustainable storm water features, such as pervious materials and green roofs; and community open spaces that will include, lighting, benches, and construction of an important public trail connecting Kenthorpe and Mapleton. Creation of this path will eliminate the need for the City of West Linn to construct this intra-neighborhood connection, which will provide a benefit to children walking to and from Cedaroak Park Primary School. While these improvements are not required of the applicant under the CDC, the applicant has offered them to meet the needs of the community. The Council finds that Conditions of Approval 5, 14, and 19 ensure that the pedestrian access improvements in the proposal will address the overall need of the community for pedestrian access and connectivity.

For these reasons, the City Council finds that with additional conditions, the proposal will be consistent with the “overall needs of the community.”

4. *Adequate public facilities will be available to provide service to the property at the time of occupancy.*

FINDING NO. 7:

As detailed below, the City Council finds that all public facilities will be available to provide service to the property at the time of occupancy; the criterion is met. Staff concurs with the applicant’s response to this criterion, which may be found in their 8/20/2012 submittal, Section 4, pages 37-40.

Water. The City does not provide water service to the plant. The WTP currently supplies its own potable water and water for fire protection; the applicant will continue to do so under this proposal. The two existing homes along Mapleton that are part of the WTP site are currently serviced by the City; therefore, this proposal will represent a reduction in current and future long-term water demands.

Sanitary Sewer. There is an existing sanitary sewer system along the project frontages on Kenthorpe Way and Mapleton Drive. The WTP is connected to the sanitary sewer system on Kenthorpe Way. The current flows from the WTP to the sanitary line are up to 60 gallons per minute (gpm). The applicant is proposing to introduce water from the following sources into the City’s sanitary sewer system:

- Reject water from the mechanical dewatering process;

- “Domestic” amenities in the Administration/Operations and the maintenance areas;
- Seal water from pumps;
- Floor drains; and
- Analyzer drains, if detailed design determines that they cannot be located to allow them to drain to a recycle location.

The City Council imposes Condition 8, in order to ensure that there is adequate infrastructure for the proposed use and to accurately account for, and receive fees for, all sewage needs.

Stormwater drainage. The applicant proposes stormwater management facilities that are designed to West Linn Public Works and CDC standards. The applicant is proposing to integrate green roofs, pervious paving, and vegetated stormwater facilities into the site design to: 1) reduce the total area of impervious surfaces, 2) reduce impacts associated with runoff and imitate a pre-development condition, and 3) capture, slow down and absorb runoff. These proposals are adequate to meet stormwater requirements.

Streets. The West Linn Transportation System Plan (TSP) classifies Kenthorpe Way as a local street. The typical cross-section for such a street includes a 56-foot wide right-of-way with 32-feet of pavement and a 6-foot wide sidewalk with planter strips on both sides of the street. The current right-of-way width on Kenthorpe Way is 50-feet and the pavement width varies between 22- and 25-feet; the pavement width at the dead end portion is 15-foot wide. The right-of-way and pavement width, including bicycle and pedestrian facilities, are currently below the typical standard for a local street. However, there is flexibility in the CDC and Public Works Design Standards (PWDS) to reduce the widths of the right-of-way, pavement, and sidewalks, and to eliminate bicycle lanes, where such a design is more appropriate.

Staff requested several measures from the applicant that are consistent with City codes and which are more contextually sensitive to the surrounding environment. These include providing ‘green street’ improvements along both rights-of-way, substituting pedestrian-scaled lighting rather than large, unnecessary street lights, meandering the sidewalk to preserve the existing trees, and not requiring dedication of right-of-way or pavement widening along either street.

The applicant proposes to increase average daily trips (ADT) on Kenthorpe Way by 4 vehicular trips; 0.32 of which are deliveries or truck trips. See Finding Number 48 for a more detailed analysis of the proposed street design and City specifications.

The TSP classifies Mapleton Drive as a collector-constrained street. The typical cross-section for this type of street includes a 48-foot wide right-of-way with 36-feet of pavement, parking on one side and a bike lane on the other. Six-foot wide sidewalks without planter strips are required on both sides of the street in this typical cross-section.

The current right-of-way width on Mapleton Drive is 50-feet with a pavement width that varies between 16- and 20-feet. There are no curbs, sidewalks or bike lanes on either side of this roadway. Although the right-of-way exceeds the City standard, the 16-20-foot pavement width is below the 36-foot standard pavement width for this typical cross-section. Again, there is flexibility in the CDC and PWDS to reduce these standards where it is determined that an alternative configuration is more appropriate and the applicant has done so, as described above.

The applicant's plans show the proposed street improvements on Mapleton Drive and Kenthorpe Way. These plans respond to requests from the staff, as well as adjacent property owners, to keep the street in its current, rural-like state. The plans also recognize the City's desire to protect the mature trees fronting the applicant's property.

Opponents, most particularly Yvonne Davis, argued that the project will generate more trips than the applicant projected and that this increase in number of trips is incompatible with public safety because it will increase the risk of harm. The City Council finds that traffic impacts are calculated not by the number of trips or the frequency of trips but on the carrying capacity of the individual street. If the result of additional trips from a proposed project does not push the carrying capacity to a level of service of a "D" or "F," then the street is anticipated to carry the additional load. The applicant submitted credible reports that the additional temporary load of trips during construction adds little to the already existing traffic. Further, the CMP, required by Condition of Approval 20, outlines a specific construction trip circulation plan that addresses these concerns.

The City Council finds this criterion is met.

5. The applicable requirements of the zone are met, except as modified by this chapter.

FINDING NO. 8:

The applicable requirements of the zone are found in Findings 1-3; this criterion is met.

6. The supplementary requirements set forth in Chapters 52 to 55, if applicable, are met.

FINDING NO. 9:

The applicable requirements of these chapters are found in Findings 13-69 and 129-145; this criterion is met.

7. The use will comply with the applicable policies of the Comprehensive Plan.

FINDING NO. 10:

The CDC is consistent with and implements the policies of the Comprehensive Plan.⁴ The City Council finds that, with the conditions proposed, the application will meet all of the provisions of the CDC; as such it will be furthering more goals, policies and action measures

⁴ For this reason, many of the findings addressing the applicable CDC provisions are also responsive to the Comprehensive Plan policies. .

than can be mentioned in this report. Outlined below are additional policies that the proposal complies with that might not be immediately apparent. Additionally, the applicant's proposal satisfies several supplemental documents to the Comprehensive Plan, including the Transportation Systems Plan, Water System Master Plan, and the Robinwood Neighborhood Plan, which are outlined below.

Some of the testimony received suggested that the applicant has been overly selective in its compliance with the goals and policies, seeking to limit itself to consideration of only the ones that it meets. Other than citing a laundry list of additional plan policies, the testimony provides no greater detail to explain why particular goals and policies are not met. The plan does not require compliance with all of the Comprehensive Plan policies, but rather only those that are "applicable." Determining which plan policies applied to this application was first articulated by staff as part of the pre-application process. From there, the City went through all of the goals and policies and evaluated which ones were applicable in its various staff reports.

The Council Goals

The Comprehensive Plan contains a preamble called "Council Goals" adopted in February 5, 2003 that appears before the table of contents page within the Comprehensive Plan. The Plan does not explain the role of these Council Goals but the Introduction portion of the Plan does contain instructions for using the plan and states:

The goals and policies contained within this plan have the force of law and the City is obligated to adhere to them in implementing the Plan. Additional information about City goals, policies, and recommended action measures follows.

Goal. A statement indicating a desired end or aspiration including the direction the City will follow to achieve that end. The City's goals must be consistent with the Statewide Planning Goals.

Policy. A statement indicating a definitive course of action to implement City goals. A policy may not be the only action the City can take to implement the goals. The City must follow relevant policies when developing other plans or ordinances that affect land use, such as public facility plans, zoning, and development standards.

Recommended Action Measure. A statement outlining a specific City activity, action, project or standard, which if executed, would implement goals and policies. Recommended action measures also refer to courses of action the City desires other jurisdictions to take regarding specific issues, and help define the relationship the City desires to have with other jurisdictions and agencies in implementing the Comprehensive Plan. These statements are suggestions to City decision-makers as ways to implement the goals and policies. Completion of projects, adoption of standards, or the creation of

certain relationships or agreements with other jurisdictions and agencies will depend on a number of factors such as City priorities, finances, and staff availability.

Nothing in the instructions or the substantive portions of the plan make any mention of the 2003 Council Goals contained within the preamble. Further, CDC 60.070(C) requires compliance with the applicable “policies” of the Plan and makes no mention of the goals, whether they are titled Council Goals or otherwise. Therefore, the City Council finds that if the 2003 City Council had intended the 2003 Council Goals to qualify as “applicable policies,” they would have been included within the introductory portions of the plan as having the force of law and would have been specifically referenced within the substantive portions of the Comprehensive Plan. For these reasons the 2003 Council Goals are not “applicable policies” that must be considered in order to evaluate compliance.

If the Council Goals are applicable, many of the Council Goals mirror or are implemented by various goals or policies contained within the Comprehensive Plan that are addressed below. For example, Council Goal #2 requires promotion of citizen involvement and establishment of policies that give neighbors control over their future. Goal 1 Citizen Involvement identifies goals and policies requiring that citizens are allowed to participate in land use proceedings and encourages neighborhoods to adopt neighborhood plans. Findings addressing the other Council Goals are cross-referenced as follows:

1. Maintain and protect West Linn’s quality of life and livability. – See responses to Goal 2, Section 1, Policy 9 below.

6. Promote land use policies, both locally and regionally, that are based on the concepts of sustainability, carrying capacity, and environmental quality. – See responses to Goal 2, Section 1, Policy 9 below.

10. Pursue City policies predicated on the assumption that growth should pay 100% of the cost impacts it creates. – See discussion of Goal 11, Policy 11 below.
11. Assert through both planning and policy that compatibility with existing development should be a primary goal in West Linn’s land use process. See responses addressing Comprehensive Plan Goal 2, Section 3, Policy 6 and Robinwood Plan Goal and Policy 3.9.

The one exception where a Council Goal is not reflected in the body of the Comprehensive Plan relates to Stafford. Council Goal 9 provides: “Oppose urbanization of the Stafford Triangle and pursue policies that would permanently retain that area as a rural buffer between West Linn and neighboring communities.” The Lake Oswego Plan contains a policy opposing urbanization of Stafford. However, both Lake Oswego and West Linn have an obligation under Goal 11 to plan for provision of urban services for areas designated as urban reserves such as Stafford. Before provision of service can actually occur, areas designated urban reserve within Stafford would have to retain their reserve designation, which is currently pending review by the Oregon Court of Appeals, these reserve areas

would need to be brought into the urban growth boundary, annexed by voter approval, and plans amended to accommodate development. Further, the application submitted by the Partnership requests approval for the expansion of an existing water treatment plant at 4260 Kenthorpe Way under existing City standards and criteria. The Council finds that the intended use of the water transmitted through the WTP, and potential distribution to the Stafford Triangle, is not relevant to any of the applicable standards or criteria. Finally, even though there may be a remote possibility that water from the proposed expanded water plant could serve a portion of the Stafford area, the City recently approved a conditional use approval for Trillium School along Rosemont Road which serves students from Stafford. The Trillium School approval was consistent with the Comprehensive Plan and presumably Council Goal 9, this proposal is similarly consistent with Council Goal 9.

For the reasons set out above, the Council Goals do not apply and if they do apply, they are met.

Goal 1 Citizen Involvement identifies goals and policies requiring that citizens are allowed to participate in land use proceedings and encourages neighborhoods to adopt neighborhood plans.

Goal 1 Citizen Involvement

- *Policy 2 – Support neighborhood associations as a forum for discussion and advice on issues affecting the community.*
- *Policy 3 – Encourage individuals to organize and work in groups to develop recommended programs or positions on various issues.*
- *Policy 4 – Provide timely and adequate notice of proposed land use matters to the public to ensure that all citizens have an opportunity to be heard on issues and actions that affect them.*
- *Policy 5 – Communicate with citizens through a variety of print and broadcast media early in and throughout the decision-making process.*

Each of the above policies was furthered during the processing of this application. All Code requirements were met with regard to meetings and notice. Additionally, and contrary to the assertions made by opponents, the applicant completed an extensive citizen information and outreach program over a twenty month period (detailed in its 'Good Neighbor Plan' (applicant's 8/20/2012 submittal, Section 8); including the following neighborhood meetings:

- Presentations and discussion at regular monthly meetings of the RNA:
 - Monthly between April 2010 – January 2012
 - April 16, 2011 Lake Oswego and Tigard Mayors meeting with Robinwood neighbors
- Open houses and tours at the treatment plant:
 - June 24, 2010 Water Treatment Process Recommendation Open House

- July 24, 2010 Water Treatment Plant Open House
- Three planning workshops:
 - August 24, 2010 Maple Grove Plat property owners
 - October 27, 2010 First Good Neighbor Plan meeting
 - December 1, 2010 Second Good Neighbor Plan meeting
- Two surveys of neighbors and property owners:
 - August 4 – October 8, 2010
 - December 1, 2010 – January 12, 2011
- RNA tour of Wilsonville’s water treatment plant:
 - December 11, 2010
- Consultations with the City of West Linn:
 - April 5, 2010 West Linn City Council presentation
 - May 4, 2010 West Linn, Gladstone, Tigard, Lake Oswego City Managers’ meeting presentation
 - September 15, 2010 West Linn Utility Advisory Board
 - August 25, 2011 West Linn Parks and Recreation Advisory Committee
 - December 12, 2011 West Linn Utility Advisory Board
- Design team “backyard visits” with 14 treatment plant neighbors:
 - July 13, 2011 – August 21, 2011
- Design open house:
 - October 27, 2011
- Neighborhood meeting required by West Linn development code:
 - November 10, 2011

Furthermore, at the request of the Robinwood Neighborhood Association, the West Linn City Council took the unprecedented step of hiring a private land use planner to work exclusively with the Robinwood Neighborhood Association on this project. The Council’s intent was to provide the Neighborhood with professional assistance to maximize citizen involvement for this project. This planner met with Neighborhood representatives, reviewed the City code and the application, helped the association identify potential mitigation measures, and provided the Neighborhood with a report on the application. Therefore, the citizen involvement policies of Goal 1 are satisfied.

Goal 2 Land Use Planning

- *Section 1, Residential Development. Policy 5. - New construction and remodeling shall be designed to be compatible with the existing neighborhood through appropriate design and scale.*

Opponents have identified a definition of “compatible” to include “capable of orderly efficient integration and operation with other elements in a system with no modifications or conversion required.” The Council adopts the definition set forth in *Webster’s Third New International Dictionary* as “capable of existing together in harmony.” The City Council does not conclude that compatibility or in harmony requires a finding of no impacts. Rather, “major utilities,” by definition, are expected to have “significant impacts.” The purpose of this plan policy, and its implementation measures, found in CDC 60.070(A)(1),

(2) and (3), is to minimize and mitigate the impacts to the point where the overall benefits from the proposal exceed the impacts. The Council finds that this policy is equivalent to and implemented by the conditional use criteria discussed in greater detail above. The applicant has addressed this policy at length in its narrative relating to CDC 60.070(A)(1), requiring that the site size and dimensions be sufficient to satisfy the needs of this use as well as “Adequate area for aesthetic design treatment to mitigate any possible adverse effects.” See Finding 4. The applicant has established based on the evidence in the record that the site is suitable for the use as required by CDC 60.070(A)(2) and this facility is “consistent with the overall needs of the community,” as required by CDC 60.070(A)(3). See Findings 5 and 6.

Further, finding compatibility requires consideration of whether a proposal satisfies the applicable criteria in CDC Chapter 55, Design Review. The Partnership’s professional architects and landscape architects prepared plans based on their survey of plant materials and architecture typical in the Robinwood neighborhood. The design team revised its plans several times as a direct result of neighborhood feedback. West Linn staff found that the design proposals satisfy the applicable design review criteria. Neighborhood materials, neighborhood feedback, and staff conclusions that it satisfied CDC 55 guided the proposal. Therefore, the proposed WTP is capable of existing together in harmony with the neighborhood, as it has done for 45 years. This policy is met.

- *Section 1, Residential Development, Policy 8 - Protect residentially zoned areas from the negative impacts of commercial, civic, and mixed-use development, and other potentially incompatible land uses.*

As noted by the applicant in its presentations to the Council, by allowing major public facilities as a conditional use in the R-10 zone the development code recognizes that this use, including its construction traffic, access, and noise impacts, is not by its nature incompatible with residential uses. The applicant has gone to great lengths to protect the surrounding residential area from impacts resulting from the proposed use of the public facilities. See Finding 4. Additional protection is achieved through the mitigation proposed by the applicant through site and facility design conditions to reduce glare, noise, traffic and other impacts to acceptable levels under the West Linn Development Code criteria, which implements the Plan.

The Council notes that Rich Farrington testified to the Council to the effect that if the area were to be subdivided into allowable R-10 sizes for residential use, it would be safe to state that the impacts to the neighborhood of the resulting homes would be far greater than the utility use proposed. No expert evidence has been identified to suggest that this facility and its connecting pipelines will have any greater construction impacts in terms of traffic, noise, air pollution, or other impact than the development of residential homes. The post-construction impacts will be significantly less. A Construction Management Plan is proposed to mitigate any potential negative impacts from this use. The uncertainties with noise impacts are proposed to be addressed by Condition of Approval 4. This policy is met.

- *Section 1, Residential Development, Policy 9. - Foster land use planning that emphasizes livability and carrying capacity.*

This plan policy is directed at city action when it adopts various land use regulations implementing the plan rather than to the review of particular proposals to determine if they comply with the plan and code. Cities use their development codes to regulate land use planning and West Linn has done so in this case by determining that major utilities are a conditional use. By following these codes, applicants know the rules by which they will be held accountable. By stipulating that public facilities are a conditional use within the R-10 zone, West Linn has decided that these uses can be made compatible through proper mitigation. The site and facility design conditions foster the planning envisioned under this policy, i.e., to make the proposed uses compatible with the residential area and to provide water service for the neighborhood, city and region, thereby advancing the carrying capacity of each of these areas. Carrying capacity is usually associated with the capacity of land and facilities to accommodate development. In this case, the Partnership is providing an element of that carrying capacity itself. Further, the evidence from experienced and qualified civil engineers, transportation, environmental and seismic experts, architects, landscape architects and planners, representing both the applicant and the City's own staff, have concluded that the proposed uses are compatible with values of livability and are supported within the City's existing infrastructure carrying capacity. Finally, providing a safe and reliable redundant, emergency water source is essential to enhancing the livability of the City. To the extent that this policy applies, it is met.

- *Section 3, Mixed-Use Commercial Development, Goal 4 - Protect surrounding residential areas from possible adverse effects such as loss of privacy, noise, lights, and glare.*

This section applies to commercial mixed-use developments and does not apply to a major utility use proposed in a residential zone. The Background of these Findings and this section highlight the small amount of land dedicated to commercial and business development within the City and note that efforts to expand the "employment or shopping opportunities" within the City could alter the "primarily residential character of the City." The proposed use is not commercial or mixed use. Although it will provide some construction jobs, it will not directly provide any employment or shopping opportunities. Thus, these sections do not apply. To the extent they do apply, the plant and pipelines will not result in any greater loss of privacy, noise, lights or glare than could be expected to result if the land were developed with residences. See responses to Design Review standards in WTP amended application pgs. 58-90. To the extent that this Goal applies, it is met.

- *Section 3, Mixed Use Commercial Development, Policy 4(e) - Require that any redevelopment of existing land or buildings be completed in a manner which conforms to the adopted neighborhood plan.*

As noted above, this goal applies to commercial mixed-use developments and does not apply to a major utility use. Additionally, as discussed in greater detail below, the proposals conform to the Robinwood Neighborhood Plan. To the extent that this policy applies, it is met.

- *Section 3, Mixed Use Commercial Development, Policy 4(f) – Integrates aesthetically pleasing commercial development with residential uses.*
- *Section 3, Mixed Use Commercial Development, Policy 6 – Commercial development shall be planned at a scale that relates to its location in the district.*

As explained above, these two policies are not applicable because this is not commercial development. Additionally if they did apply, the plant complies with all height and lot coverage limitations contained within the CDC. The plant has been designed using residential design detailing which works to further break down the scale. The structures have been largely set back from adjacent property lines with substantial landscape screening, which again breaks up the massing and make the structure scale compatible with the surrounding residences. For these reasons, these two policies do not apply and to the extent that they do, they are met.

- *Section 4, Industrial- Background and Findings - West Linn does not contain any additional lands suitable for large-scale industrial development. There are no remaining undeveloped areas in the City of at least 10 acres in size, relatively level terrain, adequate public services (particularly transportation), and suitable buffering from the residential development that characterizes most of the City.*

This section is not a City goal or policy, but is a finding directed at areas zoned for industrial development. The applicant is not proposing an industrial development; therefore this statement does not apply. As noted above, the evidence presented indicates that the transportation system is adequate to accommodate these proposals, both during construction and afterward. (See August 20, 2012, WTP application Section 4, pgs. 19-22 and DKS memorandum, Nov. 1, 2012.) The landscape buffering proposed exceeds the minimum required by the West Linn Community Development Code and what would be provided if this area was developed for residential uses. For these reasons, this Background Finding does not apply and to the extent that it does, it is met.

- *Section 5, Intergovernmental Coordination*

Specifies that the City shall coordinate with the outside jurisdictions on specific issues, including:

- *Water supply with the South Fork Water Board and the City of Lake Oswego.*

And includes the following goals:

1. Provide a coordinated approach to problems that transcend local government boundaries.

2. Encourage and support other agencies to help implement the City's Comprehensive Plan.

- Policy 1 – Maintain effective coordination with other local governments, special districts, state and federal agencies, Metro, the West Linn-Wilsonville School District, and other governmental and quasi-public organizations.*
- Policy 2 – Coordinate the City's plans and programs with affected governmental units in the developing solutions to environmental quality problems, hazardous physical conditions, natural resource management programs, public facilities and services programs, transportation planning, annexation proceedings, and other municipal concerns with intergovernmental implications.*

The Comprehensive Plan policies under this Goal specify coordination with other agencies to develop solutions to our public facility problems that “transcend local government boundaries.” It states that the Lake Oswego water supply is one of those facilities. This policy provides further support for the Council’s interpretation of “community” as discussed in Finding 6 above. The Water Master Plan and this particular application are examples of such coordination required under the Comprehensive Plan. Further, TVF&R, the emergency services agency that will be affected by this proposal, presented testimony throughout the process that it is satisfied with the applicant’s approach.

Goal 5 Open Spaces, Scenic and Historic Areas, and Natural Resources

• Natural Environment

- Policy 1 – Implement site design standards that prescribe how to place roadways and buildings to preserve trees.*
- Policy 2 – Where appropriate, require the planting of trees as a condition of approval for any land development proposal, consistent with the City’s street tree ordinance and recommendations of the City Arborist.*
- Policy 3 – Provide buffer areas around heritage trees, significant trees, and tree clusters to ensure their preservation.*
- Policy 8 – Require and enforce erosion control standards for new development.*
- Policy 9 – Maintain and improve existing storm water detention and treatment standards to ensure that the impact of new development does not degrade water quality and wildlife habitat.*

CDC Subsection 55.100(B)(2) provides guidance and regulations governing the placement of roadways and buildings in relation to trees. West Linn regulates heritage trees, significant trees, and significant tree clusters. CDC 55.100(B)(2) acknowledges that not all trees are significant and that even if the City Arborists determines that a tree is significant, not all significant trees will be protected. The West Linn Arborist has determined that the site contains 42 significant trees or significant tree clusters.

The applicant proposes to save 36 of the significant trees on site and will mitigate for the tree loss, consistent with West Linn regulations. (See applicant's 8/20/2012 submittal, Section 21, Tree Protection Plan.) Six significant trees, totaling 182 inches DBH are proposed to be removed. Based on the 182 inches of significant tree DBH removal, mitigation will require 182 inches of DBH replacement. The applicant proposes conducting this replacement by planting 91 sapling trees at 2 inch caliper per tree for a total of 182 inches. In addition, approximately 217 other trees will be planted. This will result in a total of approximately 308 trees being planted on-site. Detailed planting plans, including a plant schedule are located in applicant's 8/20/2012 submittal, Section 21, Figures 11.0-12.0 and applicant's 8/20/2012 submittal, Section 21, Figures 12.1-12.4.

There are no heritage trees on site. Adequate buffers are proposed around the significant trees and tree clusters to be preserved to ensure their protection. Policies 1, 2, and 3 are met.

Chapter 33, Stormwater Quality and Detention gives the requirements applicable to erosion control standards and stormwater detention and treatment. Those requirements are discussed in Findings 70-76. The application includes a preliminary Erosion Control and Sediment Plan that is responsive to the criteria of Chapter 33 as well, and to the extent that the criteria of Chapter 33 are not met, Condition of Approval 6 fulfills any deficiencies. This criterion is met.

Goal 6 Air, Water, and Land Resources Quality

- *Section 1, Air Quality, Background and Findings – The primary source of air pollution within the city of West Linn is automobile and truck emissions. At this time there are no known major single (point) sources of air pollution in the city. However, it is important to be aware of existing or future industrial facilities which could be major point.*

This background and findings statement is not a City policy, but is a finding directed at point sources of air pollution. Although it identifies automobile and truck emissions, it sets no quantifiable limits for emissions. "Point source of pollution" is defined in the Comprehensive Plan to mean "A single, discrete facility or other source of air or water pollution such as a smokestack or sewage outfall pipe." No quantifiable amount of air pollution has been identified as resulting from the operation of this plant or pipelines. As noted above, the proposed use is not an industrial facility, nor is it a point source of pollution. Therefore, these statements are not "applicable policies" of the Comprehensive Plan and do not apply.

