



Memorandum

Date: April 18, 2012; 5:45 PM

To: File No. CUP-12-02/DR-12-04 (Lake Oswego Water Treatment Plant expansion)

From: Zach Pelz, Associate Planner

Subject: Supplemental public comments for April 18, 2012, Planning Commission public hearing

This memo supplements the public record for project file CUP-12-02/DR-12-04 with testimony received since 12 PM on Wednesday, April 18, 2012. This testimony is attached.

Greetings! Commissioners; WestLinn residents and
Lake Oswego residents.

for the record.

I do believe this project deserves its history to be told!
Let's see, when I came west 1958 from N.Y. City, I purchased
4 lots on Midhill drive from lower to upper midhill drive
in 1959, in Robinwood which was then from the river
to the top of the hill where now Maryhurst N.A. is
designated.

At the time, early 1960's; this whole area was
pending to become Lake Oswego's city and, this water
plant site was included! — However! — at the
same time, Maryhurst convent who owned both side
of the road; then a very narrow 2 lanes became a subject
of dispute with the Convent's Order in eastern Canada,
denying Lake Oswego City access along their frontage for any
works; but shortly after the Order's denial, the Convent
came up on very, very, very financial hard times, and was
compelled and obliged to sell their land west of their gates;
where today's subdivision was developed, giving plot
to have a 3 & 3 divided by 43 at this site.

The whole of Robinwood got cut off from Lake Oswego City.
Subsequently West Linn welcome the move to join, the more
prosper West Linn minuscule town to a city.

Robinwood got provided with utilities.

Because of this plant and site history it faces an -
inconvenient-sentiments, it should not shoulder to become
an underdog in view of providing water where it is
needed today.

I would ask my City planning Commissioners to consider
in favor the history of this plant as well as our staff's
studied works on this project.

Also, with any advantage, this strategy could and would
appropriate certain neighborly asset.



As residencies has grown 100% and some since the 1960's, we all need more water — and — unseen, unexpected hazards and consequences do happen; even, we all anticipate and demand liquid precious water asset to flow from our faucet/no matter what or why or where or even how! -

I would recommend the Commissioners to accord this project to proceed as our staff's intention directs.

Once again, history proves itself —

Alice Richmond

resident since 1959 — now residing at

3939 Parker Rd. W.L. 97068.

phone # 503 723 0101.

Pelz, Zach

To: Sonnen, John; Kerr, Chris
Subject: RE: quick questions on background info for CUP 12-02

Mr. Axelrod,

Responses to your questions are included **inline** below:

From: Sonnen, John
Sent: Wednesday, April 18, 2012 1:13 PM
To: Kerr, Chris; Pelz, Zach
Subject: FW: quick questions on background info for CUP 12-02

John Sonnen, Planning Director
Planning and Building, #1524

West Linn Sustainability Please consider the impact on the environment before printing a paper copy of this email.

Public Records Law Disclosure This e-mail is subject to the State Retention Schedule and may be made available to the public.

From: Russell Axelrod [mailto:rbaxelrod@yahoo.com]
Sent: Wednesday, April 18, 2012 1:01 PM
To: Sonnen, John
Subject: quick questions on background info for CUP 12-02

John,

Today's hearing comes at a difficult time for me because of other work commitments the past couple weeks lasting until 4/25. Nevertheless, I hope to be reasonably prepared to address apparent significant matters presented by proposed CUP 12-02 as the hearing process opens this evening.

