



## Memorandum

Date: March 30, 2012  
To: West Linn Planning Commission  
From: Tom Soppe, Associate Planner  
Subject: Citizen submittals for CUP-12-01/DR-12-03

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Attached see submittals from Roberta Schwarz and Gary Hitesman regarding CUP-12-01/DR-12-03, the application for the water pump station at the Bland Reservoir site.

## Soppe, Tom

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**From:** Roberta Schwarz [roberta.schwarz@comcast.net]  
**Sent:** Thursday, March 29, 2012 4:54 PM  
**To:** Soppe, Tom  
**Subject:** Bland Cr Booster Pump Station  
**Attachments:** DSCN0292.JPG; DSCN0294.JPG; DSCN0297.JPG; DSCN0300.JPG; DSCN0301.JPG; DSCN0302.JPG; DSCN0304.JPG; DSCN0305.JPG; DSCN0306.JPG

Hi Tom,

Thank you and Dennis for meeting with me and Ed today. These are the photos I brought with me to show you the ash trees and how they are protecting the neighborhood from the unsightly view of the water storage reservoir. You requested that I send them to you.

Please do not cut down the ash trees. As you can see in the photos, they hide the unsightly water storage reservoir. We have lived here 10 years and it has taken that long for them to perform this service. Also the ash is an unusual tree in that it is one of four predominant types of trees that grow opposite branches. Very few trees in our landscapes and forests have opposite branching. The predominant types are Maple, Ash, Dogwood and Horse chestnut. It also has a compound leaf. A compound leaf is one that has more than one leaflet while the entire leaf, as defined, has a bud at its stem base (petiole). Ash typically have approximately 5-9 leaflets per leaf. These trees are shielding the 300,000 gallon reservoir from public view.

Trees have a tremendous effect on air quality. Through the pores of leaf surfaces, trees absorb harmful pollutants produced by humans, including nitrogen dioxide (NO<sub>2</sub>), sulfur dioxide (SO<sub>2</sub>), ozone (O<sub>3</sub>), carbon monoxide (CO). Small particulate matter—such as pollen, dust, smoke and ash—are trapped and filtered by leaves and branches. Every tree you cut down matters to the community.

**Please remain true to the application you presented to the Neighborhood Association and the Pre-application conference and do not remove any trees in installing the water booster pump station.**

**Please place this in the public record and have it distributed to the Planning Commission.**

Thank you,  
Ed and Roberta Schwarz  
You have been sent 9 pictures.

DSCN0292.JPG  
DSCN0294.JPG  
DSCN0297.JPG  
DSCN0300.JPG  
DSCN0301.JPG  
DSCN0302.JPG  
DSCN0304.JPG  
DSCN0305.JPG  
DSCN0306.JPG



These pictures were sent with Picasa, from Google.  
Try it out here: <http://picasa.google.com/>



















Soppe, Tom

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**From:** GARY [hitesman@q.com]  
**Sent:** Wednesday, March 28, 2012 10:23 AM  
**To:** Soppe, Tom  
**Cc:** Sonnen, John; CWL Planning Commission  
**Subject:** CUP 12-01 & Economic Development



Dear Planning Commissioners,

There is a strong correlation between economic development and urban planning that is seldom discussed in West Linn. And when it is discussed, the conversation lacks both focus and applied understanding of the mechanics and culture necessary to implement a forward thinking, sustainable model.

Planning, properly executed, provides the framework for all other city functions to thrive. In reviewing the Public Works proposal for a pump house, it is important to recognize just **how dysfunctional** our local governance has become.

After reading 120 pages of unadulterated poppycock, I finally got to the drawings that visually described the proposed pump house. In my 120 page review, I was reading the words and looking at the core principals which the code enforces and are substantiated in Oregon Revised Statutes and Comprehensive Plan.

When I finally got to the drawing of the building, I realized that what Tom had been asked to do was sanction a **green pillbox**. The commission should reject this solution and reprimand the city manager for allowing a 3D Chalkboard.