- *Section 1, Air Quality, Goal – Maintain or improve West Linn's air quality.*

This is a goal rather than a policy and contains no standards or limitations as to what is or is not required. As quoted above, a comprehensive plan goal is the "desired end or aspiration" that the City wishes to pursue which is implemented by the corresponding

policies. The policies addressing air quality discuss coordinating with DEQ and other relevant agencies to reduce air pollution and requiring DEQ air quality permits where appropriate. The policies provide relevant context suggesting that this goal is directed entirely at City-initiated planning activities and where appropriate, encouraging the use of alternative transportation. These proposals will work to minimize vehicular emissions by bussing workers to the construction site. Further, the construction schedule has been condensed as much as possible to minimize the number of trips needed to complete the project. To the extent the policy applies, it is met.

- *Section 2 Water Quality*
 - *Policy 1 – Require that new development be designed and constructed to prevent degradation of surface and groundwater quality by runoff.*
 - *Policy 4 – Require that new development be connected to the City’s sanitary sewer system.*
 - *Policy 5 – Where feasible, use open, naturally vegetated drainageways to reduce stormwater runoff and improve water quality.*
 - *Policy 7 – Require up to date erosion control plans for all construction and actively enforce applicable City codes and regulations.*
 - *Policy 8 – Encourage the use of alternative permeable materials for construction of parking areas to reduce stormwater runoff and improve water quality.*

The existing storm water system is proposed to be upgraded with green roofs, pervious paving, and vegetated stormwater facilities to reduce the total area of impervious surfaces, capture, slow down and absorb runoff, and reduce impacts associated with runoff. The WTP will be connected to the City’s sanitary sewer system with the limitations of Condition of Approval 8. The proposed ‘green street’ filtration system should improve water quality. The application includes a preliminary Erosion Control and Sediment Prevention Plan (ECSP), and it includes permeable paving materials for employee and guest parking areas and a portion of the emergency access road from Mapleton Drive. These policies are met.

- *Section 3 Land Resources, Policy 3 – Require adequate screened and enclosed space for recycling, solid waste storage, and compacting and require proper access to these areas.*

All recycling, solid waste and compacting will be screened and have proper access. (See proposed Condition of Approval 9.)

- *Section 4 Noise Control*
 - *Policy 2 – Require development proposals that are expected to generate noise to incorporate landscaping and other techniques to reduce noise impacts to levels compatible with surrounding land uses.*
 - *Policy 3 – Require new commercial, industrial, and public facilities to be designed and landscaped to meet DEQ and City noise standards.*

- *Policy 4 – As part of the land use application submittal for a noise-generating use, require the applicant to include a statement from a licensed acoustical engineer, and, if necessary, from DEQ, declaring that all applicable standards can be met.*

The City's noise standards are based on Department of Environmental Quality (DEQ) regulations. The applicant proposes to design and landscape the site to be consistent with DEQ daytime and nighttime noise limits in a residential neighborhood. The application contains a noise study prepared by ENVIRON, a licensed acoustical engineering firm. The acoustical engineer concluded that the proposed WTP can meet DEQ daytime standards. However, ENVIRON was not able to reach a definitive conclusion regarding nighttime compliance at the WRWTP based on the available measurement data, due to non-plant related noise generated by the architectural water feature along the west side of the WRWTP and a gravel producing operation to the east. Consequently, ENVIRON recommends consideration of one or more of the following noise mitigation techniques and practices during final WTP design:

- Installation of noise producing equipment indoors, when feasible;
- Use of appropriate noise attenuation features on buildings, including acoustical louvers on air intakes/outlets and silencers;
- Use of appropriate noise attenuation features such as acoustical enclosures or barriers, pipe lagging around noisy pipes or ducts for equipment installed outside; and
- Selection of residential grade equipment, particularly for HVAC systems.

With careful design and implementation of noise mitigation measures, the City Council finds that noise levels from ongoing plant operations will comply with the nighttime noise limits with Condition 4. In addition to continuous operations, ENVIRON considered potential future sound levels associated with the elimination of certain existing treatment processes. Processes to be eliminated include mechanized removal of water plant solids, the 30-foot tall lime silo and associated bin vibrator, lime building blower, and CO2 tank. A new backup generator will be fitted with a residential grade silencer and set in a noise dampening enclosure to replace an existing generator without those features.

Based on its analysis of existing and future sources of noise ENVIRON concluded that the remaining operation of concern will be the intermittent noise associated with periodic chemical deliveries and weekly garbage pickup.

To mitigate this remaining concern, ENVIRON recommended the use of "plant air" (i.e., compressors installed inside a building) in lieu of truck-mounted compressors to eliminate the noise associated with chemical unloading. ENVIRON also recommends that chemical unloading be restricted to daytime hours only (this is addressed by Condition of Approval 4).

Most of the existing exterior noise-producing intermittent activities will be eliminated. ENVIRON concluded that the upgraded WTP should comply with all daytime noise limits established by OAR 340, Div. 035.

The City Council imposes Condition of Approval 4, based on the recommendations of the acoustical engineer; these include the ENVIRON Noise Mitigation recommendations and a post-construction noise analysis to document that noise limits have been met and the City Council agrees.

- *Section 4, Noise Control, Recommended Action Measure 2 – Monitor and enforce conditions of approval for new development related to noise impacts.*

This measure is a recommended action measure, directed at compliance after land use approval is granted and thus has no application to the conditional use approvals currently before the Council. To the extent it does apply, the construction management plan requiring follow-up noise testing along with Condition of Approval 4 will ensure that noise impacts remain at or below applicable standards. Moreover, the applicant has proposed a monitoring system for noise impacts during the construction process as part of its application. This policy, to the extent that it applies, is met.

Goal 7 Areas Subject to Natural Disasters and Hazards - Protect life and property from flood, earthquake, other geological hazards, and terrorist threats or attacks.

The application thoroughly addresses flood, geologic hazards and homeland security risks to the use and site. The WTP application addresses seismic safety concerns in Section 4, p. 9 and Section 17 and subsequent technical reports from Geotechnical Engineers, New Albion and Dr. Scott Burns. Seismic risks associated with the plant have been evaluated by professional geologists and a peer review of those findings as well as an evaluation of the geologic conditions existing on the site have been independently reviewed by qualified experts. These experts have all concluded that the area coupled with construction and operation of a water treatment plant will be safe. See Finding 5. The City of Lake Oswego is in full compliance with federal and state guidelines and rules relating to security of water treatment facilities. This goal, to the extent it applies, is met.

- *Policy 1 – Require development and associated alterations to the surrounding land to be directed away from hazardous areas.*
- *Policy 2 – Restrict development except where design and construction techniques can mitigate adverse effects.*

The WTP has occupied this location for over 45 years. Staff requested a site specific site hazard evaluation which provides the recommended construction and installation techniques to mitigate seismic issues at the site. The applicant's complete draft geotechnical report and site hazard evaluation is contained in the applicant's 8/20/2012 submittal, Section 17 and subsequent technical reports from Geotechnical Engineers, New Albion and Dr. Scott Burns. These documents, included with the application, will guide the future development of the site. These policies are met.

Goal 8 Parks and Recreation, Goal 3 – Assure the availability and the reasonable accessibility of recreational lands and facilities to all West Linn residents.

This is a goal rather than a policy containing no specific requirements. Construction and operation of the plant will have no effect on the ability of the public to access or use Mary S. Young Park, existing nature trails, or other nearby natural areas. To the extent this goal applies, it is met.

- *Policy 8 – Require land divisions and major developments to set aside or dedicate land based on standards that provide for:*
 - a. *An area composed of developable lands that may provide active recreational space;*
 - b. *An adequate passive open space area to protect natural resources at the site and protect development from hazard areas; and,*
 - c. *A link between existing public-owned parks or open space areas and/or public rights-of-way.*

Although not required as part of the application, the applicant proposes the creation of a pedestrian path from the eastern end of Kenthorpe Way to Mapleton Drive, thereby fulfilling the purpose of this series of goals and recommendations. Additionally, large open spaces along both frontages are being provided, with pedestrian lighting and benches accessible to the public. This policy is met.

Goal 9 Economic Development

- *Policy 8 – Maximize the use of regional, state, and federal funding for infrastructure planning and development.*

The variety of public improvements being received by the City in conjunction with this project represent an example of the City partnering with another agency for infrastructure improvements at no cost to the City. Improvements include the right-of-way improvements, pedestrian paths, benches, and lighting benefiting the public, and additional water capacity in the facility itself. This policy is met.

Goal 10, Housing, Goal 1 – Preserve the character and identity of established neighborhoods.

The Robinwood Neighborhood has included a Lake Oswego owned and operated water treatment plant since 1967. That plant is as much a part of the identity of the neighborhood, including the significant landscaping and open space that the plant provides, as the residential neighborhood itself. The design of the site and the plant has accommodated the design features of the neighborhood. As discussed in greater detail above, the character of Robinwood will not be diminished by allowing the construction of a new safer, more aesthetically compatible plant and pipeline. This goal, to the extent it applies, is met.

Goal 11 Public Facilities and Services

- *Policy 2 – Development shall not be approved unless: a) the proposal has adequate access to the transportation, storm drainage, potable water, and sewer systems; and, b) these infrastructures have adequate capacity to serve the development.*

The City Council finds that this policy is implemented by CDC 60.070(4) requiring adequate public facilities to serve the use. See Finding 7. The existing transportation system coupled with the proposed circulation plan will allow for the construction of a plant that maintains adequate access to the transportation system. The existing transportation system maintains sufficient capacity to serve the development, during and after construction. The applicant will provide its own potable water for consumption and fire protection. The storm drainage system is sufficient and Condition 8 will ensure that the sanitary sewer system is adequate to accommodate the development. This policy is met.

- *Policy 5 – Where appropriate, monitor, coordinate with, and regulate the activities of the following, as they affect existing and future residents and businesses: a) water supply... e) fire and rescue protection...*

The WTP is an existing element of West Linn’s infrastructure as it provides West Linn residents with a water intertie for back-up and emergency water supply purposes. The applicant will continue to provide the water intertie to West Linn consistent with the water system plans for each jurisdiction. As outlined in Finding 6, the Water System Master Plan states the need to improve the emergency supply capacity and reliability of the Lake Oswego emergency supply connection and recommends: *“This solution approach includes developing a coordinated emergency supply plan that allows the City to fully meet its emergency supply capacity needs through the existing emergency supply connection from the City of Lake Oswego’s water system in the Robinwood neighborhood near Lake Oswego’s water treatment plant. The City’s existing emergency supply connection to Lake Oswego is interruptible and its delivery capacity is dependent on Lake Oswego’s supply and demand conditions at the time of the City’s need. Under peak use, high demand conditions the actual capacity of this connection may approach zero as Lake Oswego’s current maximum water demands are approaching the existing supply system’s capacity.”*

The West Linn water supply was interrupted in December 2011, a low flow time of the year, demonstrating the importance of securing a reliable source of emergency water. Expansion of the WTP would provide West Linn with a reliable source of emergency water for many years to come.

Further, TVF&R, the emergency services agency that will be affected by this proposal, presented testimony throughout the process that it is satisfied with the applicant’s approach with Conditions of Approval 3 and 7. The applicant’s CMP required by Condition of Approval 20 calls for continuous communication and coordination between the applicant and TVF&R during construction. This policy is met.

- *Policy 10 – Assure all visible public facilities are constructed with attractive design and materials where appropriate.*

The design team conducted a neighborhood compatibility analysis, which identified several dominant architectural themes, such as, low buildings relying on horizontality and the use of wood, brick, and earth tones. The proposed WTP buildings complement these themes by emphasizing horizontal planes, building elevation within the height limits of the R-10 zone, and the use of wood, brick, and metal – all in earth tones. This policy is met.

- *Policy 11 – Assure that costs for new infrastructure and the maintenance of existing infrastructure are borne by the respective users except when it is determined that improvements are of benefit to the whole community, or that a different financing mechanism is more appropriate.*

The applicant has not requested that West Linn contribute any funds to this plant expansion or pipeline upgrade project. Opponents assert that the additional cost will come from additional emergency 911 calls, security, and earthquake drills. This plan policy is expressly directed to the capital costs associated with installing and maintaining public facility infrastructure. The evidence submitted shows that the City of West Linn will benefit by a more reliable system of backup and emergency water at no cost to the community. No evidence supports a claim that construction or operation of the plant or pipelines will increase the number of emergency service calls or earthquake drills. The applicant will have to abide by the same safety and emergency response planning obligations set by state and federal law that currently and may exist in the future. This policy is met.

- *Policy 12 – Whenever feasible, utilize environmentally sensitive materials and construction techniques in public facilities and improvements.*

The proposed project includes the following environmentally sensitive improvements: use of porous paving surfaces, recycled materials, green roofs, stormwater facilities that make use of existing topography and a “Green Streets” approach to frontage improvements. Where possible, heat will be scalped from a warm area of the plant and ducted to a cooler area of the plant.⁵ This policy is met.

- *Policy 13(c) - Adopt, maintain, and periodically update, as supporting documents to this Plan, a Public Facilities Plan for the development of public services and facilities in conformance with the policies of the Comprehensive Plan. The Public Facilities Plan shall include a summary. The summary, but not any other part of the Public Facilities Plan, is hereby incorporated as part of this Comprehensive Plan. The Public Facilities Plan Summary shall list the planned water, sewer, storm drainage, and transportation projects by title; shall provide a map or written description of the locations of the projects or their service areas; and shall list the service providers for each project. In establishing the priorities and preparing the CIP, the City will consider the following:*

⁵ This finding further supports the “sustainability, carry capacity, and environmental quality” objectives identified in Council Goal 6.

c. The need to equitably distribute the cost based on the benefit received from the facility.

This policy is directed to the City itself rather than the applicant. However, the applicant will be paying for the costs of the improvements in the right-of-way as well as all required system development charges (SDCs). Additionally, the City will directly benefit from the expanded capacity at the plant. These policies are met.

Policy Subsidiary (c) is directed to City adopted public facilities plans such as the Water System Master Plan. The need to distribute costs equitably based upon benefit from the facility is an issue that City's conform to when developing their Capital Improvement Plans (CIP's) or their Water Master Plan. This policy does not apply since no plan adoption is proposed. Additionally, the benefit to West Linn's waster system that it will receive will be at no cost to the City of West Linn, which is about as equitable of a distribution as there can be. To the extent it applies, this policy is met.

- *Section 2 – Water System*
 - *Policy 1 – Establish the City's Water Master Plan, 1999, which is a supporting document of the Comprehensive Plan, as a guide for development of future water storage and distribution facilities. A list of the planned water system projects shall be included in the public facilities plan summary required under Public Facilities and Services General Action Item 1.*

Although Policy 1 above describes the 1999 Water Master Plan, the most recently updated and adopted version is the 2008 Plan. That Master Plan encourages the integration of the Lake Oswego intertie into the West Linn water system; it states, "It was further directed to pursue development of reliable emergency supply capacity with the cities of Lake Oswego, Tigard and others in accordance with Solution Approach C." (2008 Water Master Plan, Page 6-15) Clearly, the proposed plans will directly further this directive from the Water System Master Plan. This policy is met.

- *Section 3 – Storm Drainage*
 - *Policy 1 – Where possible, require storm water runoff within development areas to be pretreated, using natural channels as points of discharge from local runoff collection systems. The Storm Drainage Master Plan, West Linn, Oregon, 1996, will be the key reference for determining drainage corridors and is a supporting document of the Comprehensive Plan.*

The City Council finds that the applicant shall install construction related stormwater treatment facilities to ensure compliance with the Storm Drainage Master Plan, Oregon, 1996 requirements for treatment of storm drainage runoff prior to offsite discharge to conveyance systems. This policy is met.

- *Policy 3 – Protect downstream areas from increased storm water runoff by managing runoff from upstream development and impacts on adjacent natural drainageways and their associated vegetation.*

Chapter 33, Stormwater Quality and Detention gives the requirements applicable to this policy. Those requirements are discussed in Findings 70-76, and to the extent that the criteria of Chapter 33 are not met, Condition of Approval 6 fulfills any deficiencies. This criterion is met.

- *Policy 4 – Seek alternatives to the use of impervious surfaces within areas of dense standing trees and shrubs next to natural drainage courses and in other natural areas.*

As illustrated in the application, the Applicant shall incorporate Figure 10.2 – Planting Plan, which limits the use of impervious surfaces within areas of dense standing trees and shrubs next to natural drainage courses and in other natural areas. These plan policies are satisfied.

- *Policy 6 – Require that construction practices for all land development projects, private and public, be conducted in such a way as to avoid exposing cuts, grading areas, and trenches to stormwater so that soil erosion is minimized, and soil will not be washed into natural drainage areas*

As discussed previously, the City Council finds that the Applicant will install and maintain erosion and sediment control devices and systems to shield exposed soils from rain water and storm water to minimize transport of sediments offsite to natural drainage ways. Examples include covering exposed excavation slopes or soils stockpiles with impermeable materials.

- *Policy 8 – Encourage use of permeable surfaces in developments.*

As previously noted, the site plan includes multiple examples of techniques that will further these provisions of the Plan. These include green streets, green roofs, pervious surface areas, and clustering of the development to reduce impervious surface areas.

- *Section 4 – Fire and Police*
 - *Policy 1 – Ensure that police and fire protection service providers are closely involved with land use decisions that have implications for the provision of emergency services and crime prevention.*

TVF&R has approved of the plans with a proposed Conditions of Approval 3 and 7. These policies are met.

- *Section 8, Private Utilities and Telecommunications, Policies 2-4 – Require that new development be served by underground facilities. Encourage undergrounding of existing facilities. Require utilities to remove abandoned facilities.*

This section applies to private utilities and telecommunications. The Partnership is a joint effort of two municipalities and thus, this section does not apply. As for electrical and telephone lines, this provision requires the undergrounding of new connections but contains more permissive language when it comes to existing electrical utilities. Thus, the existing overhead electrical and telecommunications along Mapleton and Kenthorpe do not need to be undergrounded to comply with this standard. Moreover, to avoid the inconvenience associated with piecemeal undergrounding efforts, the City allows for a payment of a fee in-lieu-of undergrounding. The Partnership will pay this fee as identified in Condition 12. This policy is met.

Goal 12 Transportation

- *Policy 8 – Ensure that development brings adjacent road frontages to illumination levels that are identified within the CDC and City Engineering standards and specifications for street lighting.*

The applicant discussed providing additional lighting on the streets fronting Kenthorpe Way but, after consulting with staff, and with consideration of neighborhood desires, it was decided to only have street lights provided at the entrance drives. Lighting will be provided for pedestrians via low bollard lighting fixtures. These levels are allowed by the CDC and the City’s engineering standards. This policy is met.

- *Action Measure 3 - Assess and collect Systems Development Charges (SDCs) to assure that new development pays its “fair share” of needed improvements to transportation facilities of City-wide importance.*

The applicant will be paying for the costs of the improvements in the right-of-way as well as all required system development charges (SDCs). This policy is met.

- *Bicycles*
 - *Policy 4 – Require new commercial, industrial, and institutional development to provide on-site facilities for bicycle parking and storage.*

The plans provide the required bicycle parking and identify the location of covered and non-covered bike parking consistent with CDC 46.150(D). This policy is met.

- *Pedestrians*
 - *Policy 1 – Provide a comprehensive cohesive network of pedestrian paths, lanes, and routes that accomplishes the following objectives: a) connects the four commercial centers in Willamette, Bolton, Robinwood, and Tanner Basin; b) provides connections to schools, recreation facilities, community centers, and transit facilities; c) use off-street pedestrian “short-cut” pathways to provide routes where physical constraints or existing development preclude the construction of streets with sidewalks; d) provide safe, secure, and desirable walkway routes, with a preferred spacing of no*

- more than 330 feet, between elements of the pedestrian network; e) eliminate gaps in the existing walkway network and provide pedestrian linkages between neighborhoods. Preference will be given to funding projects that eliminate gaps along arterial and collector streets.*
- *Policy 2 – Employ a variety of methods to promote safe and convenient pedestrian access in addition to, or instead of, sidewalks in older developed areas of West Linn without sidewalks.*

The WTP proposal provides a pedestrian path that would connect the eastern end of Kenthorpe Way to Mapleton Drive. Creation of this path will eliminate the need for the City of West Linn to construct this intra-neighborhood connection, which will provide a benefit to children walking to and from Cedaroak Park Primary School enhancing pedestrian access as provided in the Plan. The application proposes to use a ‘green streets’ approach to frontage improvements that will be in keeping with the stated goal of providing alternatives to traditional sidewalks in older neighborhoods, such as Robinwood. This policy is met.

Goal 13 Energy Conservation

- *Policy 6 – Encourage the use of energy-conscious design and materials in all public facilities.*
- *Policy 7 – Encourage the construction and maintenance of sidewalks and bike paths/ways to promote alternative modes of transportation.*

The WTP site will include a pedestrian path connecting the eastern end of Kenthorpe Way to Mapleton Drive providing a more efficient pedestrian route (0.8 miles shorter), which will provide a benefit to children walking to and from Cedaroak Park Primary School, and may result in fewer automobile trips. Sidewalks will be provided along the Kenthorpe Way and Mapleton Drive frontages. An employee bike parking area will be created within the WTP’s secured area. These policies are met.

Robinwood Neighborhood Plan

- *Goal and Policy 1.1 Provide continuous and wide pedestrian facilities along Willamette Drive.*
- *Goal and Policy 1.3 Beautify the length of Willamette Drive with a comprehensive and consistent streetscape.*
- *Goal and Policy 1.4 Provide a continuous bike lane along Willamette Drive.*

These policies are directed at the City, not the applicant and therefore, do not apply here.

- *Goal 3, Policy 3.3 – Provide appropriate pedestrian facilities along residential streets.*

As noted above, the applicant’s proposal includes pedestrian facilities along Kenthorpe Way and Mapleton Drive that are designed to complement the neighborhood’s character while improving safety for pedestrians. City of West Linn staff worked with the applicant

in designing pedestrian facilities along Kenthorpe Way and Mapleton Drive that: 1) protect the mature vegetative buffers between the site and adjacent residences, 2) improve stormwater quality and detention capabilities from existing and newly created impervious surfaces, 3) are consistent with the ‘green street’ guidance established in Policy 3.4 of the Robinwood Neighborhood Plan, and 4) complement the existing low-volume characteristic of this part of the neighborhood. The resulting proposed street improvements provide a 6-foot wide pedestrian sidewalk along Kenthorpe Way and Mapleton Drive separated from the vehicle travel lanes by a curbside drainage swale and/or rain garden. This policy is met.

- *Goal 3, Policy 3.4 – Implement “green street” concepts for residential streets.*

One action measure listed under Policy 3.4 speaks to the possibility of undergrounding overhead utility lines. As residential development has occurred, utility lines have been placed underground. In situations where existing overhead utility lines run continuously along a street frontage, such as along Kenthorpe Way and Mapleton Drive, West Linn provides an option of fee-in-lieu of undergrounding a small section of overhead utility lines. This avoids the disruptive effect of road cuts and service interruption to residents that a piece-meal approach to undergrounding utilities creates. The applicant proposes to leave the overhead utility lines in place and pay a fee (based on an estimate of the cost to bury the lines in lieu of undergrounding overhead utilities) at this time; see Condition of Approval 10. However, a proposed new secondary power feed will be buried in the Kenthorpe Way right-of-way. This policy is met.

- *Goal 3, Policy 3.5 – Protect existing single-family neighborhoods from over-sized infill residences and neighboring commercial development.*

With regard to Policy 3.5, a corresponding action item prohibits locating “commercial development” that places “unacceptable impacts” such as “traffic, noise, lighting, and building bulk upon existing residential neighborhoods.” As explained above, this proposal is for a utility that is not infill or a commercial development. As explained elsewhere, this plant will be compatible with the surrounding residential neighborhood. This policy does not apply to these applications. To the extent it does apply, this policy is met.

- *Goal 3, Policy 3.7 – Use pedestrian shortcuts to connect existing streets.*

As a direct response to Policy 3.7, as previously mentioned, the applicant proposes a through-site pedestrian connection between Kenthorpe Way and Mapleton Drive that would be approximately 0.8 miles shorter than the existing pedestrian route between the segments of Kenthorpe Way and Mapleton Drive that abut the WTP property. This policy is met.

- *Goal 3, Policy 3.9 – Ensure that the Lake Oswego Water Treatment Facility on Kenthorpe Drive remains compatible with the surrounding residential areas and provides benefits to Robinwood’s residents as well as those of Lake Oswego.*

Policy 3.9 recognizes the probability of future development of the WTP and guides development in a manner that is compatible with surrounding residential uses and is beneficial to the neighborhood residents. The applicant proposes: dense, layered landscape screening; a compressed site layout; architectural styles complementary to the neighborhood and materials common within the Robinwood neighborhood including the use of wood, brick and earth tones; a construction management plan that ensures communication between project management and affected property owners; a pedestrian connection between Kenthorpe Way and Mapleton Drive and 'green street' improvements, as elements that will ensure compatibility and afford benefit to area residents.

The high level of landscape screening between the WTP operations and abutting residential properties is possible because the project designers, in consultation with neighbors, compressed WTP operations towards the center of the site, thereby providing large perimeter setbacks in which to grow dense landscape buffers.

Regarding compatibility during construction, the applicant has provided a Construction Management Plan that ensures continuous access to residential streets and homes and includes a mechanism for the applicant to notify residents of potential impacts from scheduled construction activity.

Robinwood residents will benefit from the through-site pathway connecting Kenthorpe Way and Mapleton Drive as well as the improved 'green street-scape' improvements that will improve the aesthetic and functional capabilities of the street. Finally, residents will benefit from the availability of a safe, reliable emergency water supply through the Lake Oswego intertie. See also the findings addressing "community need." This policy is met.