At this stage can you answer for me the following questions regarding the public testimony record in Exhibit PC-4:

1. Identify the author(s) and date of the letter to the LO City Council shown on pages 5-7?
The list of questions on pages 5-7 was submitted by Ms. Vicky Smith on behalf of the Robinwood Neighborhood Association's Great Neighborhood Committee. The Letter was submitted on January 25, 2012.
2. Identify the author(s) of the 3/13/12 letter to Z. Pelz and the PC on pages 10-12?
The author is Mr. Gary Hitesman
3. Identify the location of the eleven WL City Council goals adopted 2/5/03 and listed on pages 59-60? I assume these are in the Comp Plan somewhere, but haven't located them specifically.
These goals may be found on page 2 of the West Linn Comprehensive Plan here:
<http://westlinnoregon.gov/sites/default/files/fileattachments/WEB%20Version%20revised%20April%202009%20with%20maps.pdf>
4. Can you provide any context for DJ Heffernan the author of the 2/8/12 memorandum to the Robinwood Neighborhood Association in the 4/9/12 memorandum of supplemental public comments for April 6, 2012 staff report.
At the request of the Robinwood Neighborhood Association, the West Linn City Council agreed to hire a professional third party planner to review the Applicant's submittal relative to the West Linn

Community Development Code. Mr. Heffernan helped the Robinwood Neighborhood Association identify possible mitigation measures with regard to the applicant's proposal.

Thanks, Russ

Pelz, Zach

From: Sonnen, John
Sent: Wednesday, April 18, 2012 1:17 PM
To: Pelz, Zach
Subject: FW: Planning Commission Lake Oswego Water

For the record

John Sonnen, Planning Director
Planning and Building, #1524

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From: Dave Froode [mailto:dfroode@comcast.net]
Sent: Wednesday, April 18, 2012 11:09 AM
To: Sonnen, John
Subject: Planning Commission Lake Oswego Water

Below is a note sent to me regarding alleged comments made by Lake Oswego's Communication Director, Jane Heisler. I was not at this meeting. But in response to this note, I, along with Lake Oswego's city council man, Jeff Gudman, and Kevin Bryck from the Robinwood Neighborhood Association will meet with candidate Martha Schrader Thursday morning to discuss the note. We are working as a team with Lake Oswego's city council and steering committee to mitigate the issues. But it is these types of comments Ms Heisler is notorious for. We are not "extremists" but simply impacted property owners with opinions.

"Subject: Clackamas Water Providers meeting last week - Jane Heisler revelation

At the Clackamas Water Providers meeting last week, Martha Schrader, current candidate for and past Clackamas commissioner, asked Jane Heisler about the signs, and Jane related that the project had broad public support in West Linn and that it was only a handful of extremists in opposition. The manager of another water provider asked Jane what it would cost to appease the opposition, versus engaging in a drawn out approval process to LUBA and the possibly the courts. Jane replied that LOTWP never even examined those costs."

I did attend the Willamette Neighborhood meeting last week. Jane Heisler and Dennis Kolermeir from Tigard were in attendance. Ms Heisler stated "Oswego is only obligate by law to attend one neighborhood meeting to discuss issues concerning their project." She went on to say "they have attended some 30 meetings and have complied with every aspect of the city code." They may have attended 30 meetings, but very little was resolved.

Heisler also states they have "honored many requests from the neighborhood" and hold the trail connecting Mapleton to Kenthorpe as one of the requests. This is a red herring and is actually a service road for emergency vehicles to access their facility.

Heisler said "they have been asking for a good neighbor plan from the RNA for over a year." It took six months for the RNA to create it because the volunteers were amateurs. It wasn't until a professional planner, DJ Hefferman was hired by West Linn to assist was progress made. But in spite of that, LO still stiff armed the GNP stating they would not address it "until after they received their permits from West Linn and also could not afford the costs" being proposed by the GNP. In the last several weeks there has been some mitigation with the RNA Good Neighbor Plan committee. But it was not their doing, it was as a result of State Rep Julie Parrish encouraging LO and Tigard to sit down with the RNA.

We who have been involved with this process would suggest to the Planning Commission the application process be postponed until the Good Neighbor Plan prepared by the RNA is approved to the approval of the association. We would further ask the GNP be attached to the application as a requirement to the permits.