West Linn Water System Master Plan

As discussed under Finding 6, the City of West Linn Water System Master Plan recommends improving the emergency supply capacity and reliability of the Lake Oswego Emergency Supply Connection to meet West Linn's water supply need. The following is taken from the summary of the Water Supply Evaluation on page ES-5 of the West Linn Water Master Plan:

(Page ES-5) Water Supply Evaluation – A comprehensive and system wide supply system evaluation of City supply facilities was completed that included consideration of a number of approaches, methodologies and solution option development. The supply analysis was completed based on capacity needs, reliability, and redundancy and included consideration of piping, pumping, aquifer storage and finished water storage options. The analysis considered the following four solution approaches:

- *Solution Approach A: Construction of a new 8.4 million gallon Bolton Reservoir*
- *Solution Approach B: Build back-up supply transmission from SFWB*

- *Solution Approach C: Improve the emergency supply capacity and reliability of the Lake Oswego Emergency Supply Connection*
- *Solution Approach D: Aquifer Storage and Recovery (ASR)*

The four solution approaches presented above provide varying degrees of certainty, risks, and costs. Based on input from and discussion with City staff and policy makers it is recommended that Solution Approach C be pursued. Once fully developed and implemented this approach most economically meets the City's supply and reliability needs...

The applicant's proposal to expand their treatment capacity from 16 mgd to 38 mgd would improve the emergency supply capacity and reliability of the Lake Oswego Emergency Supply Intertie and directly further the policies of the Water Master Plan; these policies are met.

The Council finds that the intended use of the water transmitted through the WTP, and potential distribution to the Stafford Triangle, is not relevant to any of the applicable standards or criteria. For all of the reasons above, the proposal will comply with the applicable policies of the Comprehensive Plan.

B. An approved conditional use or enlargement or alteration of an existing conditional use shall be subject to the development review provisions set forth in Chapter 55 CDC.

FINDING NO. 11:

Findings 13-69 detail the proposal in light of applicable standards from CDC Chapter 55.

C. The Planning Commission may impose conditions on its approval of a conditional use which it finds are necessary to assure the use is compatible with other uses in the vicinity. These conditions may include, but are not limited to, the following:

- 1. Limiting the hours, days, place, and manner of operation.*
- 2. Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor, and dust.*
- 3. Requiring additional setback areas, lot area, or lot depth, or width.*
- 4. Limiting the building height, size or lot coverage, or location on the site.*
- 5. Designating the size, number, location and design of vehicle access points.*
- 6. Requiring street right-of-way to be dedicated and the street to be improved including all steps necessary to address future street improvements identified in the adopted Transportation System Plan.*
- 7. Requiring participation in making the intersection improvement or improvements identified in the Transportation System Plan when a traffic analysis (compiled as an element of a conditional use application for the property) indicates the application should contribute toward.*

- 8. Requiring landscaping, screening, drainage, and surfacing of parking and loading areas.*
- 9. Limiting the number, size, location, height, and lighting of signs.*
- 10. Limiting or setting standards for the location and intensity of outdoor lighting.*
- 11. Requiring berming, screening, or landscaping and the establishment of standards for their installation and maintenance.*
- 12. Requiring and designating the size, height, location, and materials for fences.*
- 13. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, and drainage areas.*

FINDING NO. 12:

Any claim that it is the Planning Commission that must impose conditions of approval in reviewing conditional use proposals fails to understand that the Planning Commission is appointed pursuant to the Council's authority and has only those powers expressly delegated by the Council. City Charter 2.085. Thus, any act delegated to the Planning Commission by the City Council may be revised by the City Council in conformance with the requirements of the CDC, including the imposition of conditions. The City Council has exercised this discretion by imposing conditions necessary to assure that the use is compatible with other uses in the vicinity.

By increasing the site size, burying the water reservoir, and by compressing the facility in the center of the property, the proposed site plan provides larger setbacks from adjoining properties, enhanced buffering, greater noise attenuation, a public trail connection from north to south, and large areas of open space that will be available to the public. The proposal includes sustainable development techniques, such as green street designs, permeable surfaces, green roofs, compact site design, and minimal driveways. The upgraded facility is expected to be safer and more efficient than the current one due to modernization of the operations, utilizing the latest technologies and compliance with the current codes from outside agencies.

While there is general agreement that, for over 45 years, the WTP has not impacted its neighbors, major water plants have potential to impact the surrounding community. Identified potential impacts must be successfully mitigated in order to be permitted under the CDC's Conditional Use criteria. The conditions of approval authorized and adopted as part of this order will minimize the impact from the proposed use on adjacent properties. Many of the above-listed conditions (e.g., design that minimizes noise, vibration, air pollution; screening; the location and intensity of outdoor lighting, Construction Management Plan; etc.) have been offered by the applicant through their work with the Robinwood Neighborhood. This criterion is met.

CHAPTER 55, DESIGN REVIEW

55.070 APPROVAL STANDARDS – SUBMITTAL REQUIREMENTS

FINDING NO. 12.5:

Some opponents asserted that the submittal requirements of CDC 55.070 were not satisfied. CDC 55.070 contains application submittal requirements rather than approval criteria against which this proposal must be considered. Further, the City Council finds that because the opponents did not explain their objections, other than to claim these standards are not satisfied, the objections were not raised with sufficient specificity to allow the Council to respond.

55.100 APPROVAL STANDARDS – CLASS II DESIGN REVIEW

The approval authority shall make findings with respect to the following criteria when approving, approving with conditions, or denying a Class II design review application.

A. The provisions of the following chapters shall be met:

- 1. Chapter 33 CDC, Stormwater Quality and Detention.*
- 2. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.*
- 3. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.*
- 4. Chapter 40 CDC, Building Height Limitations, Exceptions.*
- 5. Chapter 42 CDC, Clear Vision Areas.*
- 6. Chapter 44 CDC, Fences.*
- 7. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.*
- 8. Chapter 48 CDC, Access, Egress and Circulation.*
- 9. Chapter 52 CDC, Signs.*
- 10. Chapter 54 CDC, Landscaping.*

FINDING NO. 13:

Findings regarding the applicable criteria from these CDC Chapters are found later in the Order under the respective chapter headings.

B. Relationship to the natural and physical environment.

- 1. The buildings and other site elements shall be designed and located so that all heritage trees, as defined in the municipal code, shall be saved. Diseased heritage trees, as determined by the City Arborist, may be removed at his/her direction.*

FINDING NO. 14:

The City Arborist has confirmed that no heritage trees exist on the subject site and therefore this criterion does not apply.

2. *All heritage trees, as defined in the municipal code, all trees and clusters of trees (“cluster” is defined as three or more trees with overlapping driplines; however, native oaks need not have an overlapping dripline) that are considered significant by the City Arborist, either individually or in consultation with certified arborists or similarly qualified professionals, based on accepted arboricultural standards including consideration of their size, type, location, health, long term survivability, and/or numbers, shall be protected pursuant to the criteria of subsections (B)(2)(a) through (f) of this section. In cases where there is a difference of opinion on the significance of a tree or tree cluster, the City Arborist’s findings shall prevail. It is important to acknowledge that all trees are not significant and, further, that this code section will not necessarily protect all trees deemed significant.*
 - a. *Non-residential and residential projects on Type I and II lands shall protect all heritage trees and all significant trees and tree clusters by either the dedication of these areas or establishing tree conservation easements. Development of Type I and II lands shall require the careful layout of streets, driveways, building pads, lots, and utilities to avoid heritage trees and significant trees and tree clusters, and other natural resources pursuant to this code. The method for delineating the protected trees or tree clusters (“dripline + 10 feet”) is explained in subsection (B)(2)(b) of this section. Exemptions of subsections (B)(2)(c), (e), and (f) of this section shall apply.*

FINDING NO. 15: The site does not contain Type I and/or Type II lands. This portion of the criterion does not apply. Also see Finding 16.

- b. *Non-residential and residential projects on non-Type I and II lands shall set aside up to 20 percent of the area to protect trees and tree clusters that are determined to be significant, plus any heritage trees. Therefore, in the event that the City Arborist determines that a significant tree cluster exists at a development site, then up to 20 percent of the non-Type I and II lands shall be devoted to the protection of those trees, either by dedication or easement. The exact percentage is determined by establishing the driplines of the trees or tree clusters that are to be protected. In order to protect the roots which typically extend further, an additional 10-foot measurement beyond the dripline shall be added. The square footage of the area inside this “dripline plus 10 feet” measurement shall be the basis for calculating the percentage (see figure below). The City Arborist will identify which tree(s) are to be protected. Development of non-Type I and II lands shall also require the careful layout of streets, driveways, building pads, lots, and utilities to avoid significant trees, tree clusters, heritage trees, and other natural resources pursuant to this code. Exemptions of subsections (B)(2)(c), (e), and (f) of this section shall apply. Please note that in the event that more than 20 percent of the non-Type I and II lands comprise significant trees or tree clusters, the developer shall not be required to save the excess trees, but is encouraged to do so.*

FINDING NO. 16:

The City Council concurs with the applicant’s response to this criterion: The proposal is for a non-residential project on non-Type I or Type II lands. The City Arborist has determined that there are 42 significant trees and tree clusters on site. Although the site layout maximizes the preservation of the significant trees, six significant trees are proposed to be

removed. The applicant proposes to fully mitigate for the loss of significant trees in compliance with the West Linn Tree Technical Manual.

The applicant proposes to save the following clusters of trees (see Exhibit PC-3, Section 12, Figure 1):

- Northwest corner of site along Kenthorpe Way;
- Trees along western site boundary; and
- Trees along the eastern property boundary.

The applicant proposes to clear trees in the following areas:

- Trees around the sediment drying pond (Applicant's 8/20/2012 submittal Section 21, Figure 2.9)
- Trees near the proposed clearwell and construction staging area (Applicant's 8/20/2012 submittal, Section 21, Figures 2.10 and 2.11)
- The row of interior trees along planted in 1996 (Applicant's 8/20/2012, Section 21, Figures 2.10 and 2.11)
- A small cluster of trees near the interior northeast corner of the site (Applicant's 8/20/2012, Section 21, Figure 2.11), and
- Trees along Kenthorpe Way that were planted per the 1996 land use approval (Applicant's 8/20/2012 submittal, Section 21, Figures 2.9 and 2.11).

According to the applicant's submittal, the combined area of the dripline of the significant trees to be protected, plus an additional 10-foot diameter for each tree, is 87,120 square feet, or 22 percent of the total site area/non-Type I or Type II lands on site. Staff concurred and the Council finds that the criterion is met.

- c. Where stubouts of streets occur on abutting properties, and the extension of those streets will mean the loss of significant trees, tree clusters, or heritage trees, it is understood that tree loss may be inevitable. In these cases, the objective shall be to minimize tree loss. These provisions shall also apply in those cases where access, per construction code standards, to a parcel is blocked by a row or screen of significant trees or tree clusters.*

FINDING NO. 17:

The applicant's proposal does not include the extension of any streets. The criterion does not apply.

- d. For both non-residential and residential development, the layout shall achieve at least 70 percent of maximum density for the developable net area. The developable net area excludes all Type I and II lands and up to 20 percent of the remainder of the site for the purpose of protection of stands or clusters of trees as defined in subsection (B)(2) of this section.*

FINDING NO. 18:

CDC Section 5.020 lists the allowed densities for each of the City's zoning districts. Because the CDC uses 'dwelling units per net acre' as its density metric, there are no density standards for non-residential development. Staff research confirms that this provision was included in the CDC in response to Metro's requirement that new housing development should meet, at least, this 70 percent standard; non-residential development was erroneously added to the language of this CDC provision. This criterion does not apply. To the extent it does apply, the Council again notes that there is no maximum density for non-residential uses. Seventy percent of zero is zero, so any density exceeds the 70 percent requirement and this criterion is met.

- e. For arterial and collector street projects, including Oregon Department of Transportation street improvements, the roads and graded areas shall avoid tree clusters where possible. Significant trees, tree clusters, and heritage tree loss may occur, however, but shall be minimized.*

FINDING NO. 19:

The West Linn Transportation System Plan (TSP) identifies Kenthorpe Way as a local street and Mapleton Drive as a collector street. The applicant is proposing pedestrian improvements in the Mapleton Drive right-of-way (Applicant's 8/20/2012 submittal, Section 23, figures 3.0-3.4) which do not impact significant trees, tree clusters or heritage trees. The criterion is met.

- f. If the protection of significant tree(s) or tree clusters is to occur in an area of grading that is necessary for the development of street grades, per City construction codes, which will result in an adjustment in the grade of over or under two feet, which will then threaten the health of the tree(s), the applicant will submit evidence to the Planning Director that all reasonable alternative grading plans have been considered and cannot work. The applicant will then submit a mitigation plan to the City Arborist to compensate for the removal of the tree(s) on an "inch by inch" basis (e.g., a 48-inch Douglas fir could be replaced by 12 trees, each four-inch). The mix of tree sizes and types shall be approved by the City Arborist.*

FINDING NO. 20:

No new street grading is proposed. This criterion does not apply.

- 3. The topography and natural drainage shall be preserved to the greatest degree possible.*

FINDING NO. 21

The subject site is relatively flat and exhibits an overall gradient of less than 2 percent between the west and east property lines. Stormwater runoff drains primarily toward the north and northwest of the site. Additionally, a small swale exists near the northwest quadrant of the site.

The applicant's plans indicate that stormwater runoff will continue to drain toward the north and northwest of the site. The applicant proposes a new stormwater treatment

facility in the area of the existing swale. The stormwater treatment facility is required to accommodate runoff from the newly proposed impervious surface. Furthermore, the applicant will construct an additional 1,829 S.F. stormwater facility in the location of the old Operations Building when it is removed. (See revised Figure 3.0) The City Council finds that the proposal will result in relatively limited modification to the site topography and natural drainage. The criterion is met.

4. *The structures shall not be located in areas subject to slumping and sliding. The Comprehensive Plan Background Report's Hazard Map, or updated material as available and as deemed acceptable by the Planning Director, shall be the basis for preliminary determination.*

FINDING NO. 22

As shown on Map 16 (Landslide Vulnerability Analysis) of the City of West Linn Natural Hazards Mitigation Plan, the Applicant's site is not located within an area identified as vulnerable to landslides.

The WTP site contains a layer of perched groundwater approximately 25 feet below grade. There is no aquifer under the WTP site. Shannon & Wilson, Inc. Geotechnical and Environmental Engineering Consultants, addressed this concern in the record noting that groundwater control will be accomplished by means of a slope drainage protection layer, a clean rock layer (excavation drainage layer) at the excavation bottom, perimeter drainage collection ditches, and continuous pumping from engineered sumps as the excavation proceeds below the groundwater (interim sumping). These measures will protect the clearwell excavation and pipeline installation and will not significantly alter the movement of the perched groundwater layer beyond the project site. In other words, excavation for the clearwell and pipelines will have no effect on existing seepage along the Nixon Avenue right-of-way. For these reasons, the criterion is met.

5. *There shall be adequate distance between on-site buildings and on-site and off-site buildings on adjoining properties to provide for adequate light and air circulation and for fire protection.*

FINDING NO. 23

According to the Applicant's proposed site plan, the minimum distance between any on-site and off-site building is approximately 70-feet.

The separation of on- and off-site buildings provides ample distance for light and air circulation. Additionally, the applicant proposes a looped service driveway with emergency/fire access to all site facilities, and with emergency/fire access from both Kenthorpe Way and Mapleton Drive. The criterion is met.

6. *Architecture.*

- a. *The predominant architecture of West Linn identified in the West Linn vision process was contemporary vernacular residential designs emphasizing natural materials: wood with brick and stone detail. Colors are subdued earth tones: greys, brown, off-*

whites, slate, and greens. Pitched roofs with overhanging eaves, decks, and details like generous multi-light windows with oversized trim are common. Also in evidence are the 1890s Queen Anne style homes of the Willamette neighborhood. Neo-traditional homes of the newer subdivisions feature large front porches with detailed porch supports, dormers, bracketed overhanging eaves, and rear parking for cars. Many of these design elements have already been incorporated in commercial and office architecture.

FINDING NO. 24

The City Council concurs with the applicant's response on page 63 of Section 4, of the applicant's 8/20/2012 submittal: The emphasis in subsection (6)(a) is on taking architectural cues from vernacular residential design and incorporating them into neo-traditional residential design. There is also an acknowledgement that some of these residential design elements can be incorporated into commercial and office architecture. The WTP is not a commercial building nor is it an office complex; it is a major utility with a variety of non-office uses necessary to process raw water into finished water. The total area of the new Administration/Operations Building will be approximately 37,445 S.F. The second floor of the Administration/Operations Building will contain about 3,300 square feet of office uses but the balance of the WTP complex will be devoted to processing water. However, as discussed below, the applicant conducted a visual analysis of the surrounding neighborhood and has incorporated several of the significant architectural design elements into the WTP design, such as, wood, brick, earth tones, modulated roofs and horizontal planes. The criterion, to the extent it applies, is met.

- b. The proposed structure(s) scale shall be compatible with the existing structure(s) on site and on adjoining sites. Contextual design is required. Contextual design means respecting and incorporating prominent architectural styles, building lines, roof forms, rhythm of windows, building scale and massing, materials and colors of surrounding buildings in the proposed structure.*

FINDING NO. 25

Mr. Gary Hitesman submitted testimony challenging the applicant and staff findings regarding architectural compatibility and that the proposal is not context sensitive. These assertions are addressed in greater detail in the applicant's response dated January 25, 2012, but the City has determined that a public facility can be "sympathetic" to the surrounding properties by use of "landscaping, buffering, and reasonable architectural means."

The City Council concurs with the applicant's response on page 63, Section 4: From the existing neighborhood, the WTP design draws cues regarding material articulation, scale, and form. The neighborhood is primarily made up of single-story ranch-style homes, most of which were constructed in the 1960's. Predominant roof forms found throughout the neighborhood tend to be low slope shed roofs, gable roofs, as well as a few flat roofs, and the predominant cladding tends to be lapped siding or vertical batten wood siding. Many

of these ranch-style homes sit with their broad side facing the street, with their long, low pitched roof forms overhanging an abundant use lap siding, ultimately displaying a common pattern of horizontality. This language of horizontality is proposed to be carried throughout the design aesthetic of the plant. The criterion, to the extent it applies, is met.

- c. *While there has been discussion in Chapter 24 CDC about transition, it is appropriate that new buildings should architecturally transition in terms of bulk and mass to work with, or fit, adjacent existing buildings. This transition can be accomplished by selecting designs that “step down” or “step up” from small to big structures and vice versa (see figure below). Transitions may also take the form of carrying building patterns and lines (e.g., parapets, windows, etc.) from the existing building to the new one.*

FINDING NO. 26

As shown on figures 10.0 through 10.10 of the applicant’s submittal (Section 21 and figure 10.2 in Section 23), the new buildings carry patterns, materials and lines from other buildings in the neighborhood throughout their design. Additionally, the distance and mature site vegetation along Kenthorpe Way act as a natural transition between Kenthorpe Way and the new Administration/Operations building. The criterion is met.

- d. *Contrasting architecture shall only be permitted when the design is manifestly superior to adjacent architecture in terms of creativity, design, and workmanship, and/or it is adequately separated from other buildings by distance, screening, grade variations, or is part of a development site that is large enough to set its own style of architecture.*

FINDING NO. 27

The City Council concurs with the applicant’s response: The functional character of the dominant architectural form in the neighborhood is residential; the dominant form of the WTP is a public utility. The functionalities are in contrast but that does not mean that the architectural design also is in contrast. The applicant’s design goal was to create an architectural design that does not contrast with the surroundings and which is manifestly superior to the adjacent architecture. The applicant proposes to create an architectural form that is both functional and sympathetic to the surrounding properties. To accomplish this blending, the design team compressed the process activity into the center of the site, thereby exaggerating the setbacks; it created buildings that are more horizontal than vertical; it selected cladding materials, such as wood and brick, that reflect the materiality and tone of the neighborhood; and it employed extensive landscaping and buffering to screen the WTP functions from the surrounding properties. The criterion, to the extent it applies, is met.

- e. *Human scale is a term that seeks to accommodate the users of the building and the notion that buildings should be designed around the human scale (i.e., their size and the average range of their perception). Human scale shall be accommodated in all designs by, for example, multi-light windows that are broken up into numerous panes, intimately scaled entryways, and visual breaks (exaggerated eaves, indentations,*

ledges, parapets, awnings, engaged columns, etc.) in the facades of buildings, both vertically and horizontally.

The human scale is enhanced by bringing the building and its main entrance up to the edge of the sidewalk. It creates a more dramatic and interesting streetscape and improves the "height and width" ratio referenced in this section.

FINDING NO. 28

The applicant proposes to achieve a sense of human scale by creating an interrupted front plane of the Administration/Operations Buildings, using multiple windows, varied surface textures and tones, a soffit, and a prominent public entryway in the center of the building. The applicant also proposes a landscaped stormwater facility to the east of the new building. Access from the site into the central entryway will be along a clearly marked pedestrian walkway from Kenthorpe Way and across the visitor parking lot. The criterion is met.

- f. The main front elevation of commercial and office buildings shall provide at least 60 percent windows or transparency at the pedestrian level to create more interesting streetscape and window shopping opportunities. One side elevation shall provide at least 30 percent transparency. Any additional side or rear elevation, which is visible from a collector road or greater classification, shall also have at least 30 percent transparency. Transparency on other elevations is optional. The transparency is measured in lineal fashion. For example, a 100-foot-long building elevation shall have at least 60 feet (60 percent of 100 feet) in length of windows. The window height shall be, at minimum, three feet tall. The exception to transparency would be cases where demonstrated functional constraints or topography restrict that elevation from being used. When this exemption is applied to the main front elevation, the square footage of transparency that would ordinarily be required by the above formula shall be installed on the remaining elevations at pedestrian level in addition to any transparency required by a side elevation, and vice versa. The rear of the building is not required to include transparency. The transparency must be flush with the building elevation.*

FINDING NO. 29

The applicant's proposed use is a major utility and not an office or commercial building. The criterion does not apply.

- g. Variations in depth and roof line are encouraged for all elevations.*

To vary the otherwise blank wall of most rear elevations, continuous flat elevations of over 100 feet in length should be avoided by indents or variations in the wall. The use of decorative brick, masonry, or stone insets and/or designs is encouraged. Another way to vary or soften this elevation is through terrain variations such as an undulating grass area with trees to provide vertical relief.

FINDING NO. 30

The applicant's proposal includes a variety of roof forms (flat roofs, with and without parapets, shed roofs, gable roofs, skylights, and green roofs) as well as vertical interruptions to horizontal building facades that serve to vary the roof line and depth along

all proposed elevations. The applicant's submittal illustrates the varied depth and roof line along proposed site elevations. While not binding in its language, the criterion is met.

- h. Consideration of the micro-climate (e.g., sensitivity to wind, sun angles, shade, etc.) shall be made for building users, pedestrians, and transit users, including features like awnings.*

FINDING NO. 31

The applicant's proposal includes pedestrian accessways to the site which are flanked by trees and other landscaping. The Planting Plan Overview illustrates how landscaping is proposed which will improve comfort for users of the building and other pedestrians. The criterion is met.

- i. The vision statement identified a strong commitment to developing safe and attractive pedestrian environments with broad sidewalks, canopied with trees and awnings.*

FINDING NO. 32

The City Council concurs with the applicant's response: The WTP site layout provides sidewalks along Kenthorpe Way and Mapleton Drive that meander between a "green-street" and extensive site landscaping. The emergency access/pedestrian path also winds through a lightly and heavily landscaped area that includes several protected significant trees. Attention to crime vulnerable areas is discussed in Finding 47 below. Consequently, the site design is consistent with the commitment to develop attractive, tree-lined, and safe pedestrian environments. The criterion is met.

- j. Sidewalk cafes, kiosks, vendors, and street furniture are encouraged. However, at least a four-foot-wide pedestrian accessway must be maintained per Chapter 53 CDC, Sidewalk Use.*

FINDING NO. 33

The City Council concurs with the applicant's response: The WTP is a major utility, allowed conditionally, within a residential zone. The R-10 zoning district does not encourage sidewalk cafes and vendors. Kiosks and street furniture are more frequently found in commercial zones or public parks. However, consistent with subsection (6)(j), the WTP site design provides pedestrian accessways that are 6-feet wide along both Kenthorpe Way and Mapleton Drive and along the emergency access/pedestrian path. The criterion is met.

- 7. Transportation Planning Rule (TPR) compliance. The automobile shall be shifted from a dominant role, relative to other modes of transportation, by the following means:*
 - a. Commercial and office development shall be oriented to the street. At least one public entrance shall be located facing an arterial street; or, if the project does not front on an arterial, facing a collector street; or, if the project does not front on a collector, facing the local street with highest traffic levels. Parking lots shall be placed behind or to the side of commercial and office development. When a large and/or multi-building development is occurring on a large undeveloped tract (three plus acres), it is acceptable to focus internally; however, at least 20 percent of the main adjacent right-of-way shall have buildings contiguous to it unless waived per subsection (B)(7)(c) of*

this section. These buildings shall be oriented to the adjacent street and include pedestrian-oriented transparencies on those elevations.

For individual buildings on smaller individual lots, at least 30 lineal feet or 50 percent of the building must be adjacent to the right-of-way unless waived per subsection (B)(7)(c) of this section. The elevations oriented to the right-of-way must incorporate pedestrian-oriented transparency.

FINDING NO. 34

The applicant proposes to expand a major utility, not a commercial or office development and this section does not apply. Mr. Hitesman, who repeatedly characterizes the project as an industrial use, claims that the WTP is an office development and that this section therefore applies. In the event that the section is applicable, Section 4 of the WTP application shows that when the WTP is fully operational it will generate fewer than 20 average daily vehicle trips. Section 21, Figure 3.0 shows that the site contains bicycle parking, a pedestrian link to Kenthorpe Way to the primary entrance, sidewalks along both frontages, and a pedestrian link between Kenthorpe Way and Mapleton Drive. The criterion does not apply.