Sincerely

David J. Froode

19340 Nixon Ave West Linn 97068

Pelz, Zach

From: Holder, Thom [thom.holder@intel.com]
Sent: Wednesday, April 18, 2012 1:29 PM
To: Pelz, Zach
Cc: thom.holder@comcast.net
Subject: comments with regard to Water Treatment Plant and pipeline....

Dear Planning Commission,

I will be unable to attend the meeting this evening regarding the Lake Oswego / Tigard water expansion project and pipeline due to business travel outside of the country. I live at 4000 Mapleton Drive after purchasing this home in May of 2009. After attending a few of the various neighborhood efforts and two of the sessions sponsored by the Lake Oswego organizations, I felt compelled to try to put pen to paper with regard to my experiences and opinions on the proposed expansion. There are four points I'd like to make part of the public record.

1 – With regard to the impact to West Linn property values and the proposed \$1,000 payment by LOT. I have not accepted the payment and/or the premise that there was no impact to property value. I'd like to highlight that my home was purchased by the previous owner in 2004 for \$525k. In the height of the 2008 financial crisis the previous owner had the home on the market for \$399k but it remained unsold for over one year. At the time of my purchase, the home was listed at \$275k and I purchased it for slightly more than this. I was not aware of the proposed water expansion at the time of my purchase, in fact, I was not aware of the water treatment plant at all. Shame on me. The only reason I found out was with a conversation with the previous owner upon his exit from the home. I mentioned that I was surprised that the home did not sell sooner and his parting comment to me was that “the water treatment plant down the street had scared away a number of buyers” in the year before my purchase. Again, shame on my for not doing more diligence before purchasing the short sale. Clearly the housing crisis had some attribution to the housing deterioration, but some percentage of the 40% drop in value was due to water expansion and the uncertainty therein. If I were to do the research on this I'm sure a more accurate attribution could be placed through the average drop in housing values in West Linn during this time, but regardless of this, I'm very happy in my new home and only highlight the above data so that you have point of reference to Lake Oswego's assertion that the water treatment plant has “no impact on the value of the homes in the neighborhood.”

2 – I sincerely hope that the Planning Commission will take into consideration the considerable impact to West Linn's livability and the perception of disruption for this project. The trees that will be removed from Mary S. Young, the proposed sidewalks along Mapleton, and the massive disruption to traffic along Highway 43 are all of particular concern for me. Traveling along Highway 43 during the day is already a difficult challenge, particularly turning East on Mapleton while traveling South during rush hour will only become increasingly difficult during a time of construction. The proposed sidewalks are not congruent with the spirit of the neighborhood. I love the way all my neighbors enjoy the walk down the street with their dogs, everyone waves, everyone looks out for each other, and the spirit of the neighborhood with the narrow street is part of the character. Adding even one sidewalk will disrupt this character and create so much disharmony among the already fragile nature of the neighborhood given the aggressive nature of Lake Oswego's proposal. Certainly the trees of Mary S. Young, and the destruction of them, will come with such a high price that the very nature of what is proposed seems so odd to me that it is even being considered.

3 – I still have no data with regard to the economics of this deal. After attending the meetings, it appears to me that Lake Oswego has a right to the water, Tigard has signed a deal with Lake Oswego to provide them water, with the financial benefit being attributed to Lake Oswego, and a plant being built in West Linn with no financial benefit being paid to the City of West Linn. If this is indeed the case, even without the disregard to property values in the neighborhood, West Linn appears to have

no benefit other than the perceived availability of water. If the Clackamas is truly over constrained, in years of less snow pack, then this availability of water will become a more substantial issue and the complete nature of this proposal seems very one-sided.

4 – My sincere hope is that we start to have some representation from the City of West Linn on these issues. The scale of resources available to Lake Oswego appear to be much greater given that they arrive at the meetings in “Lake Oswego Tigard Water” vehicles, with a large staff, and paid consultants for the project. My request is sincere, please look out for West Linn in the consideration of the Water Treatment Expansion and the discussion of the Pipeline. I understand these to be two separate proposals which by all indications is very good lawyering. Please represent our interests.

The user interface to the West Linn website is not very intuitive so I am attempting to send this under separate cover as well.

Very Sincerely, Thomas Holder 503-828-7585

Pelz, Zach

From: Sonnen, John
Sent: Wednesday, April 18, 2012 1:38 PM
To: Pelz, Zach
Subject: FW: Citizen Request 15514 - comments with regard to Water Treatment Plant and pipeline....

For the record

John Sonnen, Planning Director
Planning and Building, #1524

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From: Webmaster
Sent: Wednesday, April 18, 2012 1:36 PM
To: Sonnen, John
Subject: Citizen Request 15514 - comments with regard to Water Treatment Plant and pipeline....

A new Citizen Request has been submitted to the Citizen Support Center, and assigned to you for prompt response. Please use the online Citizen Support Center to respond to this Citizen Request. As a reminder, your response will be included in the online tracking system for this Citizen Request. Thank you.

Original

Request 04/18/2012

Reference Number: **15514**

SummaryDate:

Name: **Thomas Holder**

Status: **Assigned**

Email: thom.holder@comcast.net

Source: **online**

Phone: **503-828-7585**

Assigned To: **jsonnen**

Assigned Group: **Planning**

Topic

[comments with regard to Water Treatment Plant and pipeline...](#)

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Request Details:

Pelz, Zach

From: GARY [hitesman@q.com]
Sent: Wednesday, April 18, 2012 1:53 PM
To: Pelz, Zach; Sonnen, John; CWL Planning Commission
Cc: RNA Great Neighbor Committee
Subject: Fw: COWL CUP 12-02 _Incomplete Application
Attachments: CUP_rev#1.pdf; CUP_rev#1.doc.docx

West Linn Planning Commission,

CUP-12-02 / DR-12-04 application is incomplete.

There have been numerous occurrences of "material misrepresentations" by the applicant at Hidden Springs Neighborhood Association meetings, most notably Joel Komareks' power point slide denying the Water Treatment Plant is Industrial.

Under CDC Chapter 23, GENERAL **INDUSTRIAL**.

23.030 PERMITTED USES

The following uses are uses permitted outright in this zone:

13. Utilities, minor and major.

Per 99.038 (E) 6.;

6. In the event that it is discovered by staff that the aforementioned procedures of this section were not followed, **or that a review of the audio tape and meeting minutes show the applicant has made a material misrepresentation of the project at the neighborhood meeting, the application shall be deemed incomplete until the applicant demonstrates compliance with this section.** (Ord. 1425, 1998; Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1590 § 1, 2009)

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

From: GARY
To: Pelz, Zach
Cc: craigd@tigard-or.gov ; Heisler, Jane ; Day, Eric
Sent: Wednesday, March 14, 2012 12:32 AM
Subject: COWL CUP 12-02 _Incomplete Application

Zach,

Please reply to the attached memo regarding the incomplete application for CUP 12-02 per CDC Section 99.038.

Thank you for your consideration.

Gary Hitesman

13 March 2012

Dear Mr. Zach Pelz, City of West Linn Planning Department and CoWL Planning Commission,

Re: City of West Linn CUP 12-02 – Incomplete Application

I request that CUP 12-02 be rescinded from the proposed April 'whatever' Planning Commission Agenda and that the application be deemed incomplete per CDC Section 99.038. Regardless if the application is deemed incomplete or not, CUP 12-02 will need to be rescheduled to a later date to;