- d. Accessways, parking lots, and internal driveways shall accommodate pedestrian circulation and access by specially textured, colored, or clearly defined footpaths at least six feet wide. Paths shall be eight feet wide when abutting parking areas or travel lanes. Paths shall be separated from parking or travel lanes by either landscaping, planters, curbs, bollards, or raised surfaces. Sidewalks in front of storefronts on the arterials and main store entrances on the arterials identified in CDC 85.200(A)(3) shall be 12 feet wide to accommodate pedestrians, sidewalk sales, sidewalk cafes, etc. Sidewalks in front of storefronts and main store entrances in commercial/OBC zone development on local streets and collectors shall be eight feet wide.*

FINDING NO. 35

The applicant's proposed site plan shows the accommodation of pedestrian circulation along accessways, in parking lots and internal driveways through the use of clearly defined pedestrian pathways that are between 6- and 8-foot wide. The pedestrian pathway along Kenthorpe Way is proposed to connect through the visitor parking area and to the main public entrance of the Administration/Operations Building via an 8 to 18-foot wide colored or textured paving material, which will clearly stand out from the parking lot surface. Separation between the parking and pedestrian path is proposed through the use of a 6-inch curb with an ADA accessible ramp. The criterion is met.

- e. Paths shall provide direct routes that pedestrians will use between buildings, adjacent rights-of-way, and adjacent commercial developments. They shall be clearly identified. They shall be laid out to attract use and to discourage people from cutting through parking lots and impacting environmentally sensitive areas.*

FINDING NO. 36

The City Council concurs with the applicant's response: There are three proposed paths on site: a short pathway through the landscaped area between Kenthorpe Way and the visitor parking area, a small path from the visitors parking area through the stormwater facility to Kenthorpe Way, and the pedestrian path from Kenthorpe Way south to Mapleton Drive via,

in part, the emergency access road. The first two paths connect the public right-of-way to the WTP Administration/Operations Building. The path leading from Kenthorpe Way to the WTP entrance through the visitor parking area varies from 8 to 18-feet and will be of a color or texture different than the visitor parking lot surface. The stormwater facility at the northwest corner of the site is within a small swale, which is not an identified stream corridor or regulated natural area. The applicant welcomes visitors to the non-secure portions of this area that is designed to be a quiet reflective area within the neighborhood. The Kenthorpe Way to Mapleton Drive path winds around the secured WTP core area and then travels southward through a grove of five significant trees that the applicant has protected (see applicant submittal Section 23, Figure 3.4). Therefore, the applicant proposes to provide pedestrian paths between rights-of-way and the WTP facility that are attractive to use, provide direct access through a parking area and do not impact any regulated environmentally sensitive area. Further, the Circulation Plan identifies the location of path signage. The criterion is met.

- f. At least one entrance to the building shall be on the main street, or as close as possible to the main street. The entrance shall be designed to identify itself as a main point of ingress/egress.*

FINDING NO. 37

The public entrance to the WTP is via Kenthorpe Way. The new Administration/Operations Building follows the plane of the existing Operations Building, thus the distance to Kenthorpe Way will remain unchanged. This primary visitor entry is proposed to be gently elevated above the parking lot level. Pedestrian pathways lead visitors to the WTP main entrance. The criterion is met.

- g. Where transit service exists, or is expected to exist, there shall be a main entrance within a safe and reasonable distance of the transit stop. A pathway shall be provided to facilitate a direct connection.*

FINDING NO. 38

TriMet has no plans to extend service near the WTP vicinity. The criterion does not apply.

- h. Projects shall bring at least part of the project adjacent to or near the main street right-of-way in order to enhance the height-to-width ratio along that particular street. (The "height-to-width ratio" is an architectural term that emphasizes height or vertical dimension of buildings adjacent to streets. The higher and closer the building is, and the narrower the width of the street, the more attractive and intimate the streetscape becomes.) For every one foot in street width, the adjacent building ideally should be one to two feet higher. This ratio is considered ideal in framing and defining the streetscape.*

FINDING NO. 39

CDC Section 55.100(B)(7)(i) recognizes that while the architectural standards in 55.100(B)(7) apply to public facilities, these uses, due to their functional requirements, cannot readily be configured to meet them (architectural standards). 55.100(B)(7)(i) further states that in these situations, attempts shall be made to make the design sympathetic to surrounding properties by landscaping, setbacks, buffers, and all reasonable architectural means.

The existing Operations Building is set back 114-feet from the Kenthorpe Way right-of-way. This existing Operations Building will be removed and a new Administrative Building will be constructed that is set back an equal distance to continue the horizontal plane of the Operations Building.

Kenthorpe Way includes a 50-foot wide right-of-way with a pavement width that varies between 22 and 25-feet. The Administration/Operations Building is proposed to be less than 35-feet tall, the same height as the Operations Building currently located on the property and slated for removal. Applying the height and width ratio, as suggested in this section, would result in an Administration/Operations Building between 44- and 50-feet tall. Because the intent of CDC Chapters 55 and 60 strive to maintain compatibility with surrounding uses and because of the additional flexibility provided in 55.100(B)(7)(i) for public facilities, City Council finds that this portion of this criterion is not applicable.

- i. These architectural standards shall apply to public facilities such as reservoirs, water towers, treatment plants, fire stations, pump stations, power transmission facilities, etc. It is recognized that many of these facilities, due to their functional requirements, cannot readily be configured to meet these architectural standards. However, attempts shall be made to make the design sympathetic to surrounding properties by landscaping, setbacks, buffers, and all reasonable architectural means.*

FINDING NO. 40

The City Council concurs with the applicant's response: The WTP complex is a major public utility. The primary purpose of this facility is to process raw water into finished potable water and to pump the finished water into the delivery system. The majority of the actual work accomplished on-site will occur in or around structures that do not necessarily lend themselves to the architectural standards articulated in CDC subsection 55.100(B)(7). The applicant and their design team, in consultation with the neighbors, made significant efforts to: assess the visual character of the neighborhood, design a complex that reflects the design qualities of the neighborhood, compress WTP operation into the center of the site, and provide a high degree of landscape plant and structural materials to buffer the neighborhood from the WTP day-to-day operations. The criterion is met.

- j. Parking spaces at trailheads shall be located so as to preserve the view of, and access to, the trailhead entrance from the roadway. The entrance apron to the trailhead shall be marked: "No Parking," and include design features to foster trail recognition.*

FINDING NO. 41

The applicant is not proposing a trailhead and this criterion does not apply. To the extent it does apply, the applicant does not propose to locate any parking at either head of the through-site pedestrian path. The entry point to the path from Mapleton Drive will occur via the emergency access road, which must be kept clear at all times. The applicant proposes to construct wooden swing gates across the emergency access with a 6-foot wide opening for pedestrian access. Asphalt paving will foster recognition of the trail in these areas. Condition of approval 5 requires the applicant to mark the beginning of the through-site pedestrian path (on Mapleton Drive and Kenthorpe Way) as 'No Parking'.

- C. Compatibility between adjoining uses, buffering, and screening.*

1. *In addition to the compatibility requirements contained in Chapter 24 CDC, buffering shall be provided between different types of land uses; for example, buffering between single-family homes and apartment blocks. However, no buffering is required between single-family homes and duplexes or single-family attached units. The following factors shall be considered in determining the adequacy of the type and extent of the buffer:*
 - a. *The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust, or to provide a visual barrier.*
 - b. *The size of the buffer required to achieve the purpose in terms of width and height.*
 - c. *The direction(s) from which buffering is needed.*
 - d. *The required density of the buffering.*
 - e. *Whether the viewer is stationary or mobile.*

FINDING NO. 42

The applicant's plans indicate the presence of buffers which serve primarily to decrease noise and to provide a visual buffer from adjacent properties; according to the applicant's submittal, and verified by staff in the field, the WTP does not generate significant amounts of dust or air pollution.

The applicant proposes to decrease off-site noise and visual impacts by:

- Placing WTP operations facilities near the center of the site; to maximize distance between noise generating and more visually prominent buildings, and adjacent residences; and,
- Placing site landscaping, such as fences, walls, plantings, and stormwater facilities in various layers, and three 12-14 foot tall tree plantings between adjacent properties and the center of the site, throughout the site.

While noise buffering such as sound reducing walls, fences, vegetation and the placement of noise generating equipment indoors serves to minimize the noise impacts on adjacent residences, visual buffering serves to soften the presence of the WTP for the community. As proposed, visual buffers maintain transparency and cohesiveness while avoiding disconnectedness and alienation.

The applicant has proposed a system of buffers that are sensitive to the requirements for neighborhood compatibility, as expressed in this Chapter as well as Chapter 60, while minimizing off-site noise impacts.

Due to the utility nature of the uses and buildings, the applicant centered as many buildings as possible in the interior of the site and proposed "landscape layering" and other screening to minimize the appearance of the plant. The idea of landscape layering is to establish a variety of attractive screens and filters that soften the presence of the WTP for the community, and maintaining an overall transparency and cohesiveness while avoiding disconnectedness or an alien appearance. One specific example of this concept is the proposed approach to fencing. Taller security fencing is proposed to be subdued behind layers of vegetation within the core WTP area, distant from street view. The street edges along Mapleton Drive are proposed to be delineated by split-rail fencing and good neighbor

fencing which contribute to a residential neighborhood character. In addition to fencing, other layers that subtly screen and secure the site are the preserved woodland edges, vegetated stormwater facilities, and the buildings themselves, which create a continuous façade shielding the most intensive plant operations from view.

The landscape design's planting concept follows a sustainable approach which promotes the use of native species which are adapted to the Northwest climate and do not require significant irrigation, maintenance, or spraying. There are six different planting types being proposed: Woodland with native trees and understory planting; Meadow with native grasses, perennials and wildflowers; Orchard with flowering non-fruiting accent trees and understory; Rain Garden, where stormwater runoff will be treated and detained in depressed wetland-like planted swales and basins; and Green-roof, where native meadow plantings will be re-applied to roof surfaces with other drought tolerant succulents. According to the applicant, the proposed site plan reflects a collaborative effort to balance the most viable engineering concepts with greatest realization possible of the neighborhood goals for visual presence. Summarized site strategies, developed with neighborhood involvement, are as follows:

- Maintain the north edge of the property as the front door and public entry: This keeps the southern edge of the property along Mapleton Drive free from new WTP circulation patterns, thus maintaining the buffer created by the current distance from the plant's south edge.
- Centralize the plant layout: Several space-saving alternatives have resulted in a much smaller plant footprint. With this configuration, the site layout provides for setbacks from the south, east, and west that significantly exceed requirements. This aspect of the design allows landscaping and distance to be maintained as the primary buffers.
- Screen the internal plant activity with building edges, walls, and artful screening elements which tie the architectural design and the landscape design together. Buildings placed on the WTP edge will be designed to integrate into the residential context using materials, color, orientation, form, and proportion. Site-specific constructed screens will also be employed to mitigate views. These will be comprised of vertically oriented reclaimed wood slats on timber or steel frames, tying into the semi-wooded nature of the site. Lastly, low walls in the landscape, inspired by dry-stacked rubble walls typical of a farm or orchard inferred by the fruit trees that are now growing on site, will reinforce the site's semi-rural character and draw the viewer's eye towards the foreground. Together with the buffers of distance and landscape, these landscape and architectural elements will serve as visual mitigation.

The City Council heard testimony that the buffers will not reduce noise and that with more hardscape, noise is more likely to occur. WTP application Section 21, revised Figure 3.0 shows the extensive tree planting areas around the perimeter of the site. Revised Figure 12.0A illustrates the extent of the proposed landscape buffers. The memorandum: "Noise Study Analysis Lake Oswego-Tigard Water Treatment Plant" prepared by ENVIRON and dated August 8, 2012, demonstrates that the proposed buffering and noise mitigation measures will be effective. The City Council imposes Condition of Approval 4, based on the recommendations of the acoustical engineer; these include the ENVIRON Noise Mitigation

recommendations and a post-construction noise analysis to document that noise limits have been met and the City Council agrees.

The criterion is met.

2. *On-site screening from view from adjoining properties of such things as service areas, storage areas, and parking lots shall be provided and the following factors will be considered in determining the adequacy of the type and extent of the screening:*
 - a. *What needs to be screened?*
 - b. *The direction from which it is needed.*
 - c. *How dense the screen needs to be.*
 - d. *Whether the viewer is stationary or mobile.*
 - e. *Whether the screening needs to be year-round.*

FINDING NO. 43

The City Council concurs with the applicant's response: In addition to the site buffering requirements in (C)(1) above, site specific uses such as, visitor, staff and overflow parking; waste and recycling service areas; fuel storage tank; electrical transformers; solids thickeners; liquid oxygen tanks; chemical delivery area; and solids loading area, should be screened from public rights-of-way and from abutting residential properties year-round. Because the visitor parking area must be accessible to WTP visitors, 100 percent screening between the visitor parking area and Kenthorpe is unnecessary.

Uses specific to the internal operations of the WTP, such as staff and overflow parking, storage tanks, electrical transformers, and chemical and solids loading areas will be completely screened because they will be placed to the interior of the WTP complex and will be surrounded by solid building walls, architectural screening walls, rolling gates or a good neighbor fence. The solids thickeners will be approximately five feet tall. The thickeners are approximately 45-feet from the nearest WTP property line and the existing mature vegetation along the property line will not be removed. In addition, the Partnership conducted a supplemental lighting analysis and determined that mature coniferous trees, approximately 14-feet tall should be installed in key locations to further minimize the potential impact of the WTP lighting. (See applicant's 8/20/2012 submittal, section 21, Figure series 5.5.)

The criterion is met.

3. *Rooftop air cooling and heating systems and other mechanical equipment shall be screened from view from adjoining properties.*

FINDING NO. 44

The applicant proposes the installation of all roof mounted HVAC equipment within rooftop penthouses that will screen this equipment from adjacent properties. The criterion is met.

3. *Structures or on-site activity areas which generate noise, lights, or glare shall be buffered from adjoining residential uses in accordance with the standards in subsection C of this section where applicable.*

FINDING NO. 45

The applicant has demonstrated compliance with the applicable provision of subsection C above. The criterion is met.

4. *Businesses or activities that can reasonably be expected to generate noise in excess of the noise standards contained in West Linn Municipal Code Section 5.487 shall undertake and submit appropriate noise studies and mitigate as necessary to comply with the code. (See CDC 55.110(B)(11) and 55.120(M).)*

If the decision-making authority reasonably believes a proposed use may generate noise exceeding the standards specified in the municipal code, then the authority may require the applicant to supply professional noise studies from time to time during the user's first year of operation to monitor compliance with City standards and permit requirements.

FINDING NO. 46

The applicant enlisted the services of ENVIRON (licensed acoustical engineer) to evaluate; the existing threshold noise levels at the existing WTP site, the noise generation at the Willamette River Water Treatment Plant (WRWTP) (equipment and process similar to proposed), and to project what types of noise attenuation measures might be necessary to comply with Department of Environmental Quality (DEQ) standards for this use.

At some point in the future, the upgraded WTP will need to operate 24-hours per day as normal operation to meet increasing water demands. In this case, the WTP must meet nighttime (more restrictive) noise limits. To estimate whether the upgraded plant will meet these limits, current noise generation at the existing WTP as well as the WRWTP were compared to nighttime noise limits.

ENVIRON compared the sound levels measured during daytime operations at both the existing WTP and the WRWTP to the state's nighttime noise limits. The measured sound levels of the typical operations at the existing WTP comply with the nighttime noise limit of 50 dBA. However, ENVIRON was not able to reach a definitive conclusion regarding nighttime compliance at the WRWTP based on the available measurement data, due to non-plant related noise generated by the architectural water feature along the west side of the WRWTP and a gravel producing operation to the east. Consequently, ENVIRON recommends consideration of one or more of the following noise mitigation techniques and practices during final WTP design (see also Condition of Approval 4):

- Installation of noise producing equipment indoors, when feasible;
- Use of appropriate noise attenuation features on buildings, including acoustical louvers on air intakes/outlets and silencers;
- Use of appropriate noise attenuation features such as acoustical enclosures or barriers, pipe lagging around noisy pipes or ducts for equipment installed outside; and
- Selection of residential grade equipment, particularly for HVAC systems.

With careful design and implementation of noise mitigation measures, the City Council finds that noise levels from ongoing plant operations will comply with the nighttime noise limits. In addition to continuous operations, ENVIRON considered potential future sound levels associated with the elimination of certain existing treatment processes. Processes to

be eliminated include mechanized removal of water plant solids, the 30-foot tall lime silo and associated bin vibrator, lime building blower, and CO2 tank. A new backup generator will be fitted with a residential grade silencer and set in a noise dampening enclosure to replace an existing generator without those features.

Based on its analysis of existing and future sources of noise ENVIRON concluded that the remaining operation of concern will be the intermittent noise associated with periodic chemical deliveries and weekly garbage pickup.

To mitigate this remaining concern, ENVIRON recommended the use of “plant air” (i.e., compressors installed inside a building) in lieu of truck-mounted compressors to eliminate the noise associated with chemical unloading. ENVIRON also recommends that chemical unloading be restricted to daytime hours only (this is addressed by proposed Condition of Approval 4).

Most of the existing exterior noise-producing intermittent activities will be eliminated. ENVIRON concluded that the upgraded WTP should comply with all daytime noise limits established by OAR 340, Div. 035.

The City Council imposes Condition of Approval 4, based on the recommendations of the acoustical engineer; these include the ENVIRON Noise Mitigation recommendations and a post-construction noise analysis to document that noise limits have been met and the City Council agrees.

G. Demarcation of public, semi-public, and private spaces. The structures and site improvements shall be designed so that public areas such as streets or public gathering places, semi-public areas, and private outdoor areas are clearly defined in order to establish persons having a right to be in the space, to provide for crime prevention, and to establish maintenance responsibility. These areas may be defined by:

- 1. A deck, patio, fence, low wall, hedge, or draping vine;*
- 2. A trellis or arbor;*
- 3. A change in level;*
- 4. A change in the texture of the path material;*
- 5. Sign; or*
- 6. Landscaping.*

Use of gates to demarcate the boundary between a public street and a private access driveway is prohibited.

FINDING NO. 47

The City Council concurs with the applicant’s response: The WTP is not intended to be a public park or a public space; it is a public utility with a secure core area that is not intended for public use and with perimeter spaces, which the public may use. The secure core area will be enclosed by buildings and by architectural security walls and good neighbor fences with integrated security chain link. (See fence details in Exhibit PC-3, Section 23, figures 14.0 and 14.1.)

With consideration given to scale and existing conditions, a restrained collection of public, semi-public and private amenities provide small-scale spaces that preserve the quiet atmosphere and forested quality of the site, and are appropriate within the framework of the WTP and neighborhood. The site can be divided into three zones: the public sidewalks along Kenthorpe Way and Mapleton Drive, the semi-public “unsecured” zone on Kenthorpe and Mapleton, and the private secure core zone.

The Kenthorpe Way and Mapleton Drive street frontages will include meandering sidewalks and native and ornamental landscape plant materials that are intended for public enjoyment and use. Along Kenthorpe Way the landscaping will extend southward to the visitor parking lot and will include an ADA accessible textured path connecting Kenthorpe Way to the primary entrance of the facility, the focal point of which is a low linear water feature. While preserving the screen of trees along Kenthorpe Way, a small water feature, meandering pathways, seating niches, and a secluded rain garden are integrated sensitively into this open space.

The Mapleton side of the property includes open space, where much of the site perimeter will remain forested and/or planted. The woodland/orchard character is complemented by low site walls, and forested trail, making access to Kenthorpe and nearby schools and parks much easier. A centerpiece of this open space is the meandering emergency accessway and pedestrian pathway. See Section 21, Figures 12.0-12.4. The emergency access road will be closed to all vehicles other than emergency vehicles. TVF&R has expressed a strong preference against bollards. An opening between the swing gates will allow direct pedestrian access to the pathway.

Within the secure WTP core, private space includes the process and non-process buildings. For these reasons, the proposed site plan defines public, semi-public, and private spaces by means of landscaping, textured materials, low walls, water features and fences, consistent with subsection (G).

The City Council did have some concern about the uniformity within the split rail fence and requested the addition of extra access points into the clearwell area. Condition 19 requires the provision of two additional pedestrian openings in the split rail fence that addresses this concern. With this condition, the criterion is met.

- I. Public facilities. An application may only be approved if adequate public facilities will be available to provide service to the property prior to occupancy.*
- 1. Streets. Sufficient right-of-way and slope easement shall be dedicated to accommodate all abutting streets to be improved to the City's Improvement Standards and Specifications. The City Engineer shall determine the appropriate level of street and traffic control improvements to be required, including any off-site street and traffic control improvements, based upon the transportation analysis submitted. The City Engineer's determination of developer obligation, the extent of road improvement and City's share, if any, of improvements and the timing of improvements shall be made based upon the City's systems development charge ordinance and capital improvement program, and the rough proportionality between the impact of the development and the street improvements.*
In determining the appropriate sizing of the street in commercial, office, multi-family, and public settings, the street should be the minimum necessary to accommodate anticipated

traffic load and needs and should provide substantial accommodations for pedestrians and bicyclists. Road and driveway alignment should consider and mitigate impacts on adjacent properties and in neighborhoods in terms of increased traffic loads, noise, vibrations, and glare.

The realignment or redesign of roads shall consider how the proposal meets accepted engineering standards, enhances public safety, and favorably relates to adjacent lands and land uses. Consideration should also be given to selecting an alignment or design that minimizes or avoids hazard areas and loss of significant natural features (drainageways, wetlands, heavily forested areas, etc.) unless site mitigation can clearly produce a superior landscape in terms of shape, grades, and reforestation, and is fully consistent with applicable code restrictions regarding resource areas.

Streets shall be installed per Chapter 85 CDC standards. The City Engineer has the authority to require that street widths match adjacent street widths. Sidewalks shall be installed per CDC 85.200(A)(3) for commercial and office projects, and CDC 85.200(A)(16) and 92.010(H) for residential projects, and applicable provisions of this chapter.

Based upon the City Manager's or Manager's designee's determination, the applicant shall construct or cause to be constructed, or contribute a proportionate share of the costs, for all necessary off-site improvements identified by the transportation analysis commissioned to address CDC 55.125 that are required to mitigate impacts from the proposed development. Proportionate share of the costs shall be determined by the City Manager or Manager's designee, who shall assume that the proposed development provides improvements in rough proportion to identified impacts of the development.

FINDING NO. 48

The Applicant's traffic report indicates an increase in vehicular traffic to and from the site by 4 average daily trips (ADT); of this increase, 0.3 ADT are expected to be generated from delivery vehicles and heavy trucks. Due to the modest increase in ADT, the low-volume characteristics of both Kenthorpe Way and Mapleton Drive, and the City's desire to preserve mature trees, the City has determined the following street improvements are appropriate in light of the project's expected impact, address the anticipated vehicle load, and provide substantial accommodation for pedestrians and bicycles:

- Kenthorpe Way – between east property line of (Assessor's Map 21E24BD) tax lot 500 and west property line of (Assessor's Map 21E24BD) tax lot 200 (approx. 400-feet)
 - 16-foot wide structural and pavement improvement with curb per 2010 City of West Linn Public Works Standards
 - 6-foot wide vegetated swale
 - 6-foot wide concrete meandering sidewalk
 - Public easement where sidewalk occupies applicant's property
- Kenthorpe Way – between south property line of (Assessor's Map 21E24BD) tax lot 100 and southern terminus of Kenthorpe Way right-of-way

- 6-foot wide concrete sidewalk with curb and gutter on westernmost side of right-of-way

The applicant also proposes the following street improvements along Mapleton Drive:

- Mapleton Drive – between east property line of (Assessor’s Map 21E24BD) tax lot 1101 and west property line of (Assessor’s Map 21E24BD) tax lot 1501
 - 18-foot wide structural and pavement improvement with curb per 2010 City of West Linn Public Works Standards
 - 6-foot wide vegetated swale
 - 6-wide concrete sidewalk
 - Public easement where sidewalk occupies applicant’s property

These improvements were included after reviewing the requirements of the City’s Transportation Systems Plan (TSP) and the existing conditions. The Pedestrian Plan in the City’s TSP identifies this segment of Mapleton as being one of the City’s “Pedestrian Deficiency Locations” and includes sidewalks on both sides of the street. The approved TSP identifies sidewalk construction on Mapleton on the Pedestrian Master Plan Projects List (Table 5-2; #26).

A condition of approval is proposed (Condition of Approval 16) ensuring that an easement is recorded for those portions of the pedestrian path that are on private property that are intended for public use.

See the right-of-way profile in Section 23, figure 3.0B and C, for details of the proposed street improvements.

With conditions, the criteria are met.

- 2. Drainage. A registered civil engineer shall prepare a plan and statement which shall be supported by factual data that clearly shows that there will be no adverse impacts from increased intensity of runoff off site or the plan and statement shall identify all off-site impacts and measures to mitigate those impacts. The plan and statement shall, at a minimum, determine off-site impacts from a 25-year storm. The City Engineer shall adjust storm drainage facilities for applications which contain permeable parking surfaces based upon a quantitative analysis of the increased water retention and water quality characteristics of the permeable parking surface. Catch basins shall be installed and connected to pipelines leading to storm sewers or drainageways. All plans will then be reviewed by the City Engineer.*

FINDING NO. 49

The existing site is approximately 9.24 acres and contains approximately 1.51 acres of impervious surfaces, or 16 percent of the total site. The proposed design will increase the overall impervious areas of the site to approximately 129,027 S.F., or 30% of the site, below the 35 percent maximum impervious area requirement).