- a.) [allow] any affected neighborhood as provided in CDC Section 99 to identify potential issues; and;
- b.) subsection E.) [a]n application shall not be accepted as complete unless and until the applicant demonstrates compliance with this section. Furthermore;
- c.) (E.) 6. states (i)n the event that it is discovered by staff that the aforementioned procedures of this section were not followed, or that a review of the audio tape and meeting minutes show the applicant has made a material misrepresentation of the project at the neighborhood meeting, the application shall be deemed incomplete until the applicant demonstrates compliance with this section. (Ord. 1425, 1998; Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1590 § 1, 2009)

a.) The Community Development Code states under;

99.038 NEIGHBORHOOD CONTACT REQUIRED FOR CERTAIN APPLICATIONS

Prior to submittal of an application for .., conditional use permit,, the applicant shall contact and discuss the proposed development with any affected neighborhood as provided in this section. Although not required for other or smaller projects, contact with neighbors is highly recommended. The Planning Director may require neighborhood contact pursuant to this section prior to the filing of an application for any other development permit if the Director deems neighborhood contact to be beneficial.

A.Purpose.-The purpose of neighborhood contact is to identify potential issues or conflicts regarding a proposed application so that they may be addressed prior to filing. This contact is intended to result in a better application and to expedite and lessen the expense of the review process

by avoiding needless delays, appeals, remands, or denials. The City expects an applicant to take the reasonable concerns and recommendations of the neighborhood into consideration when preparing an application. The City expects the neighborhood association to work with the applicant to provide such input.

Recently, more than one neighborhood association has taken up the issue of the proposed water plant (CUP 12-02) and has agreed to carry on discussions because the proposed development will have an affect on the neighborhood. One, the way in which this single Conditional Use application is being handled is precedent setting and implements new interpretations of ex-parte that affect all neighborhoods; Two, Conditional Use Applications have historically been mismanaged by the City of West Linn and it is probable that this conditional use deserves more scrutiny by affected neighborhoods; Three, the recent request for information from the HSNA President 'demands' the applicant conduct ***further outreach*** to meet the purpose of 99.038 (A.); Four, the amount of time to gather data, assess what has been submitted, and effectively discuss the potential affects and impacts to neighborhoods, the NA's will require more time than what is currently possible to do before April 18; Five, regardless of the LOTWP stance on discussions between NA's, the fact remains that many NA's have asked to participate in CUP 12-02 because of 1.) the potential negative impacts, 2.) the use of eminent domain, 3.) the negative impacts of new policies implemented by the city manager, 4.) potential negligence on part of the city council, 5.) negative impacts being forwarded without public discussion, and 6.) the added fee or increased tax implications of approving such a project.

b.) The burden of proof is upon the applicant to prove that they meet all criteria. The LOT Water Partnership does not satisfy. The last year demonstrates that the LOTWP has limited their involvement with the public in West Linn. Worse still, without the Planning Director performing his obligations. Copied here again; subsection a.) states;

The Planning Director may require neighborhood contact pursuant to this section prior to the filing of an application for any other development permit if the Director deems neighborhood contact to be beneficial.

For all the aforementioned reasons, how does the City of West Linn Planning Director, John Sonnen, or for that matter, the City of West Linn City Manager, Chris Jordan, justify their decision to exclude other NA's? As recent activity and interest in CUP 12-02 shows, contact would have been extremely beneficial. Now, there is no way to accommodate any reasonable requests or recommendations that may come out of the NA's. Here too, city council policy hinders NA participation due to the unintended consequences of the Beery memo addressed to John Sonnen. The potential negative impacts to due process, free speech, and permission to have all grievances addressed have been stymied by

the administrative actions of the city manager at taxpayer expense. How can the Director's and city manager's callous neglect be justified?

c.) A replay of the pre-application meeting, in which I attended, will show that the applicant made a material misrepresentation of the project in stating that no other NA was affected by this application. And, there is at least one instance recorded in meeting minutes with state department officials where the Lake Oswego Communications Director tells or implies attending state officials one thing about the Robinwood NA and the project without substantiation or opportunity for potentially impacted residents or neighborhoods to respond. But more importantly, where was the city of West Linn in representing the interests of affected, or potentially affected, residents? Residents, at their own personal expense, have gathered information demonstrating potential negative impacts and the City still ignores them? Again, go back to A.) The purpose of neighborhood contact is to identify potential issues or conflicts regarding a proposed application so that they may be addressed prior to filing. It is fairly obvious to the candid observer that the purpose has not been met.