The applicant’s stormwater plan indicates that sufficient stormwater facilities have been proposed to accommodate the impacts outlined in Subsection 2 above.

Condition of Approval 8 requires that the proposed vegetated swales along Kenthorpe Way and Mapleton Drive to be located between the street and sidewalk except in those areas where an alternate configuration is necessary to protect mature trees. Additionally, this Condition requires the applicant to execute a stormwater maintenance agreement with the City of West Linn, and record a public storm drainage easement, for all stormwater treatment and detention facilities located on private property. With the condition of approval, this criterion is met.

- 3. Municipal water. A registered civil engineer shall prepare a plan for the provision of water which demonstrates to the City Engineer's satisfaction the availability of sufficient volume, capacity, and pressure to serve the proposed development's domestic, commercial, and industrial fire flows. All plans will then be reviewed by the City Engineer.*

FINDING NO. 50

The City Council concurs with the applicant's response: A 6-inch asbestos cement (AC) water main resides along the project frontage on Kenthorpe Way and a 6-inch AC water main exists in Mapleton Drive. The WTP does not use potable water from the West Linn water mains. All potable water circulating around the upgraded WTP will continue to be finished water taken from the WTP itself. WTP finished water is currently used for fire flow purposes and will be used in the expanded WTP as well.

Proposed Condition of Approval 7 requires the applicant to provide, at time of building permit submittal, detailed fire flow calculations for each building on site that satisfy TVF&R requirements. With the condition of approval, this criterion is met.

- 4. Sanitary sewers. A registered civil engineer shall prepare a sewerage collection system plan which demonstrates sufficient on-site capacity to serve the proposed development. The City Engineer shall determine whether the existing City system has sufficient capacity to serve the development.*

FINDING NO. 51

The current flows from the WTP deliver up to 60 gallons per minute to the sanitary sewer system on Kenthorpe Way. The applicant proposes to contribute wastewater, to the existing sanitary system, from the following sources after the expansion:

- Reject water from the mechanical dewatering process;
- Domestic amenities (sinks, toilets, showers, etc.) in the Administration/Operations Building and the maintenance areas;
- Seal water from pumps;
- Floor drains; and,
- Analyzer drains if detailed design determines that they cannot be located to allow them to drain to a recycle location.

The applicant's plans do not indicate whether sewer system capacity exists to serve the proposed use. Therefore, Condition of Approval 8 would require the applicant to demonstrate, at time of building permit submittal, prior to occupancy and thereafter, that the proposed use will not generate flows in excess of 60 GPM to the City's sanitary system.

The City Engineer has evaluated the proposal and, based on his experience, concluded that compliance is feasible.

With the condition of approval, this criterion is met.

5. *Solid waste and recycling storage areas. Appropriately sized and located solid waste and recycling storage areas shall be provided. Metro standards shall be used.*

FINDING NO. 52

The applicant's plans indicate a preferred garbage and recycling area that is at least 950 square feet in size. The garbage and recycling area is proposed to be located behind sight obscuring security fencing to the west of the Administration/Operations Building. See revised Figure 3.0. The applicant did not supply construction details at this time, so the City Council is unable to determine their conformance with applicable standards. Therefore Condition of Approval 9 requires, at time of building permit submittal, the applicant submit construction plans which demonstrate compliance with refuse and recycling standards of CDC subsections 55.100(O)(3) and (4). The applicant shall provide construction details which demonstrate that the trash containers will be located on a level concrete pad, at least four inches thick, at ground elevation or other location compatible with the local franchise collection firm's equipment. The pad needs be designed to discharge surface water runoff to avoid ponding. With the Condition of Approval, this criterion is met.

J. *Crime prevention and safety/defensible space.*

1. *Windows shall be located so that areas vulnerable to crime can be surveyed by the occupants.*

FINDING NO. 53

The City Council concurs with the applicant's response: The first and second story windows of the proposed Administration/Operations Building faces northward towards Kenthorpe Way, west toward the stormwater facility and east toward tax lot 200. Windows in the southern walls of the Electrical and Finished Water Pump Stations Buildings face south toward the open meadow and landscape area above the clearwell.

Windows in these locations promote surveillance of the site in three areas of special interest: 1) the public and service driveways, visitor parking area, building entryway, landscaping and stormwater feature along Kenthorpe Way; 2) south of the WTP interior is an open meadow and emergency access/pedestrian accessway; and, 3) the through-site pedestrian path connecting Kenthorpe Way with Mapleton Drive. The criterion is met.

2. *Interior laundry and service areas shall be located in a way that they can be observed by others.*

FINDING NO. 54

Public access to locker rooms, mudrooms and the WTP kitchen is limited to WTP employees and therefore these areas are not crime vulnerable areas. The criterion does not apply

- 3. Mailboxes, recycling, and solid waste facilities shall be located in lighted areas having vehicular or pedestrian traffic.*

FINDING NO. 55

The WTP mailbox is located along Kenthorpe Way and is illuminated by the WTP visitor parking lot driveway light. Because the recycling and solid waste facilities are not in areas accessible to public vehicular or pedestrian traffic, lighting is not proposed. The criterion is met.

- 4. The exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime.*

FINDING NO. 56

The applicant's lighting plan (Exhibit PC-3, Section 23, Figures 5.5) indicates that site lighting will be directed to areas of concern within the WTP core, and visitor parking area. Additionally, the applicant proposes to install low-level lighting along the thickeners and solids lagoon to illuminate the through-site pathway. The criterion is met.

- 5. Light fixtures shall be provided in areas having heavy pedestrian or vehicular traffic and in potentially dangerous areas such as parking lots, stairs, ramps, and abrupt grade changes.*

FINDING NO. 57

The applicant proposes to illuminate heavy pedestrian and vehicle use areas, such as parking lots, stairs into the building and the main entrance ramp. Additionally, although not intended for heavy pedestrian or vehicle use, the applicant also proposes to illuminate pedestrian pathways. (See applicant's 8/20/2012 submittal, Section 23, Figure 5.5.) The criterion is met.

- 6. Fixtures shall be placed at a height so that light patterns overlap at a height of seven feet which is sufficient to illuminate a person. All commercial, industrial, residential, and public facility projects undergoing design review shall use low or high pressure sodium bulbs and be able to demonstrate effective shielding so that the light is directed downwards rather than omni-directional. Omni-directional lights of an ornamental nature may be used in general commercial districts only.*

FINDING NO. 58

Staff concurs with the Applicant's response: Applicant's 8/20/2012 submittal, Section 23, Figures 5.5 depict how the Kenthorpe Way driveways, visitor parking lot and east side pedestrian path are illuminated at a 7-foot above grade standard. The lighting fixtures will be fully shielded and will use low-pressure sodium bulbs. Within the WTP compound and away from abutting properties, the applicant proposes to install metal halide bulbs that are fully shielded. Along the pedestrian path and within the accessible water feature, the applicant proposes to use low pressure sodium bulbs. The criterion is met.

- 7. Lines of sight shall be reasonably established so that the development site is visible to police and residents.*

FINDING NO. 59

The City Council concurs with the Applicant’s response: The lines of sight from Kenthorpe Way to the WTP and from Mapleton Drive to the WTP are unobstructed (see applicant’s 8/20/2012 submittal, Section 21, Figure 10.0). The line of sight from Kenthorpe Way and Mapleton Drive to the pedestrian path connecting the emergency accessway and Kenthorpe Way, however, is obstructed.

While the trail from Kenthorpe to Mapleton is a desired community feature, trail alignment options are limited by the WTP uses on-site. The West Linn Comprehensive Plan encourages the creation of a trail network in West Linn and the draft West Linn Trails Plan further encourages the construction of a local trail connecting Mapleton Drive and Kenthorpe Way. To minimize impacts to the neighborhood, the WTP design has been moved to the center of the site. For security reasons, it is not possible to build a pedestrian path through the core area of the WTP. Consequently, the pedestrian path must go to the east of the WTP operations area.

It is not possible to construct a path around the WTP core so that it does not have an unobstructed view. Consequently, the applicant proposes that a reasonable solution to the problem is to light this portion of the pathway so that the pathway is safe and defensible.

Lines of sight have been reasonably established for policing by law enforcement and residents. The criterion is met.

- 8. *Security fences for utilities (e.g., power transformers, pump stations, pipeline control equipment, etc.) or wireless communication facilities may be up to eight feet tall in order to protect public safety. No variances are required regardless of location.*

FINDING NO. 60

Staff concurs with the applicant’s response: The perimeter good neighbor fence will be six feet high. The location of all utilities is behind the architectural security fencing and/or buildings surrounding the core area. These interior security fences are not located within the lot setback. The criterion is met.

K. Provisions for persons with disabilities.

- 1. *The needs of a person with a disability shall be provided for. Accessible routes shall be provided between all buildings and accessible site facilities. The accessible route shall be the most practical direct route between accessible building entries, accessible site facilities, and the accessible entry to the site. An accessible route shall connect to the public right-of-way and to at least one on-site or adjacent transit stop (if the area is served by transit). All facilities shall conform to, or exceed, the Americans with Disabilities Act (ADA) standards, including those included in the Uniform Building Code.*

FINDING NO. 61

The City Council concurs with the applicant’s response: ADA Accessibility Guidelines (ADAAG) apply to the public areas of the utility. Public sidewalks and the pedestrian pathways will be designed, consistent with West Linn Public Works Standards to comply with ADA requirements. Two ADA accessible parking stalls are to be located adjacent to

the primary entryway to the Administration/Operations Building (see Section 21, Figure 3.0).

Parking stalls are connected by a grade level pathway to the proposed sidewalk on Kenthorpe Way. An ADA compliant ramp leads directly from roadway level into the primary public building entrance. An elevator connects the first and second floors of the Administration/Operations Building. Consequently, the proposal complies with CDC 55.100(K) by providing ADA compliant pedestrian access around the site, parking stalls, and access into and through the publicly accessible spaces.

The criterion is met.

L. Signs.

- 1. Based on considerations of crime prevention and the needs of emergency vehicles, a system of signs for identifying the location of each residential unit, store, or industry shall be established.*
- 2. The signs, graphics, and letter styles shall be designed to be compatible with surrounding development, to contribute to a sense of project identity, or, when appropriate, to reflect a sense of the history of the area and the architectural style.*
- 3. The sign graphics and letter styles shall announce, inform, and designate particular areas or uses as simply and clearly as possible.*
- 4. The signs shall not obscure vehicle driver's sight distance.*
- 5. Signs indicating future use shall be installed on land dedicated for public facilities (e.g., parks, water reservoir, fire halls, etc.).*
- 6. Signs and appropriate traffic control devices and markings shall be installed or painted in the driveway and parking lot areas to identify bicycle and pedestrian routes.*

FINDING NO. 62

The applicant proposes to provide three types of signage: a monument sign at the service entry and at the parking entrance; a building mounted sign at the Administration/Operations Building; and pole mounted signs at both entries to the pedestrian pathway. The general locations for this sign system are shown in Section 21, Figure 8.0. However, the applicant is not proposing any particular sign designs at this preliminary stage of design. Lake Oswego will apply for a sign permit after approval of the building permits and prior to issuance of an occupancy permit for the Administration/Operations Buildings. The signs will need to demonstrate compliance with CDC 55.100(L)(2)(3)(4) and (6). Pedestrian and vehicle circulation signs must be consistent with the travel mode and direction shown in Applicant's 8/20/2012 submittal, Section 21, Figure 8.0. Traffic control devices are not proposed other than secure access gates. Individual buildings and loading areas within the core area will be signed and marked consistent with the requirements of TVF&R. This criterion will apply to future sign design proposals which are not now before the City Council.

M. Utilities. The developer shall make necessary arrangements with utility companies or other persons or corporations affected for the installation of underground lines and facilities. Electrical lines and other wires, including but not limited to communication, street lighting, and cable television, shall be placed underground, as practical. The design standards of Tables 1 and 2 above, and of subsection 5.487 of the West Linn Municipal Code relative to existing high ambient noise levels shall apply to this section.

FINDING NO. 63

The City Council concurs with the applicant's response: Subsection (M) requires placing electrical wires underground, "as practical". The existing overhead utility lines are shown in Section 21, Figures 5.0-5.4. All electrical lines within the WTP property will be located underground. Portland General Electric (PGE) Company will provide the WTP with a secondary power supply connected to a separate power transformer. The secondary power supply will be placed underground in the Kenthorpe Way right-of-way.

In situations where existing overhead utility lines run continuously along a street frontage, such as along Kenthorpe Way and Mapleton Drive, West Linn provides an option of a fee in-lieu-of undergrounding a small section of an overhead utility line. This avoids the disruptive effect of road cuts and service changes to residents that a piece-meal approach to undergrounding utilities creates. Consequently, the applicant proposes to leave the overhead utility lines in place and pay a fee, determined by PGE, in-lieu-of undergrounding overhead utilities at this time.

Condition of Approval 10, requires that prior to building permit issuance the applicant to pay the appropriate fee-in-lieu of undergrounding overhead utilities on Kenthorpe Way and Mapleton Drive. With the condition of approval, this criterion is met.

N. Wireless communication facilities (WCFs). (This section only applicable to WCFs.) WCFs as defined in Chapter 57 CDC may be required to go through Class I or Class II design review. The approval criteria for Class I design review is that the visual impact of the WCF shall be minimal to the extent allowed by Chapter 57 CDC. Stealth designs shall be sufficiently camouflaged so that they are not easily seen by passersby in the public right-of-way or from any adjoining residential unit. WCFs that are classified as Class II design review must respond to all of the approval criteria of this chapter.

FINDING NO. 64

The applicant proposes an aerial antenna for on-site communications and to gather radio telemetry with off-site components of the WTP. According to CDC 57.020, Wireless Communication Facilities consist of mechanical equipment, cabinets, support structures and an antenna. Since, the proposed antennae does not include equipment, cabinets, and support structure, the City Council finds that the WCF regulations here and in Chapter 57 do not apply to the Applicant's proposal. The proposed antenna will be approximately 15 feet high and mounted on the top of the new administration/operations building. This is of a similar height to the current antenna. CDC 40.010 states that projections such as "aerials" are not subject to building height limitations.

O. Refuse and recycling standards.

1. All commercial, industrial and multi-family developments over five units requiring Class II design review shall comply with the standards set forth in these provisions. Modifications

to these provisions may be permitted if the Planning Commission determines that the changes are consistent with the purpose of these provisions and the City receives written evidence from the local franchised solid waste and recycling firm that they are in agreement with the proposed modifications.

2. *Compactors, containers, and drop boxes shall be located on a level Portland cement concrete pad, a minimum of four inches thick, at ground elevation or other location compatible with the local franchise collection firm's equipment at the time of construction. The pad shall be designed to discharge surface water runoff to avoid ponding.*

FINDING NO. 65

The applicant proposes to locate the trash container west of the Administration/Operations Building as shown in applicant's 8/20/2012 submittal, Section 23, Figure 3.0 The applicant did not supply construction details at this time.

As previously noted, Condition of Approval 9 requires, at time of building permit submittal, the applicant to provide construction details which demonstrate that the trash containers will be located on a level concrete pad, at least four inches thick, at ground elevation or other location compatible with the local franchise collection firm's equipment. The pad needs to be designed to discharge surface water runoff to avoid ponding. With the condition of approval, this criterion is met.

3. *Recycling and solid waste service areas.*
 - a. *Recycling receptacles shall be designed and located to serve the collection requirements for the specific type of material.*
 - b. *The recycling area shall be located in close proximity to the garbage container areas and be accessible to the local franchised collection firm's equipment.*
 - c. *Recycling receptacles or shelters located outside a structure shall have lids and be covered by a roof constructed of water and insect-resistive material. The maintenance of enclosures, receptacles and shelters is the responsibility of the property owner.*
 - d. *The location of the recycling area and method of storage shall be approved by the local fire marshal.*
 - e. *Recycling and solid waste service areas shall be at ground level and/or otherwise accessible to the franchised solid waste and recycling collection firm.*
 - f. *Recycling and solid waste service areas shall be used only for purposes of storing solid waste and recyclable materials and shall not be a general storage area to store personal belongings of tenants, lessees, property management or owners of the development or premises.*
 - g. *Recyclable material service areas shall be maintained in a clean and safe condition.*

FINDING NO. 66

The applicant proposes to locate recycling and solid waste collection boxes alongside the trash containers in the preferred location described above. As previously noted, the Applicant did not supply construction details.

Condition of Approval 9 requires, at time of building permit submittal, the applicant to submit construction plans which demonstrate compliance with (O)(3) and (4) above. With the condition of approval, this criterion is met.

4. Special wastes or recyclable materials.

- a. Environmentally hazardous wastes defined in ORS 466.005 shall be located, prepared, stored, maintained, collected, transported, and disposed in a manner acceptable to the Oregon Department of Environmental Quality.*
- b. Containers used to store cooking oils, grease or animal renderings for recycling or disposal shall not be located in the principal recyclable materials or solid waste storage areas. These materials shall be stored in a separate storage area designed for such purpose.*

FINDING NO. 67

The applicant has prepared an adequate HMMP, consistent with the Oregon Fire Code and with state law in 1996. The WTP operators who will implement the HMMP and procedures are closely coordinated with the local emergency responders: TVF&R and West Linn Police Department. Consequently, there have been no significant safety violations involving hazardous materials. There is no use or storage of chlorine gas on-site. The WTP's drinking water disinfection process was converted years ago to use a liquid sodium hypochlorite (bleach) solution rather than chlorine gas. There will be no on-site generation of chlorine. TVF&R inspects the plant facilities at least annually. In event of an emergency, the noted emergency responders would initiate communications with plant neighbors.

The applicant will be responsible for meeting all DEQ regulations for any hazardous wastes. These criteria are met.

5. Screening and buffering.

- a. Enclosures shall include a curbed landscape area at least three feet in width on the sides and rear. Landscaping shall include, at a minimum, a continuous hedge maintained at a height of 36 inches.*
- b. Placement of enclosures adjacent to residentially zoned property and along street frontages is strongly discouraged. They shall be located so as to conceal them from public view to the maximum extent possible.*
- c. All dumpsters and other trash containers shall be completely screened on all four sides with an enclosure that is comprised of a durable material such as masonry with a finish that is architecturally compatible with the project. Chain link fencing, with or without slats, will not be allowed.*

FINDING NO. 68

The City Council concurs with the applicant's response: All dumpsters, trash collection boxes, recycling and solid waste areas will be behind the architecture security wall shown in applicant's 8/20/2012 submittal, Section 23, Figure 14.0, Detail 1. These areas will be

obscured from public view. Consequently, no additional screening and buffering is needed to satisfy the requirements and intent of subsection (O)(5). These criteria are met.

6. *Litter receptacles.*

- a. *Location. Litter receptacles may not encroach upon the minimum required walkway widths.*
- b. *Litter receptacles may not be located within public rights-of-way except as permitted through an agreement with the City in a manner acceptable to the City Attorney or his/her designee.*
- c. *Number. The number and location of proposed litter receptacles shall be based on the type and size of the proposed uses. However, at a minimum, for non-residential uses, at least one external litter receptacle shall be provided for every 25 parking spaces for first 100 spaces, plus one receptacle for every additional 100 spaces. (Ord. 1547, 2007; Ord. 1604 § 52, 2011)*

FINDING NO. 69

The applicant proposes to provide 17 vehicle parking spaces for visitors and 7 vehicle parking spaces for staff. Based on the 24 total parking spaces, the applicant is required to place 1 external litter receptacle. The applicant proposes to place 1 litter receptacle near the pedestrian walkway in the visitor parking area (see applicant's 8/20/2012 submittal, Section 23, Figure 3.1). The criterion is met.

55.130 GRADING PLAN

The grading and drainage plan shall be at the same scale as the site analysis (CDC 55.110) and shall include the following:

- A. *The location and extent to which grading will take place indicating general contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed.*
- B. *Plans and statements to demonstrate the ability of the project to meet Appendix 33 requirements of the Uniform Building Code.*
- C. *A registered civil engineer shall prepare a plan and statement that shall be supported by factual data that clearly shows that there will be no adverse impacts from increased intensity of runoff off site, or the plan and statement shall identify all off-site impacts and measures to mitigate those impacts. The plan and statement shall, at a minimum, determine the off-site impacts from a 10-year storm.*
- D. *Storm detention and treatment plans may be required.*
- E. *Identification, information, including the name and address of the owner, developer, project designer, and the project engineer.*

FINDING NO. 69.5:

Some opponents asserted that the grading plan requirements were not satisfied. The Applicant included a grading plan with its applications. Further, the City Council finds that because the opponents did not explain their objections, other than to claim

these standards are not satisfied, the objections were not raised with sufficient specificity to allow the Council to respond.

CHAPTER 33, STORMWATER QUALITY AND DETENTION

33.040 APPROVAL CRITERIA

A. Stormwater quality facilities shall meet non-point source pollution control standards required by the Public Works Design Standards.

FINDING NO. 70

The applicant proposes to design WTP stormwater quality facilities to meet the non-point source pollution control standards specified in the West Linn Public Works Standards. The criterion is met.

B. Design of stormwater detention and pollution reduction facilities and related detention and water quality calculations shall meet Public Works Design Standards and shall be prepared by a professional engineer licensed to practice in the State of Oregon.

FINDING NO. 71

A professional engineer, licensed to practice in the State of Oregon, prepared the preliminary stormwater detention and pollution reduction facilities and related detention and water quality calculations using the City of West Linn Public Works Design Standards and the City of West Linn Community Development Code (see applicant's 8/20/2012 submittal, Section 16). The criterion is met.

C. Soil stabilization techniques, erosion control, and adequate improvements to accommodate the intended drainage through the drainage basin shall be used. Storm drainage shall not be diverted from its natural watercourse unless no feasible alternatives exist. Interbasin transfers of storm drainage will not be permitted.

FINDING NO. 72

The preliminary plan shows that stormwater drainage will not be diverted from the natural watercourse. The applicant will be required to demonstrate that all WTP stormwater management features have been designed using the soil stabilization, erosion control and drainage techniques found in the City of West Linn Public Works Design Standards and the City of West Linn Community Development Code. The criterion is met.

E. Stormwater detention and treatment facilities shall be vegetated with plants from the Metro's Native Plant List as described in CDC [33.070](#).

FINDING NO. 73

The Applicant proposes to vegetate stormwater facilities using native plants allowed by the City of Portland Stormwater Management Manual (see applicant's 8/20/2012 submittal, Section 21, Figure 11). The City allows the use of the Portland Stormwater Management manual. The criterion is met.

F. Projects must either stockpile existing topsoil for reuse on the site or import topsoil, rather than amend subsoils. Soil amendments are allowed only where the applicant can demonstrate they are the only practical alternative for enabling the soil to support healthy plantings, promoting better stormwater treatment, or improving soil infiltration capacity (where appropriate).

FINDING NO. 74

The applicant’s final construction documents will be required to demonstrate that planting practices will use either stockpiled soil or, if necessary, imported topsoil. Condition of approval 17 will ensure compliance. The criterion is met.

G. Interim erosion control measures, such as mulching, shall be placed immediately upon completion of grading of the facilities. (Ord. 1463, 2000)

FINDING NO. 75

The applicant proposes interim erosion control measures consistent with the “Erosion Prevention and Sediment Control: Planning and Design Manual” published by Clackamas County Water Environment Services, December 2008. The criterion is met.

33.060 MAINTENANCE AND ACCESS REQUIREMENTS

Maintenance and access requirements shall meet Public Works Design Standards. (Ord. 1463, 2000)

FINDING NO. 76

At the time of building permit submittal the Applicant will be required to demonstrate compliance with the City of West Linn Public Works Design Standards regarding maintenance and access standards. Condition of approval 17 will ensure compliance. The criterion is met.

CHAPTER 42, CLEAR VISION AREAS

42.020 CLEAR VISION AREAS REQUIRED, USES PROHIBITED

A. A clear vision area shall be maintained on the corners of all property adjacent to an intersection as provided by CDC 42.040 and 42.050.

B. A clear vision area shall contain no planting, fence, wall, structure or temporary or permanent obstruction (except for an occasional utility pole or tree) exceeding three feet in height, measured from the top of the curb, or, where no curb exists, from the street centerline grade, except that trees exceeding this height may be located in this area, provided all branches below eight feet are removed. (Ord. 1192, 1987)

FINDING NO. 77

The City Council concurs with the applicant’s response: The property is not located on an intersection corner. Thirty-foot clear vision triangles from the driveways onto

Kenthorpe Way, which are 26-feet wide or more, are shown in applicant's 8/20/2012 submittal, Section 21, Figure series 3.

The landscape planting plans, applicant's 8/20/2012 submittal, Section 23, Figures 12.1-12.4, provide for plant materials that are three feet tall or less at maturity or include trees with branches 8 feet or more above grade level.

The emergency access gate will not exceed 3-feet in compliance with subsection 42.020(B). See applicant's 8/20/2012 submittal, Section 21, Figure Series 14. The criterion is met.

CHAPTER 44, FENCES

44.020 SIGHT-OBSCURING FENCE; SETBACK AND HEIGHT LIMITATIONS

A. A sight- or non-sight-obscuring fence may be located on the property line or in a yard setback area subject to the following:

1. The fence is located within:

- a. A required front yard area, and it does not exceed three feet, except pillars and driveway entry features subject to the requirements of Chapter 42 CDC, Clear Vision Areas, and approval by the Planning Director;*
- b. A required side yard which abuts a street and it is within that portion of the side yard which is also part of the front yard setback area and it does not exceed three feet;*
- c. A required side yard which abuts a street and it is within that portion of the side yard which is not also a portion of the front yard setback area and it does not exceed six feet provided the provisions of Chapter 42 CDC are met;*
- d. A required rear yard which abuts a street and it does not exceed six feet; or*
- e. A required side yard area which does not abut a street or a rear yard and it does not exceed six feet.*

FINDING NO. 78

The applicant's plans show a 6-foot good neighbor fence along the east and west property lines to the point of intersection with Kenthorpe Way. These fences are outside of the clear vision triangles for the two site driveways on Kenthorpe Way. Within the Mapleton Drive setback, the Applicant proposes a 3-foot tall split rail fence that will (Condition of Approval 19) allow public passage through the fence and into the open space area north of Mapleton Drive. (See applicant's 8/20/2012 submittal, Section 21, Figures 12.1 – 12.4 and 14.0 and 14.1.)

Condition of Approval 11, required the portions of the good neighbor fence within the site's front yard setback to be no greater than 3-feet tall. With the condition, the criterion is met.

44.030 SCREENING OF OUTDOOR STORAGE

A. All service, repair, and storage activities carried on in connection with any commercial, business or industrial activity and not conducted within an enclosed building shall be screened from view of all adjacent properties and adjacent streets by a sight-obscuring fence.

B. The sight-obscuring fence shall be in accordance with provisions of Chapter 42 CDC, Clear Vision Areas, and shall be subject to the provisions of Chapter 55 CDC, Design Review.

FINDING NO. 79

The City Council concurs with the applicant's response: All WTP service, repair and storage activities will occur within the secured core of the facility which will be screened from view of all adjacent properties and adjacent streets by means of sight obscuring architectural security walls, architectural security wall gates, visual screening fence or building walls. (See Applicant's 8/20/2012 submittal, Section 21, Figures 14.0 and 14.1 for wall, gate and fence detail.) The fences and wall are outside of clear vision areas and are subject to Class II Design Review. Therefore, the WTP proposal screens outdoor storage, service and repairs areas consistent with CDC 44.030. The criteria are met.

44.040 LANDSCAPING

Landscaping which is located on the fence line and which impairs sight vision shall not be located within the clear vision area as provided in Chapter 42 CDC.

FINDING NO. 80

The applicant proposes landscaping in the clear vision areas that will either grow to less than 3 feet at maturity or that will be pruned so that branches are higher than 8 feet off the ground. The criterion is met.

44.050 STANDARDS FOR CONSTRUCTION

- A. The structural side of the fence shall face the owner's property; and*
- B. The sides of the fence abutting adjoining properties and the street shall be maintained. (Ord. 1291, 1990)*

FINDING NO. 81

The City Council concurs with the Applicant's response: The proposed good neighbor fence, see applicant's 8/20/2012 submittal, Section 21, Figure 14.0, will be constructed so that the structural side of the fence faces the WTP. Any chain link element in a good neighbor fence will be located on the WTP property side [of the good neighbor fence]. The City of Lake Oswego will be responsible for maintaining both sides of any fence in good condition. The criterion is met.

CHAPTER 46, OFF-STREET PARKING, LOADING AND RESERVIOR AREAS

46.060 STORAGE IN PARKING AND LOADING AREAS PROHIBITED

Required parking spaces shall be available for the parking of passenger automobiles of residents, customers, patrons and employees only, and the required parking spaces shall not be used for storage of vehicles or materials or for the parking of trucks connected with the business or use with the exception of small (under one-ton) delivery trucks or cars.

FINDING NO. 82

The City Council concurs with the applicant’s response: The designated parking areas are reserved for visitors and employees. They will not be used for vehicle or material storage. The overflow parking area is not required for employee use on a daily basis and WTP operational vehicles and materials will be stored here on an as-needed basis. All storage areas are internal to the WTP central code and not visible to the public. The criterion is met.

46.070 MAXIMUM DISTANCE ALLOWED BETWEEN PARKING AREA AND USE

A. Off-street parking spaces for single- and two-family dwellings shall be located on the same lot with the dwelling.

B. Off-street parking spaces for uses not listed in subsection A of this section shall be located not farther than 200 feet from an entryway to the building or use they are required to serve, measured in a straight line from the building, with the following exceptions:

1. Shared parking areas for commercial uses which require more than 40 parking spaces may provide for the spaces in excess of the required 40 spaces up to a distance of 300 feet from the entryway to the commercial building or use.

2. Industrial and manufacturing uses which require in excess of 40 spaces may locate the required spaces in excess of the 40 spaces up to a distance of 300 feet from the entryway to the building.

3. Employee parking areas for carpools and vanpools shall be located closer to the entryway to the building than general employee parking.

4. Stacked or valet parking is allowed if an attendant is present to move vehicles. If stacked parking is used for required parking spaces, the applicant shall ensure that an attendant will always be present when the lot is in operation. The requirements for minimum or maximum spaces and all parking area development standards continue to apply for stacked parking.

5. All disabled parking shall be placed closest to building entrances than all other parking. Appropriate ADA curb cuts and ramps to go from the parking lot to the ADA-accessible entrance shall be provided unless exempted by ADA code. (Ord. 1547, 2007)

FINDING NO. 83

The City Council concurs with the applicant’s response: There are no residential uses on site. Employee and visitor parking areas are approximately 50 feet from their respective building entrances. There are no parking areas in excess of 40 spaces. There are no designated carpool or vanpool areas. Valet and stacked parking is not proposed. The two ADA parking spaces are closest to the pedestrian access point into the Administration/Operations building. An ADA accessible ramp leads from the parking lot into the Administration/Operations Building. Consequently, the proposal is consistent with CDC 46.0709. The criterion is met.

46.090 MINIMUM OFF-STREET PARKING SPACE REQUIREMENTS

<u>Commercial.</u>	
<i>Professional offices, banks and savings and loans, and</i>	<i>One space for every 350 sq. ft. of gross area</i>

<i>government offices.</i>	
<u>Industrial.</u>	
<i>Manufacturing use; may include assembly and distribution.</i>	<i>One space per employee. (Multi-shift businesses only need to provide for peak shift number of employees on site at one time.)</i>

FINDING NO. 84

The City Council concurs with the Applicant’s response: The WTP currently has eleven marked parking spaces, including one ADA space. The parking lot also accommodates seven or more cars in an unmarked paved area during overflow times. The parking space calculation table in CDC 46.090 does not include a water treatment plant; therefore CDC 46.100, Parking Requirements for Unlisted Uses, applies. Consequently, the design team calculated parking space demand using a combination of building square footage and employee count for similar uses.

The WTP may eventually employ approximately 12-14 FTEs who will work shifts over the 24-hour period. It is not anticipated that more than half of the employees will be on site at any one time. Although the WTP is not an industrial facility, subsection (E)(1) of Table CDC 46.090 provides that one parking space shall be provided for each employee, however, in the case of multiple shifts, fewer spaces are permitted. Consequently, there will be seven employee parking spaces inside the secured core of the WTP (see applicant’s 8/20/2012 submittal, Section 21, Figure 7.0).

To calculate the correct number of office and visitor parking spaces, the design team used the square footage calculation method as provided in CDC 46.080(B). The Administration/Operations Building provides space for offices, a laboratory, control room, conference room, training room and office/visitor support areas. The total square footage of the office related areas is approximately 3,300 square feet. At a ratio of one parking space for every 350 square feet of gross area, the WTP public area should provide 16.8 parking spaces which, when rounded up, equals 17 parking spaces. Consequently, the visitor’s parking area provides 17 parking spaces. The criterion is met.

F. Maximum parking. While it is important to establish minimum standards to ensure that adequate parking is available, it is equally important to establish maximum parking standards to reduce paved impermeable areas, to reduce visual impact of parking lots, and to encourage alternate modes of transportation. For these reasons, parking spaces (except for single-family and two-family residential uses) shall not exceed the minimum by more than 10 percent except by variance.

FINDING NO. 85

The Applicant proposes to supply the minimum required parking for this use. The criterion is met.

H. For office, industrial, and public uses where there are more than 20 parking spaces for employees on the site, at least 10 percent of the required employee parking spaces shall be reserved for carpool use before 9:00 a.m. on weekdays. The spaces will be the closest to the building entrance, except for any disabled parking and those signed for exclusive customer use. The carpool/vanpool spaces shall be clearly marked "Reserved – Carpool/Vanpool Before 9:00 a.m."

FINDING NO. 86

The WTP requires 7 employee parking spaces. The criterion does not apply.

46.120 DRIVEWAYS REQUIRED ON SITE

Any school or other meeting place which is designed to accommodate more than 25 people at one time shall provide a 15-foot-wide driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading passengers. Depending on functional requirements, the width may be increased with Planning Director approval.

FINDING NO. 87

The City Council concurs with the applicant's response: The WTP is not a school but groups of 25 or more school children visit the site frequently, sometimes arriving by bus. The school visitors may be dropped off directly in front of the primary WTP entryway. The WTP also hosts meetings, primarily meetings of staff or technical groups who generally arrive by car. The proposed driveway from Kenthorpe Way has a 26-foot travel lane and provides for the continuous flow of traffic from one entry point to the other. Consequently, the WTP driveway design accommodates a continuous flow of traffic as required by CDC 46.120. The criterion is met.

46.130 OFF-STREET LOADING SPACES

Buildings or structures to be built or substantially altered, which receive and distribute material or merchandise by truck, shall provide and maintain off-street loading and maneuvering space. The dimensional standard for loading spaces is a minimum of 14 feet wide by 20 feet long or proportionate to accommodate the size of delivery trucks that typically serve the proposed use as follows:

FINDING NO. 88

The City Council concurs with the Applicant's response: Table 46.130 does not identify the WTP as a use requiring off-street loading spaces. However, the WTP receives weekly deliveries of materials by truck; therefore the site design provides a chemical delivery area and solids loading area, see applicant's 8/20/2012 submittal, Section 21, Figure 7.0. The drive lanes are 26 feet wide for more than 1200 feet in length. The loading areas can accommodate delivery vans and trucks as well as semi-trailers. The criterion is met.

46.150 DESIGN AND STANDARDS

The following standards apply to the design and improvement of areas used for vehicle parking, storage, loading, and circulation:

A. Design standards.

1. *“One standard parking space” means a minimum for a parking stall of eight feet in width and 16 feet in length. These stalls shall be identified as “compact.” To accommodate larger cars, 50 percent of the required parking spaces shall have a minimum dimension of nine feet in width and 18 feet in length (nine feet by 18 feet). When multi-family parking stalls back onto a main driveway, the stalls shall be nine feet by 20 feet.*

FINDING NO. 89

All proposed parking spaces, except for ADA spaces, measure 9-feet by 18-feet. The criterion is met.

2. *Disabled parking and maneuvering spaces shall be consistent with current federal dimensional standards and subsection B of this section and placed nearest to accessible building entryways and ramps.*

FINDING NO. 90

The applicant proposes 2 ADA spaces nearest the pedestrian entryway leading to the primary visitor entrance. The applicant proposes to design these spaces to meet Federal and local standards. The criterion is met.

4. *Service drives shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety of pedestrians and vehicular traffic on the site.*

FINDING NO. 91

The City Council concurs with the applicant’s response: The service drives are located off of Kenthorpe Way. The drive lanes are a minimum of 26-feet wide, accommodating two-way traffic. The pedestrian access across the parking lot to Kenthorpe Way is clearly marked. The 26-foot wide service drive continues through the secured area of the WTP providing safe traffic movement and emergency access throughout the site. The criterion is met.

5. *Each parking and/or loading space shall have clear access, whereby the relocation of other vehicles to utilize the parking space is not required.*

FINDING NO. 92

The City Council concurs with the applicant’s response: Loading spaces in the WTP interior are accessible from two directions. The visitor parking area is served by a 26-foot wide travel lane which provides for clear access into the parking spaces. The criterion is met.

6. *Except for single- and two-family residences, any area intended to be used to meet the off-street parking requirements as contained in this chapter shall have all parking spaces clearly marked using a permanent paint. All interior drives and access aisles shall be clearly marked and signed to show direction of flow and maintain vehicular and pedestrian safety. Permeable parking surface spaces may have an alternative delineation for parking spaces.*

FINDING NO. 93

The applicant is proposing permeable surfaces for the employee and visitor parking areas. All required parking spaces as well as all drive lanes and access aisles are proposed to be clearly marked. (See applicant's 8/20/2012 submittal, Section 21, Figure 7.0.) The criterion is met.

7. *Except for residential parking, and parking for public parks and trailheads, at least 50 percent of all areas used for the parking and/or storage and/or maneuvering of any vehicle, boat and/or trailer shall be improved with asphalt or concrete surfaces according to the same standards required for the construction and acceptance of City streets. The remainder of the areas used for parking may use a permeable paving surface designed to reduce surface runoff. Parking for public parks or trailheads may use a permeable paving surface designed to reduce surface runoff for all parking areas. Where a parking lot contains both paved and unpaved areas, the paved areas shall be located closest to the use which they serve.*

FINDING NO. 94

The applicant proposes impervious asphalt drive lanes that cover at least 50 percent of the total parking/drive area. The visitor and employee parking spaces will be covered with a pervious surface. The criterion is met.

9. *Access drives from the street to off-street parking or loading areas shall be designed and constructed to facilitate the flow of traffic and provide maximum safety for pedestrian and vehicular traffic on the site. The number of access drives shall be limited to the minimum that will allow the property to accommodate and service the anticipated traffic. Access drives shall be clearly and permanently marked and defined through use of rails, fences, walls, or other barriers or markers on frontage not occupied by service drives.*

FINDING NO. 95

The WTP currently has two unconnected access drives onto Kenthorpe Way. The applicant proposes to connect these two driveways to provide more direct and continuous flow of traffic through the site. Additionally, the applicant proposes a well-marked pedestrian path between Kenthorpe Way and the WTP primary visitor entrance. The criterion is met.

10. *Access drives shall have a minimum vision clearance as provided in Chapter 42 CDC, Clear Vision Areas.*

FINDING NO. 96

The applicant has proposed clear vision areas that are designed in accordance with CDC Chapter 42. (See applicant's 8/20/2012 submittal, Section 21, Figure 7.0.) The criterion is met.

11. Parking spaces along the boundaries of a parking lot or adjacent to interior landscaped areas or sidewalks shall be provided with a wheel stop at least four inches high located two feet back from the front of the parking stall. Alternately, landscaped areas or sidewalks adjacent to the parking stalls without wheel stops shall be two feet wider.

FINDING NO. 97

The City Council concurs with the applicant's response: The parking spaces in the visitor parking lot abut the central Kenthorpe Way landscaped area. Consequently, each of the 17 parking spaces will have a wheel stop at least 4 inches high located two feet back from the front of the parking stall. The employee parking area does not abut a landscape area or sidewalk. The criterion is met.

12. Off-street parking and loading areas shall be drained in accordance with plans and specifications approved by the City Engineer. Storm drainage at commercial sites may also have to be collected to treat oils and other residue.

FINDING NO. 98

The City Engineer has determined that the applicant's stormwater report accommodates the drainage for off-street parking and loading as required above. The criterion is met.

13. Artificial lighting on all off-street parking facilities shall be designed to deflect all light downward away from surrounding residences and so as not to create a hazard to the public use of any road or street.

FINDING NO. 99

The applicant proposes fully shielded parking area lights that will be directed downward as described in applicant's 8/20/2012 submittal, Section 13. The criterion is met.

14. Directional arrows and traffic control devices which are placed on parking lots shall be identified and installed.

FINDING NO. 100

The applicant does not propose the installation of traffic control devices. Direction arrows are proposed as outlined in applicant's 8/20/2012 submittal, Section 21, Figure 7.0. The criterion is met.

16. Visitor or guest parking must be identified by painted "GUEST" or "VISITOR."

FINDING NO. 101

The applicant proposes to label the visitor parking lot as required by this section. The criterion is met.

17. The parking area shall have less than a five percent grade. No drainage across adjacent sidewalks or walkways is allowed.

FINDING NO. 102

The City Council concurs with the applicant's response: The entire slope grade is less than 2 percent. Stormwater on the western end of the visitor parking lot will flow towards Catchment Area A while run-off on the eastern end of the visitor parking lot, including the pedestrian walkway, will flow toward Catchment Area B including the new stormwater facility east of the new Administration/Operations Building. (See Applicant's 8/20/2012 submittal, Section 16, Figure 3.0.) Consequently, drainage will not cross the interior walkway. The criterion is met.

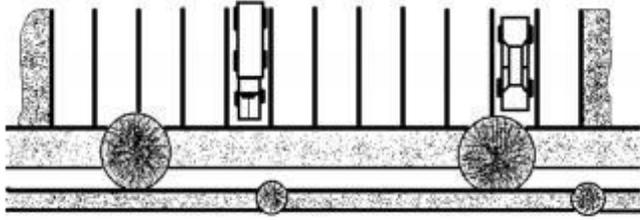
18. Commercial, office, industrial, and public parking lots may not occupy more than 50 percent of the main lot frontage of a development site. The remaining frontage shall comprise buildings or landscaping. If over 50 percent of the lineal frontage comprises parking lot, the landscape strip between the right-of-way and parking lot shall be increased to 15 feet wide and shall include terrain variations (e.g., one-foot-high berm) plus landscaping. The defensible space of the parking lot should not be compromised.

FINDING NO. 103

The City Council concurs with the applicant's response: The Kenthorpe Way frontage is approximately 500-feet across. The width of the visitor parking lot is approximately 120 feet. Therefore, the visitor parking lot width is less than 50% of the Kenthorpe Way frontage. The depth of the Kenthorpe Way landscaping is 150 feet on the west, 121 feet on the east and approximately 46 feet in the middle. Consequently, the visitor parking lot is consistent with the intent of subsection (A)(18). The criterion is met.

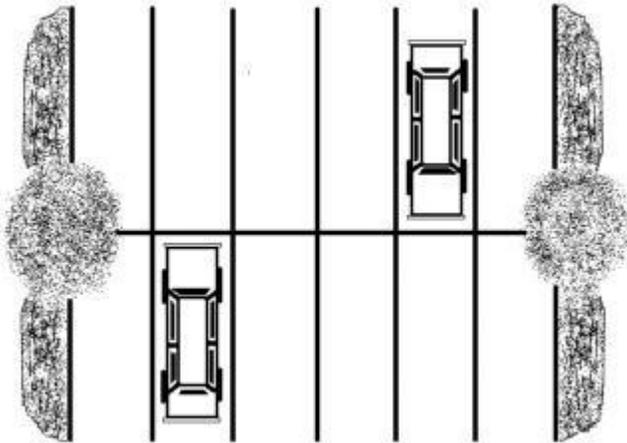
19. Areas of the parking lot improved with asphalt or concrete surfaces shall be designed into areas of 12 or less spaces through the use of defined landscaped area. Groups of 12 or less spaces are defined as:

a. Twelve spaces in a row, provided there are no abutting parking spaces, as in the case when the spaces are abutting the perimeter of the lot; or



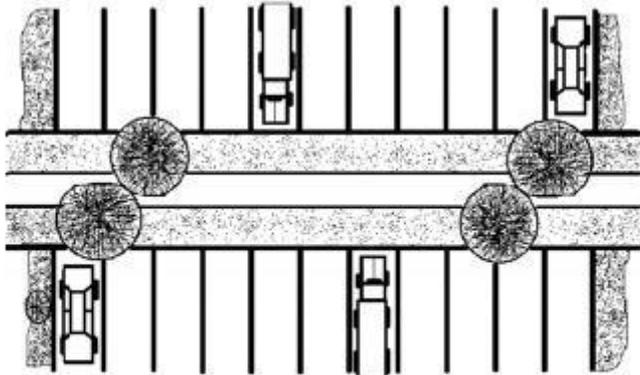
12 SPACES IN A ROW

b. Twelve spaces in a group with six spaces abutting together; or



6 SPACES X 2 = 12

c. Two groups of twelve spaces abutting each other, but separated by a 15-foot wide landscape area including a six-foot-wide walkway.



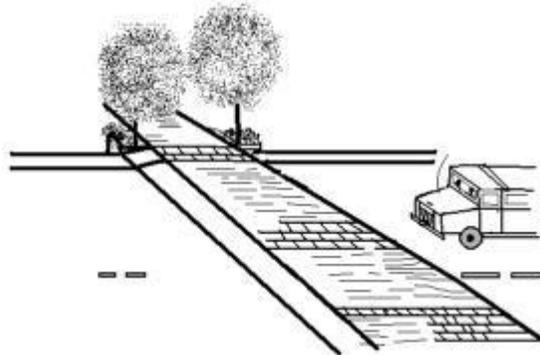
12 SPACES X2 WITH LANDSCAPING

d. Parking areas improved with a permeable parking surface may be designed using the configurations shown in subsections (A)(19)(a), (b) and (c) of this section except that groups of up to 18 spaces are allowed.

FINDING NO. 104

The City Council concurs with the applicant's response: The employee parking area has seven spaces. The visitor parking area has 17 spaces. Both parking areas will be improved with a permeable parking surface. Subsection (A)(19)(d) provides that groups of 18 spaces are allowed. Consequently, both the employee and visitor parking areas are consistent with sub section (A)(19). The criterion is met.

20. *Pedestrian walkways shall be provided in parking areas having 20 or more spaces. Walkways or sidewalks shall be constructed between major buildings/activity areas (an example in multi-family housing: between recreation center, swimming pool, manager's office, park or open space areas, parking lots, etc.) within a development, between adjacent developments and the new development, as feasible, and between major buildings/activity areas within the development and adjacent streets and all adjacent transit stops. Internal parking lot circulation and design should maintain ease of access for pedestrians from streets and transit stops. Walkways shall be constructed using a material that visually contrasts with the parking lot and driveway surface. Walkways shall be further identifiable to pedestrians and motorists by grade separation, walls, curbs, surface texture (surface texture shall not interfere with safe use of wheelchairs, baby carriages, shopping carts, etc.), and/or landscaping. Walkways shall be six feet wide. The arrangement and layout of the paths shall depend on functional requirements.*



**RAISED SIDEWALK/TEXTURED SURFACE
AUTOMOBILE BECOMES SUBSERVIENT
TO THE PEDESTRIAN**

FINDING NO. 105

This section applies to parking areas with 20 or more spaces. Although this criterion does not apply to the applicant's proposal, the site has been designed to meet this standard.

21. *The parking and circulation patterns are easily comprehended and defined. The patterns shall be clear to minimize traffic hazards and congestion and to facilitate emergency vehicles.*

FINDING NO. 106

The circulation system provides looped two-way access from Kenthorpe Way, through the visitor parking lot, and back onto Kenthorpe Way. Similarly, the internal WTP

circulation pattern provides a two-way loop through the secured area. TVF&R staff reviewed the applicant’s circulation plan (see applicant’s 8/20/2012 submittal, Section 21, Figure 7.0). The criterion is met.

22. *The parking spaces shall be close to the related use.*

FINDING NO. 107

The applicant proposes employee parking spaces that are 24-feet from the employee entrance and visitor parking spaces that are approximately 46-feet from the WTP public entrance. The criterion is met.

23. *Permeable parking spaces shall be designed and built to City standards.*

FINDING NO. 108

The applicant proposes permeable parking spaces that will be built to West Linn Public Works Standards. At time of building permit submittal the applicant will demonstrate the design of permeable parking spaces that are consistent with City of West Linn standards.

B. Accessible parking standards for persons with disabilities. If any parking is provided for the public or visitors, or both, the needs of the people with disabilities shall be based upon the following standards or current applicable federal standards, whichever are more stringent:

1. *Minimum number of accessible parking space requirements (see following table):*

MINIMUM REQUIRED NUMBER OF TOTAL PARKING SPACES	TOTAL NUMBER OF ACCESSIBLE SPACES	NUMBER OF VAN-ACCESSIBLE SPACES REQUIRED, OF TOTAL	SPACES SIGNED “WHEELCHAIR USE ONLY”
1 - 25	1	1	-

2. *Location of parking spaces. Parking spaces for the individual with a disability that serve a particular building shall be located on the shortest possible accessible circulation route to an accessible entrance to a building. In separate parking structures or lots that do not serve a particular building, parking spaces for the persons with disabilities shall be located on the shortest possible circulation route to an accessible pedestrian entrance of the parking facility.*

3. *Accessible parking space and aisle shall meet ADA vertical and horizontal slope standards.*

4. *Where any differences exist between this section and current federal standards, those standards shall prevail over this code section.*

5. *One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 inches wide.*

6. *Van-accessible parking spaces shall have an additional sign marked “Van Accessible” mounted below the accessible parking sign. A van-accessible parking space reserved for*

wheelchair users shall have a sign that includes the words “Wheelchair Use Only.” Van-accessible parking shall have an adjacent eight-foot-wide aisle. All other accessible stalls shall have a six-foot-wide aisle. Two vehicles may share the same aisle if it is between them. The vertical clearance of the van space shall be 96 inches.

FINDING NO. 109

The applicant proposes to provide seven employee parking spaces and 17 visitor spaces; two of the visitor spaces will be ADA compliant and one of the ADA spaces is proposed to be a minimum of 96-inches wide. The ADA spaces abut the pedestrian walkway that leads into the WTP public entrance and are nearest the public entryway. The criterion is met.

C. Landscaping in parking areas. Reference Chapter 54 CDC, Landscaping.

FINDING NO. 110

See discussion regarding CDC Chapter 54 below.

D. Bicycle facilities and parking.

1. Provisions shall be made for pedestrian and bicycle ways if such facilities are shown on an adopted plan.
2. Bicycle parking facilities shall either be lockable enclosures in which the bicycle is stored, or secure stationary racks which accommodate bicyclist’s locks securing the frame and both wheels. The bicycle parking shall be no more than 50 feet from the entrance to the building, well-lit, observable, and properly signed.
3. Bicycle parking must be provided in the following amounts:

LAND USE CATEGORY	MINIMUM REQUIRED BICYCLE PARKING SPACES	MINIMUM COVERED AMOUNT
<i>Libraries, Museums, Government Offices, etc.</i>	<i>2, or 1.5 spaces per 1,000 gross sq. ft., whichever is greater</i>	<i>25%</i>

FINDING NO. 111

An 8-space, covered bicycle parking area is proposed adjacent the west side of the plant’s main entrance and a 4-space bicycle parking area is provided on the east side of the plant’s main entrance (see applicant’s 8/20/2012 submittal, Section 21, Figure 3.0). The criterion is met.