Now I cannot promise that I will be able to get through all the documentation that is out there and find any material misrepresentations in time for the April hearings. However, I have been forwarded one .pdf to date that demonstrates potential misrepresentation and 5 others that I have not had time to review. But I have a concern that if the process is not abided as it should be and I discover material between the PC and council hearing, I will not withhold new findings or apologize that I could not perform my due diligence under the rash and expedited schedule put out by the City. This happened before with the Holiday Inn application (CUP 08-04) and I am 'done' with potential scenarios requiring collusion.

Please reply. Why have West Linn neighborhoods been forsaken? And please provide someone from the City of West Linn who can address the hornet's nest of problems the City of Lake Oswego has created, explain the negligence of the city manager's lack of concern, and address the council's torrid indifference and disregard toward affected Neighborhood Associations.

Simply put, the application is incomplete. Failure to address this issue now will likely lead to an appeal to the city council. Thank you for your consideration, due diligence, and dedication to the communities of West Linn.

Pelz, Zach

From: Sonnen, John
Sent: Wednesday, April 18, 2012 1:54 PM
To: Pelz, Zach
Subject: FW: COWL CUP 12-02 _Incomplete Application
Attachments: CUP_rev#1.pdf; CUP_rev#1.doc.docx

Follow Up Flag: Follow up
Flag Status: Flagged

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Under CDC Chapter 23, GENERAL **INDUSTRIAL.**

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To: [Pelz, Zach](#)

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by avoiding needless delays, appeals, remands, or denials. The City expects an applicant to take the reasonable concerns and recommendations of the neighborhood into consideration when preparing an application. The City expects the neighborhood association to work with the applicant to provide such input.

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the administrative actions of the city manager at taxpayer expense. How can the Director's and city manager's callous neglect be justified?

c.) A replay of the pre-application meeting, in which I attended, will show that the applicant made a material misrepresentation of the project in stating that no other NA was affected by this application. And, there is at least one instance recorded in meeting minutes with state department officials where the Lake Oswego Communications Director tells or implies attending state officials one thing about the Robinwood NA and the project without substantiation or opportunity for potentially impacted residents or neighborhoods to respond. But more importantly, where was the city of West Linn in representing the interests of affected, or potentially affected, residents? Residents, at their own personal expense, have gathered information demonstrating potential negative impacts and the City still ignores them? Again, go back to A.) The purpose of neighborhood contact is to identify potential issues or conflicts regarding a proposed application so that they may be addressed prior to filing. It is fairly obvious to the candid observer that the purpose has not been met.

Now I cannot promise that I will be able to get through all the documentation that is out there and find any material misrepresentations in time for the April hearings. However, I have been forwarded one .pdf to date that demonstrates potential misrepresentation and 5 others that I have not had time to review. But I have a concern that if the process is not abided as it should be and I discover material between the PC and council hearing, I will not withhold new findings or apologize that I could not perform my due diligence under the rash and expedited schedule put out by the City. This happened before with the Holiday Inn application (CUP 08-04) and I am 'done' with potential scenarios requiring collusion.

Please reply. Why have West Linn neighborhoods been forsaken? And please provide someone from the City of West Linn who can address the hornet's nest of problems the City of Lake Oswego has created, explain the negligence of the city manager's lack of concern, and address the council's torrid indifference and disregard toward affected Neighborhood Associations.

Simply put, the application is incomplete. Failure to address this issue now will likely lead to an appeal to the city council. Thank you for your consideration, due diligence, and dedication to the communities of West Linn.