F. (See Figures 1 and 2 below.)

Figure 1. MINIMUM STANDARDS FOR PARKING LOT LAYOUT

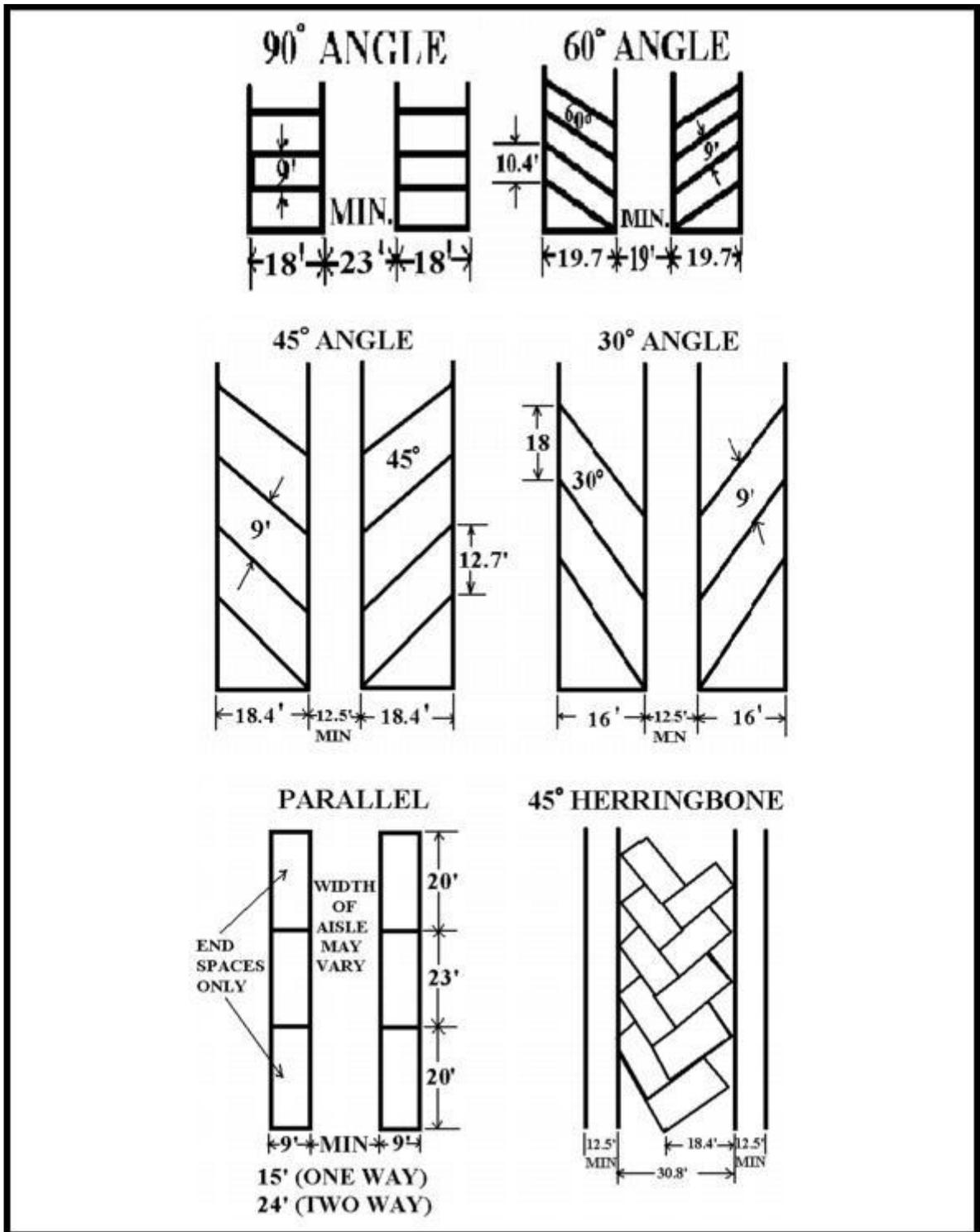
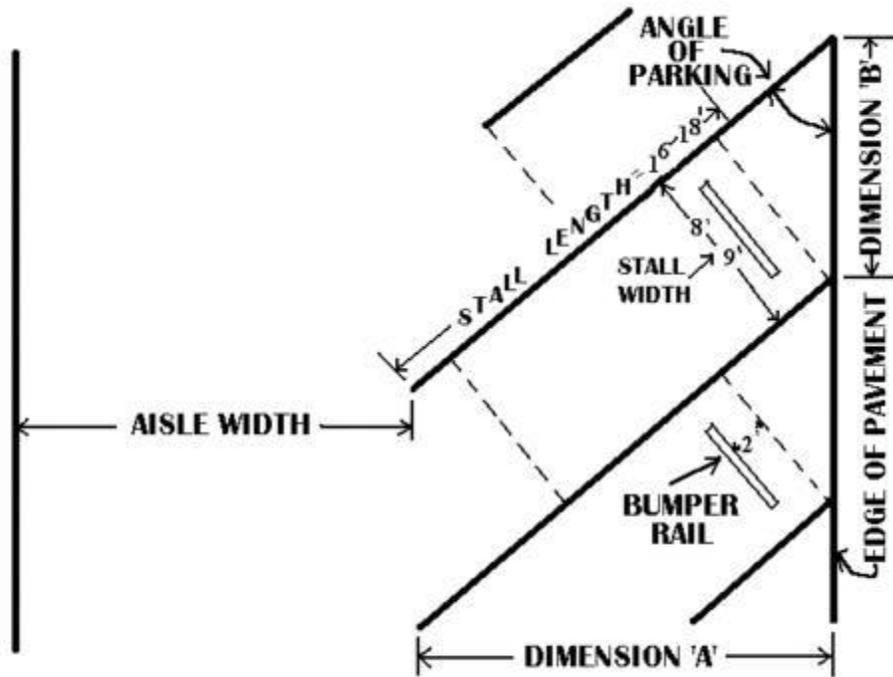


Figure 2. MINIMUM DISTANCE FOR PARKING STALLS



ANGLE OF PARKING	DIRECTION OF PARKING	AISLE WIDTH		DIMENSION 'A'		DIMENSION 'B'	
		STALL WIDTH		STALL WIDTH		STALL WIDTH	
		9.0'	8.0'	9.0'	8.0'	9.0'	8.0'
30°	DRIVE-IN	12.5'	12.5'	16.8'	13.8'	18.0'	16.0'
45°	DRIVE-IN	12.5'	12.5'	19.1'	17.0'	12.7'	11.3'
60°	DRIVE-IN	19.0'	18.0'	20.1'	17.8'	10.4'	9.2'
60°	BACK-IN	17.0'	17.0'	20.1'	17.8'	10.4'	9.2'
90°	DRIVE-IN	23.0'	23.0'	18.0'	16.0'	9.0'	8.0'
90°	BACK-IN	22.0'	22.0'	18.0'	16.0'	9.0'	8.0'

FINDING NO. 112

The parking stalls in both the employee parking lot and the visitor parking lot will be 90-degree stalls. Each stall is a minimum of 18 feet deep and a minimum of 9 feet wide. The aisle width of each parking area exceeds 23 feet. Therefore, the design of both the employee and visitor parking areas complies with the design requirements of subsection (F). The criterion is met.

CHAPTER 48, ACCESS, EGRESS AND CIRCULATION

48.025 ACCESS CONTROL

A. Purpose. *The following access control standards apply to public, industrial, commercial and residential developments including land divisions. Access shall be managed to maintain an adequate level of service and to maintain the functional classification of roadways as required by the West Linn Transportation System Plan. Major roadways, including arterials and collectors, serve as the primary system for moving people and goods within and through the City. Access management is a primary concern on these roads. Local streets and alleys provide access to individual properties. If vehicular access and circulation are not properly designed, these roadways will be unable to accommodate the needs of development and serve their transportation function. The regulations in this section further the orderly layout and use of land, protect community character, and conserve natural resources by promoting well-designed road and access systems and discouraging the unplanned subdivision of land.*

B. Access control standards.

1. Traffic impact analysis requirements. *The City or other agency with access jurisdiction may require a traffic study prepared by a qualified professional to determine access, circulation and other transportation requirements. (See also CDC [55.125](#), Traffic Impact Analysis.)*

FINDING NO. 113

Based on the applicant's low anticipated trip generation the proposal does not warrant a TIA. The criterion is met.

2. *The City or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system. Access to and from off-street parking areas shall not permit backing onto a public street.*

FINDING NO. 114

The City has not suggested closing or consolidating curb cuts or access points. TVF&R has requested an emergency access point from Mapleton Drive. There are currently three access points onto the Lake Oswego property from Mapleton drive; only the one used for the emergency access will remain. There are currently two access points from the WTP site onto Kenthorpe which alleviates any backing onto Kenthorpe Way due to the looped circulation scheme proposed (see applicant's 8/20/2012 submittal, Section 21, Figure 7.0). The criterion is met.

3. Access options. *When vehicle access is required for development (i.e., for off-street parking, delivery, service, drive-through facilities, etc.), access shall be provided by one of the following methods (planned access shall be consistent with adopted public works standards and TSP). These methods are "options" to the developer/subdivider.*

a) Option 1. *Access is from an existing or proposed alley or mid-block lane. If a property has access to an alley or lane, direct access to a public street is not permitted.*

- b) *Option 2. Access is from a private street or driveway connected to an adjoining property that has direct access to a public street (i.e., “shared driveway”). A public access easement covering the driveway shall be recorded in this case to assure access to the closest public street for all users of the private street/drive.*
- c) *Option 3. Access is from a public street adjacent to the development parcel. If practicable, the owner/developer may be required to close or consolidate an existing access point as a condition of approving a new access. Street accesses shall comply with the access spacing standards in subsection (B)(6) of this section.*

FINDING NO. 115

The applicant proposes to pursue Option 3; access from a public street adjacent to the development. The criterion is met.

5. *Double-frontage lots. When a lot has frontage onto two or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street. When a lot has frontage opposite that of the adjacent lots, access shall be provided from the street with the lowest classification.*

FINDING NO. 116

The WTP fronts Kenthorpe Way and Mapleton Drive. The TSP identifies Kenthorpe Way as a local street and Mapleton Drive as a Collector-constrained. The WTP currently has and proposes to continue to take access onto Kenthorpe Way. The criterion is met.

6. *Access spacing. The access spacing standards found in Chapter 8 of the adopted Transportation System Plan (TSP) shall be applicable to all newly established public street intersections, private drives, and non-traversable medians.*

FINDING NO. 117

The WTP currently has two driveway accesses on Kenthorpe Way and three on Mapleton Drive. The driveway configuration on Kenthorpe is proposed to remain as it is today and the applicant is proposing to eliminate two of the driveways on Mapleton Drive. The applicant does not propose to establish any additional public street intersections or private drives. The criterion is not applicable.

7. *Number of access points. For single-family (detached and attached), two-family, and duplex housing types, one street access point is permitted per lot, when alley access cannot otherwise be provided; except that two access points may be permitted corner lots (i.e., no more than one access per street), subject to the access spacing standards in subsection (B)(6) of this section. The number of street access points for multiple family, commercial, industrial, and public/institutional developments shall be minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. Shared access may be required, in conformance with subsection (B)(8) of this section, in order to maintain the required access spacing, and minimize the number of access points.*

FINDING NO. 118

The City Council concurs with the applicant's response: The WTP proposal does not create any new access points onto Kenthorpe Way. Because the driveways form a two-way loop, vehicles do not have to back into a public street. The proposed upgraded WTP will generate fewer than 20 ADTs, far less than what the site could generate if fully developed to the required residential density. The emergency access road relies on the location of an existing driveway and will only be accessible to emergency vehicles. Consequently, the proposed access strategy protects the function, safety and operation of the abutting public streets. The criterion is met

C. Street connectivity and formation of blocks required. In order to promote efficient vehicular and pedestrian circulation throughout the City, land divisions and large site developments shall produce complete blocks bounded by a connecting network of public and/or private streets, in accordance with the following standards:

- 1. Block length and perimeter. The maximum block length shall not exceed 800 feet or 1,800 feet along an arterial.*
- 2. Street standards. Public and private streets shall also conform to Chapter 92 CDC, Required Improvements, and to any other applicable sections of the West Linn Community Development Code and approved TSP.*
- 3. Exception. Exceptions to the above standards may be granted when blocks are divided by one or more pathway(s), in conformance with the provisions of CDC 85.200(C), Pedestrian and Bicycle Trails, or cases where extreme topographic (e.g., slope, creek, wetlands, etc.) conditions or compelling functional limitations preclude implementation, not just inconveniences or design challenges.*

FINDING NO. 119

The City Council concurs with the applicant's response: The West Linn TSP does not propose creating new blocks by joining Kenthorpe Way and Mapleton Drive in this area. However, the Robinwood Neighborhood Plan, Goal 3, Policy 3.9, suggests mitigating negative impacts of the WTP upgrade on the surrounding neighborhood with "*positive contributions to transportation connectivity between Kenthorpe and Mapleton Drives.*" Consequently, the proposed site design includes a lighted, secure pedestrian pathway along the east side of the WTP property connecting Kenthorpe Way and Mapleton Drive. The criterion is met.

48.040 MINIMUM VEHICLE REQUIREMENTS FOR NON-RESIDENTIAL USES

Access, egress, and circulation system for all non-residential uses shall not be less than the following:

- A. Service drives for non-residential uses shall be fully improved with hard surface pavement:*
- 1. With a minimum of 24-foot width when accommodating two-way traffic; or*

2. *With a minimum of 15-foot width when accommodating one-way traffic. Horizontal clearance shall be two and one-half feet wide on either side of the driveway.*
 3. *Meet the requirements of CDC 48.030(E)(3) through (6).*
 4. *Pickup window driveways may be 12 feet wide unless the Fire Chief determines additional width is required.*
- B. All non-residential uses shall be served by one or more service drives as determined necessary to provide convenient and safe access to the property and designed according to CDC 48.030(A). In no case shall the design of the service drive or drives require or facilitate the backward movement or other maneuvering of a vehicle within a street, other than an alley.*
- C. All on-site maneuvering and/or access drives shall be maintained pursuant to CDC 46.130.*
- D. Gated accessways to non-residential uses are prohibited unless required for public safety or security.*

FINDING NO. 120

The City Council concurs with the Applicant's response:

The access, egress, and circulation system for the WTP complex is provided as follows:

A. The two driveway access points from Kenthorpe Way are 26 feet wide; the width is carried through the interior of the WTP complex, providing two-way traffic opportunities through the facility. See applicant's 8/20/2012 submittal, Section 21, Figures 3.1 – 3.4. There are no one-way drive lanes or pick-up windows. CDC 48.030(E) applies only to multi-family projects. However, assuming that these multi-family standards are to be applied to a non-residential project, the WTP access driveways will:

- be a minimum of 26 feet wide;
- provide a vertical clearance of a minimum of 13 feet 6 inches;
- provide circular, rather than one-way travel, that has an average grade of less than 7%;
- provide a minimum centerline turning radius of 45 degrees for the curve; and
- provide an approach grade of less than 10% because the average site grade is less than 2%.

B. The WTP facility provides two driveways from Kenthorpe Way. In no case will any service vehicle be required to maneuver backwards into a street or alley.

C. The internal access road provides chemical delivery and solids loading areas, consistent with CDC 46.130 requirements for off-street loading spaces. See applicant's 8/20/2012 submittal, Section 21, Figure 7.0.

D. Gated accessways are required for public safety and security at the WTP. The WTP is a critical public facility, providing clean drinking water to tens of thousands of people on a daily basis and emergency water to West Linn. In addition, water-processing activities, which occur within the secure WTP core area, require professional

management and oversight and these work spaces are not readily accessible to the public. Consequently, three security gates, consistent with the requirements of the TVF&R, will control the interior of the WTP complex. See applicant's 8/20/2012 submittal, Section 18. The emergency access road from Mapleton Drive will also be controlled by swing gates with a pedestrian entryway, as recommended by the neighbors and by TVF&R. See applicant's 8/20/2012 submittal, Section 21, Figure 14.1, Detail 2.

The criterion is met.

48.050 ONE-WAY VEHICULAR ACCESS POINTS

Where a proposed parking facility plan indicates only one-way traffic flow on the site, it shall be accommodated by a specific driveway serving the facility, and the entrance drive shall be situated closest to oncoming traffic, and the exit drive shall be situated farthest from oncoming traffic.

FINDING NO. 121

The Applicant proposes a 26-foot wide, two-way driveway to serve both the employee and visitor parking areas. The criterion does not apply.

48.060 WIDTH AND LOCATION OF CURB CUTS AND ACCESS SEPARATION REQUIREMENTS

A. Minimum curb cut width shall be 16 feet.

B. Maximum curb cut width shall be 36 feet, except along Highway 43 in which case the maximum curb cut shall be 40 feet. For emergency service providers, including fire stations, the maximum shall be 50 feet.

FINDING NO. 122

The existing curb cuts on Kenthorpe Way are non-conforming to the current 36-foot wide standard; Kenthorpe Way curb cuts are 59-foot wide on the west driveway and 39-foot wide on the east driveway. The applicant proposes to continue this arrangement as granted through a previous conditional use approval in 1996. The criterion does not apply.

C. No curb cuts shall be allowed any closer to an intersecting street right-of-way line than the following:

- 1. On an arterial when intersected by another arterial, 150 feet.*
- 2. On an arterial when intersected by a collector, 100 feet.*
- 3. On an arterial when intersected by a local street, 100 feet.*
- 4. On a collector when intersecting an arterial street, 100 feet.*
- 5. On a collector when intersected by another collector or local street, 35 feet.*
- 6. On a local street when intersecting any other street, 35 feet.*

FINDING NO. 123

Kenthorpe Way is a local street. The existing curb cut on the eastern side of the site is approximately 200-feet from the point where Kenthorpe Way turns south, exceeding the 35-foot minimum standard for a local street. The criterion is met.

D. There shall be a minimum distance between any two adjacent curb cuts on the same side of a public street, except for one-way entrances and exits, as follows:

- 1. On an arterial street, 150 feet.*
- 2. On a collector street, 75 feet.*
- 3. Between any two curb cuts on the same lot on a local street, 30 feet.*

FINDING NO. 124

The existing curb cuts on Kenthorpe Way, approved in 1996, are approximately 180 feet apart, exceeding the 30-foot minimum standard for a local street. The criterion is met.

E. A rolled curb may be installed in lieu of curb cuts and access separation requirements.

FINDING NO. 125

The applicant is proposing the use of curb cuts. The criterion does not apply.

F. Curb cuts shall be kept to the minimum, particularly on Highway 43. Consolidation of driveways is preferred. The standard on Highway 43 is one curb cut per business if consolidation of driveways is not possible.

FINDING NO. 126

The Applicant proposes the same number of curb cuts on Kenthorpe Way as granted through their 1996 approval. The criterion is met.

G. Adequate line of sight pursuant to engineering standards should be afforded at each driveway or accessway.

FINDING NO. 127

Kenthorpe Way is generally straight and generally level in proximity to the WTP. The two access driveways were designed in 1996 to meet West Linn engineering standards with regard to line of sight; no changes are proposed. The criterion does not apply.

48.080 BICYCLE AND PEDESTRIAN CIRCULATION

A. Within all multi-family developments (except two-family/duplex dwellings), each residential dwelling shall be connected to vehicular parking stalls, common open space, and recreation facilities by a pedestrian pathway system having a minimum width of six feet and constructed of an all-weather material. The pathway material shall be of a different color or composition from the driveway. (Bicycle routes adjacent to the travel lanes do not have to be of different color or composition.)

B. *Bicycle and pedestrian ways within a subdivision shall be constructed according to the provisions in CDC 85.200(A)(3).*

C. *Bicycle and pedestrian ways at commercial or industrial sites shall be provided according to the provisions of Chapter 55 CDC, Design Review.*

FINDING NO. 128

The City Council concurs with the applicant's response: The WTP is not a multi-family project, a subdivision, or a commercial or industrial site; it is a major utility. The site plan provides employee and visitor bicycling areas, sidewalks along both Kenthorpe Way and Mapleton Drive frontages, and a pedestrian path connecting the two streets in accordance with the requirements of Chapter 55 CDC. The criterion is met.

CHAPTER 54, LANDSCAPING

54.020 APPROVAL CRITERIA

A. *Every development proposal requires inventorying existing site conditions which include trees and landscaping. In designing the new project, every reasonable attempt should be made to preserve and protect existing trees and to incorporate them into the new landscape plan. Similarly, significant landscaping (e.g., bushes, shrubs) should be integrated. The rationale is that saving a 30-foot-tall mature tree helps maintain the continuity of the site, they are qualitatively superior to two or three two-inch caliper street trees, they provide immediate micro-climate benefits (e.g., shade), they soften views of the street, and they can increase the attractiveness, marketability, and value of the development.*

FINDING NO. 129

The City Council concurs with the Applicant's response:

The applicant's professional arborist prepared an inventory of trees consistent with the West Linn Tree Technical Manual. (See applicant's 8/20/2012 submittal, Section 21, Tree Protection Plan). The West Linn Arborist determined that there are 42 significant trees or significant tree clusters. By compressing WTP functions to the center of the site, the applicant has been able to protect 36 of the 42 significant trees. The significant trees are protected in clusters along the northeast and northwest corners of the Kenthorpe Way frontage and around the property perimeter.

Conflicts inevitably arise in a development code between the desire to protect vegetation on the one hand and the need to allow future development and the associated construction demands on the other hand. To help mediate this conflict CDC 55.100(B)(2) makes it clear that significant trees should be protected but that not all significant shall be saved. One area of conflict is along Kenthorpe Way. The proposed site design protects the significant trees and tree clusters, along with the non-protected vegetation, at the northeast and northwest site corners. Although the City Arborist did not identify any significant trees in the landscaped area between the current visitors' parking lot and the WTP Operations Building, the present landscaping provides a desirable visual buffer. However, CDC 55.100(B)(7), implementing the Transportation

System Rule (TPR) strongly encourages pedestrian access from public right-of-ways to the primary building entryway.

Consequently, the applicant has proposed a pedestrian walkway from Kenthorpe Way directly to the WTP public entrance, as required. One significant tree to the east of the Operations Building will be removed to provide the necessary driveway turning radius for delivery trucks and emergency vehicles. Similarly, a conflict between vegetation protection and site functionality arises in the south end of the site. The City Arborist identified significant trees along the southern perimeter of the site and within the open area in the south-center.

The WTP must store finished water to pump into the system for both daily customers and for emergency back-up in West Linn. Such storage requires a holding tank with 2 MG of storage capacity. One way to create such capacity is to erect a large tank above ground; but this solution would not be possible with a 35-foot height limitation in the zone and it would present a very large blank wall facing Mapleton Drive. The alternative is to bury the tank, a clearwell, in a 30-foot deep hole. The excavation and construction staging will necessitate the removal of designated significant trees.

The design team considered moving the clearwell to the east and to the west but in each direction there are more significant trees. The location of the clearwell was also determined by the need to build an emergency access lane from Mapleton to the WTP facilities. See the TVF&R memorandum in applicant's 8/20/2012 submittal, Section 18. As a result, five significant trees in the southern side of the site will be removed. Creative site planning, responsive to neighborhood concerns forced the WTP facilities into the center of the site.

The design decision results in the protection of 36 out of 42 significant trees, primarily along the site perimeter. Together with the non-significant bushes and trees along the site frontages and residential perimeter, the WTP site design has made every reasonable effort to incorporate existing vegetation into the landscape plan.

The criterion is met.

B. To encourage tree preservation, the parking requirement may be reduced by one space for every significant tree that is preserved in the parking lot area for a maximum reduction of 10 percent of the required parking. The City Parks Supervisor or Arborist shall determine the significance of the tree and/or landscaping to determine eligibility for these reductions.

FINDING NO. 130

No significant trees are proposed to be removed to accommodate the parking area. The criterion does not apply.

C. Developers must also comply with the municipal code chapter on tree protection.

FINDING NO. 131

The applicant has provided an Arborist Report and Tree Protection Plan in conformance with the Municipal Code. See Exhibit PC-3, Section 22, Tree Protection Plan. The criterion is met.

D. Heritage trees. Heritage trees are trees which, because of their age, type, notability, or historical association, are of special importance. Heritage trees are trees designated by the City Council following review of a nomination. A heritage tree may not be removed without a public hearing at least 30 days prior to the proposed date of removal. Development proposals involving land with heritage tree(s) shall be required to protect and save the tree(s). Further discussion of heritage trees is found in the municipal code.

FINDING NO. 132

The City Arborist has determined that there are no heritage trees on site. The determination is corroborated by the Lake Oswego Arborists report. The criterion does not apply.

2. Non-residential uses. A minimum of 20 percent of the gross site area shall be landscaped. Parking lot landscaping may be counted in the percentage.

FINDING NO. 133

The applicant proposes to landscape 58 percent (5.38 acres) of the total WTP site area, excluding parking lot areas (see applicant's 8/20/2012 submittal, Section 16, Table G-3, page 4). The criterion is met.

3. All uses (residential uses (non-single-family) and non-residential uses):

a. The landscaping shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area. There shall be one shade tree planted for every eight parking spaces. These trees shall be evenly distributed throughout the parking lot to provide shade. Parking lots with over 20 spaces shall have a minimum 10 percent of the interior of the parking lot devoted to landscaping. Pedestrian walkways in the landscaped areas are not to be counted in the percentage. The perimeter landscaping, explained in subsection (E)(3)(d) of this section, shall not be included in the 10 percent figure. Parking lots with 10 to 20 spaces shall have a minimum five percent of the interior of the parking lot devoted to landscaping. The perimeter landscaping, as explained above, shall not be included in the five percent. Parking lots with fewer than 10 spaces shall have the standard perimeter landscaping and at least two shade trees. Non-residential parking areas paved with a permeable parking surface may reduce the required minimum interior landscaping by one-third for the area with the permeable parking surface only.

FINDING NO. 134

The applicant does not propose shading the employee parking area as it contains seven spaces. The applicant proposes 17 spaces in the visitor parking area. According to (3)(a), 5 percent of the interior of the parking area, excluding pedestrian accessways (approximately 138 square feet) shall be dedicated to landscaping. The applicant proposes to retain the existing dense foliage as well as plant new landscaping in the visitor parking area that is well in excess of the requirement. The criterion is met.

b. The landscaped areas shall not have a width of less than five feet.

FINDING NO. 135

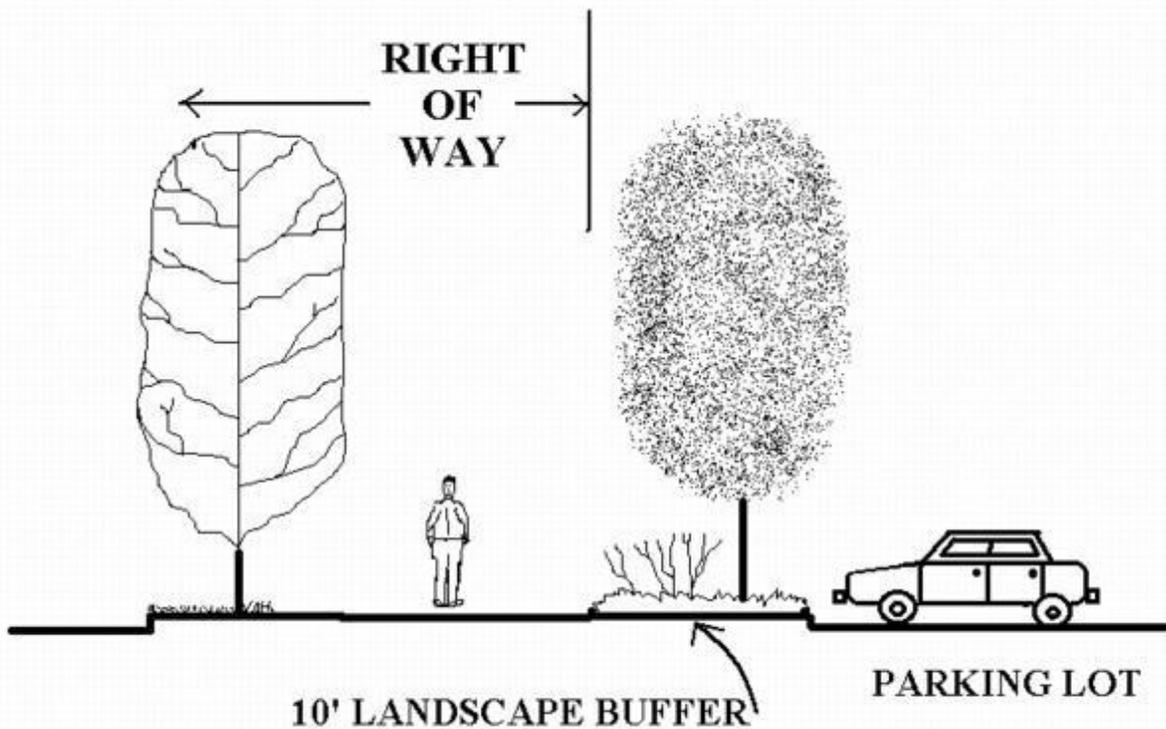
The City Council concurs with the applicant's response: All landscaped areas are deeper than five feet wide, including the landscaping between the pedestrian path and the property perimeter, which is approximately eight feet wide at its narrowest. The criterion is met.

c. The soils, site, proposed soil amendments, and proposed irrigation system shall be appropriate for the healthy and long-term maintenance of the proposed plant species.

FINDING NO. 136

The City Council concurs with the Applicant's response: The planting soils will be topsoil and the irrigation system will reach all landscaped areas. See applicant's 8/20/2012 submittal, Section 21, Figures 11.0 – 13.5. The WTP will be able to provide ample water for the irrigation system. The criterion is met.

d. A parking, loading, or service area which abuts a street shall be set back from the right-of-way line by perimeter landscaping in the form of a landscaped strip at least 10 feet in width. When a parking, loading, or service area or driveway is contiguous to an adjoining parcel, there shall be an intervening five-foot-wide landscape strip. The landscaped area shall contain:



- 1) *Street trees spaced as appropriate to the species, not to exceed 50 feet apart on the average;*
- 2) *Shrubs, not to reach a height greater than three feet, six inches, spaced no more than five feet apart on the average; or*

3) *Vegetative ground cover such as grass, wildflowers, or other landscape material to cover 100 percent of the exposed ground within two growing seasons. No bark mulch shall be allowed except under the canopy of low level shrubs.*

FINDING NO. 137

The City Council concurs with the applicant's response: The visitor parking landscape area provides approximately 46-feet of separation from the Kenthorpe Way right-of-way. Parking, loading, service areas, and driveways are not contiguous to abutting properties. The criterion is met.

e. If over 50 percent of the lineal frontage of the main street or arterial adjacent to the development site comprises parking lot, the landscape strip between the right-of-way and parking lot shall be increased to 15 feet in width and shall include terrain variations (e.g., one-foot-high berm) plus landscaping. This extra requirement only applies to one street frontage.

FINDING NO. 138

The WTP frontage along Kenthorpe Way is approximately 500-feet wide. The WTP visitor parking area is proposed to be approximately 182-feet wide; less than 50 percent of the 500-foot frontage width. The criterion does not apply.

g. All areas in a parking lot not used for parking, maneuvering, or circulation shall be landscaped.

FINDING NO. 139

The applicant indicates that all areas within the two parking lots are used for parking maneuvering, or circulation, consistent with subsection (g). The criterion is met.

h. The landscaping in parking areas shall not obstruct lines of sight for safe traffic operation.

FINDING NO. 140

The proposed landscaping does not overhang either parking area or the drive lanes. Consistent with the clear vision standards, no vegetation within the clear vision areas will be taller than three feet at maturity unless the limbs and vegetation are pruned to a height of eight feet. The criterion is met.

i. Outdoor storage areas, service areas (loading docks, refuse deposits, and delivery areas), and above-ground utility facilities shall be buffered and screened to obscure their view from adjoining properties and to reduce noise levels to acceptable levels at the property line. The adequacy of the buffer and screening shall be determined by the criteria set forth in CDC 55.100(C)(1).

FINDING NO. 141

The City Council concurs with the applicant's response: The applicant responded to the requirements of CDC 55.100(C)(1). All of the WTP storage areas, service areas, and process utility functions are buffered and screened by building walls, architectural security fencing, visual screening barriers, existing vegetation and a dense planting of new vegetation, including approximately 308 new trees. Additionally, the applicant conducted a supplemental lighting analysis and determined that mature coniferous trees,

approximately 14-feet tall, should be installed in key locations to further minimize the potential impact of WTP lighting. See applicant's 8/20/2012 submittal, Section 21, Figures series 5.5. The criterion is met.

j. Crime prevention shall be considered and plant materials shall not be located in a manner which prohibits surveillance of public and semi-public areas (shared or common areas).

FINDING NO. 142

The City Council concurs with the applicant's response: All areas accessible to the public have open lines of sight or, in the case of the pedestrian path, are illuminated (see Finding 53 regarding crime prevention). The criterion is met.

k. Irrigation facilities shall be located so that landscaped areas can be properly maintained and so that the facilities do not interfere with vehicular or pedestrian circulation.

FINDING NO. 143

The applicant's irrigation plan provides for adequate plant maintenance and all irrigation lines are underground, thereby minimizing conflict with vehicular and pedestrian circulation. See applicant's 8/20/2012 submittal, Section 21, Figures 11.0 and 13 – 13.5. The criterion is met.

l. For commercial, office, multi-family, and other sites, the developer shall select trees that possess the following characteristics:

- 1) Provide generous "spreading" canopy for shade.*
- 2) Roots do not break up adjacent paving.*
- 3) Tree canopy spread starts at least six feet up from grade in, or adjacent to, parking lots, roads, or sidewalks unless the tree is columnar in nature.*
- 4) No sticky leaves or sap-dripping trees (no honey-dew excretion).*
- 5) No seed pods or fruit-bearing trees (flowering trees are acceptable).*
- 6) Disease-resistant.*
- 7) Compatible with planter size.*
- 8) Drought-tolerant unless irrigation is provided.*
- 9) Attractive foliage or form all seasons.*

FINDING NO. 144

The applicant selected trees that are consistent with subsection (l) standards. See applicant's 8/20/2012 submittal, Section 21, figure 11.0 for a plant schedule. The criterion is met.

m. Plant materials (shrubs, ground cover, etc.) shall be selected for their appropriateness to the site, drought tolerance, year-round greenery and coverage, staggered flowering periods, and avoidance of nuisance plants (Scotch broom, etc.).

FINDING NO. 145

The applicant selected native plant materials that are drought tolerant and provide year- or staggered year-round foliage. None of the plants are classified as nuisance plants. See applicant's 8/20/2012 submittal, Section 21, figure 11.0 for a plant schedule. The criterion is met.

CHAPTER 104, COMPREHENSIVE PLAN

104.020 LAND USE POLICY. From the effective date of the ordinance codified in this chapter, the West Linn Comprehensive Plan shall serve as the land use policy for the City, and shall govern the exercise of the planning and zoning responsibilities of the City thereafter.

The City Council agrees that the “applicable comprehensive plan policies” are applicable to these two proposals through the conditional use criterion CDC 60.070(A)(7). These findings address the applicable policies as well as the applicable code criteria. This code standard is met.

CHAPTER 106, ENFORCEMENT

106.010 PROVISIONS OF THIS CODE DECLARED TO BE MINIMUM REQUIREMENTS. In their interpretation and application, the provisions of this code shall be held to be minimum requirements, adopted for the protection of the public health, safety, and general welfare. Wherever the requirements of this code are at variance with other provisions of this code, or with the requirements of any other adopted City rules, regulations, or ordinances, the most restrictive or that imposing the higher standards shall govern.

This provision contained within the Enforcement section of the code provides that where a code provision conflicts with another code provision, city rule or other regulation, the more restrictive code standard shall apply. Opponents often did not identify any code sections that they claim conflict with other standards. Where those plan policies and CDC sections were identified and appeared to apply, they were addressed. It appears the testimony invites the City Council to use the terms “public health, safety, and general welfare” to create new heightened standards to which the applicant must comply. However, the fixed goal post rule requires that the city apply only the regulations that are in effect when an application was filed. The terms “public health, safety and general welfare” are not interpreted to authorize the City to impose additional restrictions that are not contained within the applicable provisions of the adopted CDC or Comprehensive Plan. This code standard, to the extent it applies to this proposal, is met.

Based on the foregoing, the City Council finds that the applicable approval criteria will be satisfied if the proposal is constructed in accordance with the plans submitted as supplemented with the following conditions of approval:

DECISION

On the basis of the above findings, the Council approves these applications, subject to the following conditions:

1. Approved plans. The Project shall conform to the plans and figures submitted by the applicant in its August 20, 2012, application submittal except as modified by subsequent submittals dated September 27, 2012, and December 4, 2012, and except as modified by these conditions of approval.
2. Good Neighbor plan. The applicant shall implement applicable provisions of the Good Neighbor Plan.

3. Hazardous Materials Management plan. Prior to issuance of occupancy permits, the applicant shall submit to the Planning Department an updated Hazardous Materials Management Plan for the approved WTP that has been reviewed by Tualatin Valley Fire & Rescue and satisfies all applicable regulations, including compliance with applicable state regulations governing the handling of hazardous materials.
4. Noise.
 - a. The ENVIRON Noise Mitigation recommendations contained in Section 11 shall be implemented.
 - b. Chemical unloading shall only be allowed between 7:00 AM and 7:00 PM on weekdays and 9:00 AM to 5:00 PM on weekends.
 - c. The applicant shall submit a follow-up noise study to the Planning Director that is prepared by a licensed professional acoustical engineer, between three and six months after the issuance of the first certificate of occupancy, identifying whether the facility meets the noise standards in OAR 340-035. If the noise standards are not met, the applicant shall submit evidence of remedial action within 60 days that achieves compliance.
 - d. Noise generating construction activities outside the hours of 7:00 AM to 7:00 PM on weekdays or 9:00 AM to 5:00 PM on weekends may only be permitted with written approval from the City Manager. Any request to the City Manager to extend work hours shall include justification for the proposed construction outside allowed work hours, beginning and end dates, a description of the equipment and activities proposed during that time, and documentation that this information was presented at least 7 days earlier to the Robinwood Neighborhood Association president, unless emergency work is required that makes advanced notice impracticable.
 - e. Back-up beepers shall be not permitted for construction activities outside of the hours of 7:00 AM to 7:00 PM on weekdays or 9:00 AM to 5:00 PM; spotters or other alternative methods approved by OSHA working will be required.
5. Pedestrian path. The applicant shall install a No Parking sign at the beginning of the through-site pedestrian path at both Mapleton Drive and Kenthorpe Way. (The applicant may choose any Manual on Uniform Traffic Control Devices (MUTCD) approved marking it deems appropriate for this application.) Additionally, the applicant shall record a public access easement over the through-site pathway between Mapleton Drive and Kenthorpe Way.
6. Stormwater.
 - a. Prior to the issuance of a public works permit, the applicant shall submit to the City Engineer the final stormwater operations and maintenance plan pursuant to CDC Section 33.030(C).

- b. Vegetated swales along Kenthorpe Way and Mapleton Drive shall be located between the street and sidewalk except in those areas where an alternate configuration is necessary to protect mature trees, as determined by the City Arborist in consultation with the City Engineer.
 - c. At time of building permit submittal, the applicant shall execute a stormwater maintenance agreement with the Public Works Department and record a public storm drainage access easement for all stormwater treatment and detention facilities located on private property.
7. Fire flow. At the time of building permit submittal, the applicant shall provide detailed fire flow calculations for each building on site that satisfy TVF&R requirements.
8. Sewage system.
- The WTP shall not generate flows in excess of 60 GPM to the City's sanitary system, unless an analysis prepared by the applicant and approved by the City Engineer demonstrates that the City has sufficient capacity to serve the increased flow.
- Prior to final occupancy and thereafter as needed, the applicant shall demonstrate to the satisfaction of the City Engineer that its discharge to the City's sanitary sewer system will not exceed 60 GPM.
9. Garbage and recycling facilities.
- a. At time of building permit submittal, the applicant shall submit construction plans which demonstrate compliance with refuse and recycling standards of CDC subsections 55.100(0)(3) and (4). The applicant shall provide construction details which demonstrate that the trash containers will be located on a level concrete pad, at least four inches thick, at ground elevation or other location compatible with the local franchise collection firm's equipment. The pad shall be designed to discharge surface water runoff to avoid ponding.
 - b. Prior to building permit issuance, the applicant shall submit construction details as necessary to determine whether the design of garbage and recycling facilities are consistent with Metro standards.
10. Overhead utilities. Prior to building permit issuance, the applicant shall pay a fee-in-lieu of undergrounding overhead utilities along Kenthorpe Way and Mapleton Drive equal to the estimated cost of performing such work as accepted by the City Engineer.
11. Fencing. Fencing shall not exceed three feet in height within 20-feet of the site's northern property line on Kenthorpe Way and within 20-feet of the site's southern property line on Mapleton Drive.
12. Parking. Prior to the issuance of any site development permits, a specific parking plan for construction workers shall be provided to the Planning Director that identifies the location of the off-site parking location for workers. If the off-site

parking is located within the City of West Linn, it must be consistent with applicable City regulations. On-street vehicle parking is prohibited during construction.

13. Geotechnical Engineering Report. All methods and recommendations found in the Geotechnical Engineering Report and GeoDesign Inc. memorandum dated January 7, 2013, shall be implemented unless superseded by any follow-up report prepared by a civil engineer and approved by the City Engineer, consistent with applicable regulations.
14. Street Improvements.
 - a. The applicant shall construct street improvements in accordance with the street improvements in the application, Section 21, figures 3.0-3.4.
 - b. A public sidewalk easement shall be recorded over the sidewalks to be installed on Mapleton Drive and Kenthorpe Way.
 - c. The applicant shall be responsible for full-width street restoration along the entire length of Kenthorpe Way.
15. Contractor Speed Limit. The applicant will designate a 20 MPH maximum contractor speed limit on Mapleton Drive, Kenthorpe Way, and Old River Road. Additionally, this maximum speed limit will be a part of all contractor documents associated with the Water Treatment Plant and pipeline projects.
16. Tree Protection Easement. Prior to issuance of final occupancy permits, the applicant must establish a conservation easement for all tree protection areas, as shown on the applicant's site plan in Section 21, Figure 3, containing clusters of two or more significant trees. The easement shall be approved by the Planning Director and recorded with Clackamas County. Prior to issuance of any site development permits all tree protection measures must be in place.
17. Use of Topsoil. The applicant's final construction documents will demonstrate that planting practices will use either stockpiled soil or, if necessary, imported topsoil.
18. West Linn Public Works Design Standards. At the time of building permit submittal the applicant will demonstrate compliance with the City of West Linn Public Works Design Standards regarding maintenance and access standards.
19. Fence opening along emergency access road and Mapleton Drive frontage. Prior to issuance of any permits for the Water Treatment Plant, the applicant shall amend the site plan to provide two pedestrian access openings in the split rail fence, one along the west edge of the emergency access road and one along the Mapleton Drive frontage.
20. Construction Management Plan. The applicant and its agents shall comply with the provisions of the CMP as set forth in Exhibit A attached to these conditions. Prior to the issuance of any occupancy or building permits, the applicant shall amend the Plan, if necessary, to include:
 - a. a process for identifying, communicating with and accommodating the access needs of special needs persons who live along those portions of Mapleton

Drive, Kenthorpe Way and Highway 43 directly affected by project construction.

- b. a 5-foot wide pedestrian and bicycle access way around the work zone to ensure safe passage for residents and schoolchildren.
- c. during construction, a contact person(s), accessible by telephone on a 24-hour, 7-day per week basis. The contact person(s) shall be authorized to take action to address the issue raised. Contact information shall be made available to all affected residents and businesses.

A copy of the Plan, as set forth in Exhibit A, and if amended, shall be provided to the West Linn Public Works Director. The applicant shall incorporate the provisions of the terms as set out in Exhibit A into its construction contracts. Failure to comply with Exhibit A may result in issuance of a stop work order until the violation is remedied. Failure to remedy the violation may result in enforcement actions with penalties up to \$1,000.00 per day. Failure to comply with Exhibit A terms shall be deemed a nuisance subject to abatement pursuant to West Linn Municipal Code 5.495(2). The City Manager shall report to the City Council any violations and the amount of any penalties imposed.

21. Intertie Agreement. The intergovernmental agreement between the applicant and the City of West Linn regarding the intertie shall be modified to provide that:
 - a. the agreement shall not be terminated without the written consent of all parties.
 - b. the agreement shall require written consent of all parties to amend paragraph 8 of the agreement related to the quantity of water to be supplied.
 - c. the intertie may be used for the benefit of all parties in perpetuity.
22. Clearwell Capacity. The applicant shall restrict the capacity of the underground clearwell located on the WTP property to a maximum of two million gallons.
23. Robinwood Community Center. The applicant shall contribute \$10,000 to the Robinwood Station Community Center conditional use application fee.

Notes to applicant.

- Expiration of Approval. This approval shall expire three years from the effective date of this decision.
- Additional Permits Required. Your project will require the following additional permits:
 - Signs: At time of sign permit submittal, the applicant will need to demonstrate compliance with CDC 55.100(L)(2)(3)(4) and (6). Pedestrian and vehicle circulation

signs must be consistent with the travel mode and direction shown in Exhibit PC-3, Section 21, Figure 8.0.

- Public improvement permit: contact Pat in Engineering at (503) 723-5501 or prich@westlinnoregon.gov
 - Public works permit: contact Pat in Engineering at (503) 723-5501 or prich@westlinnoregon.gov
 - On-Site Utilities: contact the Building Division at (503) 656-4211, jnomie@westlinnoregon.gov.
 - Building permit, the final permit after others are completed and conditions of approval are fulfilled. Contact the Building Division at (503) 656-4211, jnomie@westlinnoregon.gov.
 - Electrical permit: Contact Clackamas County (Electrical permits are not issued by the City of West Linn)
- Final inspection for occupancy: Call the Building Division's Inspection Line at (503) 722-5509.

This decision may be appealed to the Land Use Board of Appeals under the applicable rules and statutes.

JOHN KOVASH, MAYOR

DATE

This decision was mailed on _____, 2013.

Therefore, this decision becomes effective at 5 p.m., _____, 2013.

LOTWP Construction Management Plan Requirements Conditions of Approval Exhibit A

General

- Conduct a preconstruction assessment (video documentation) to ensure areas impacted by construction are restored to equal or better quality.
- Retain a certified arborist available to observe, manage tree care, and direct the contractor on tree protection measures during construction as needed to ensure that impacts to trees are minimized.
- Conduct work between the hours of 7:00 am to 7:00 pm weekdays and 9:00 am to 5:00 pm Saturdays (except work on Highway 43). Activities outside of these hours will require approval from the City of West Linn.
- Limit the length of the construction zone on Mapleton Drive and Highway 43 to 150 feet and 200 feet, respectively.
- Employ erosion control best management practices (BMPs, otherwise known as mitigation measures) and plans per West Linn, Clackamas County, and DEQ standards per an approved 1200-C permit. These approved BMPs will prevent tracking or flowing of sediments onto public rights-of-way and control construction dust.
- Use temporary site security fencing around the perimeter of construction areas to provide both site security and public safety functions.

Public Outreach

- Develop a communications plan with West Linn Public Works, TVF&R, the Robinwood Neighborhood Association, and other impacted stakeholders.
- Provide the City of West Linn with copies of all written correspondence and notice of telephone contacts from citizens regarding construction.
- Employ a representative to answer questions, coordinate special needs, and ensure impacts are kept to a minimum. Contact info will be provided with 2 week and 48 hour notices.
- Hold up to two meetings per month with residents and members of the Robinwood Neighborhood Association to address residents' needs and concerns.
- Retain the services of an ombudsman to promote communication among all project stakeholders.
- Attend weekly coordination meetings with TVF&R and West Linn Police.
- Notify TVF&R on a daily basis for all construction activities and locations (in a manner acceptable to TVF&R).
- Notify all affected public agencies, commercial property owners, tenants, and residents no less than 2 weeks before the start of construction activities. Notice to be provided via email, door hangers, or phone calls.
- Notify all affected public agencies, commercial property owners, tenants, and residents a second time within 48 hours of construction activities. Notice to be provided via email, door hangers, or phone calls.

Traffic

- Use only two haul routes to and from the WTP and pipeline construction areas. These haul routes are Highway 43 and McVey/Stafford Rd to and from I-205.
- Provide a 5-foot wide pedestrian and bicycle access way around the work zone.
- Provide pedestrian access at all times to all trails in MSY Park from the end of Mapleton Drive.
- Provide a 12-foot wide access for emergency vehicles to pass through the work zone (except at 4 locations on Mapleton Drive where not feasible due to the pipeline alignment).
- Re-open and maintain fully functional streets (i.e., no road closures or equipment on the roadway) outside of work hours.
- Limit the duration of any residential driveway closure resulting from construction activities to no more than one work shift at a time.
- Provide temporary parking within 200 feet of a resident's home during the time that any residential driveway is not accessible.
- Comply with the Americans with Disabilities Act, to the extent practical, for all pedestrian access around or through the construction work area to homes and businesses.
- Maintain at least one driveway or access for vehicles to every business that has operating hours which overlap with nighttime construction hours.
- Bus all craft-level workers to and from all construction work areas on Mapleton Drive, Kenthorpe Way to minimize traffic impacts.
- Construction vehicles shall only make right turns in or out of Mapleton Drive at the intersection of Mapleton Drive and Highway 43 (no left turns allowed).
- Construction vehicle traffic shall be approximately evenly split between Mapleton Drive and Kenthorpe Way to decrease the traffic impact on any single street. During Mapleton Drive open-cut pipeline work, the WTP Contractor shall only use Kenthorpe Way to access the site.

Noise

- Utilize auger cast rather than driven piles to minimize noise during WTP construction.
- Provide advanced notice to stakeholders when unusually noisy construction activities or approved activities outside of normal work hours are anticipated.
- Minimize reverse direction travel and use broadband, ambient-sensing backup alarms on all on-site equipment requiring backup indicators as permissible by OSHA requirements.
- Minimize banging dump truck tailgates with procedural methods or with the use of rubber gaskets.
- Use portable noise barriers or enclosures around discrete, stationary equipment during nighttime work.
- Place stationary equipment as far from affected residences as possible.
- Use properly sized and maintained mufflers, engine intake silencers, and engine enclosures (for cranes, excavators, generators, etc.). Equipment shall be equipped with a "residential" or "critical" grade silencer if possible.

- Use acoustical blankets, pads, straps, and/or boards to control metal-on-metal noises such as picking up drill pipe if possible.
- Limit dumping of materials onto the ground, especially metallic or other hard materials, and when possible move/place materials with a crane or excavator rather than by dumping. This restriction does not apply to the dumping of excavated or imported backfill material.
- Minimize the idling of heavy mobile equipment and dump trucks.