West Linn should aspire to do better. The reason that our city is morally bankrupt is because your city council and city administration are 'lost'. And nowhere is this more evident than in CUP 12-01 and the current failure of the CIC. It appears to others in this town that your time on the commission is squandered and not taken with the level of respect your time committment deserves. I encourage you all to read ORS 197 and ask how the commission might better serve the citizens of West Linn.

One; look to your city charter and council rules. The Planning Director and Public Works Director need more autonomy to do their jobs properly. This means removing the oversight responsibilities and 'final say' the city manager has over these positions.

Two; city councilors need to take a more active role in implementing policies through better transparency and access to staff. Because when it comes to this green pillbox, your former public works director, your communications director, and your economics director should all be held accountable for offering up what is obviously a small travesty of immense proportion.

Three; Home values and the neighborhood will suffer untold economic deflation with this pump house. Tannler Drive and the intersection of Bland Circle will someday be the new entry point into a burgeoning Stafford housing development. As homes are developed on the hillside, appreciate the rise in elevation and the prominence of the site that exists because of the typology. Rather than painting this eyesore into the background, use the CDC to properly support community creation and economic development.

Thank you for your time and commitment.

**Sonnen, John**

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**From:** GARY [hitesman@q.com]  
**Sent:** Tuesday, March 27, 2012 1:18 PM  
**To:** Soppe, Tom  
**Cc:** Sonnen, John  
**Subject:** Re: CUP 12-01 Chapter 55 \_Deny



Mr. Planner Tom Soppe,

If the commissioners can fit it into their short time to review CUP 12-01, they may want to prepare an appropriate response to the information I will be presenting regarding Chapter 55. In your report, you state;

### **12.090 OTHER APPLICABLE DEVELOPMENT STANDARDS**

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

#### **FINDING NO.3:**

As this is a new non-residential building, Class II Design Review approval is required, and the application is being processed as such. The criterion is met.

Chapter 55 is often the least enforced chapter in the CDC because not much emphasis is provided by applicants and our city staff is inexperienced. One example is CUP 10-03 with the play structure. Page two of the the applicant's project summary stated buildings were at least 250 feet away from the closest house. (Technically true, in that a building implies "occupancy" where as the play structure is not technically occupied.) The structure that went up not only violated Chapter 55; the structure violated a main assertion of the applicant. Even though the observation that Chapter 55 was not met and that the building did not belong, the response from the City was two add horizontal striping and call the project complete.

With CUP 12-01, the Planning Commission is evaluating the work of a junior planner with far less experience than Peter Spir and the official response to Chapter 55 is "The criterion is met". How is the criterion met? How does the "application...being processed as such" substantiate the burden of proof or that the City even looked at or enforced Chapter 55? Where is that claim substantiated? Where is the due diligence on behalf of the City?

I would argue that this type of lax oversight would make the application incomplete. However, the definition of incomplete is established under a very low standard where lax oversight and improper engineering is not a valid reason to declare an application incomplete.

The recommendation of the West Linn Planning Department appears to lack credibility and perhaps, integrity. This is why you must deny CUP12-01 for not satisfying the CDC, Metro Plan 2040 Plan, and the West Linn Comprehensive Plan. (*CDC 12.010 PURPOSE - The purpose of this zone is to provide for urban development at levels which relate to the site development limitations, the proximity to commercial development, and to public facilities and public transportation. **This zone is intended to implement the policies and locational criteria set forth in the Comprehensive Plan.***)

I will also argue that the policies the city operates under are insufficient, lack clarity, and creates waste. CUP 12-01 should be reprimanded(?) to the City Council so that they may address the varied disconnects in the code and Comprehensive Plan that I will present in detail at the hearing. Thank you for your consideration.

## Soppe, Tom

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**From:** GARY [hitesman@q.com]  
**Sent:** Tuesday, March 27, 2012 2:02 PM  
**To:** Soppe, Tom  
**Subject:** Re: CUP 12-01

Planner Tom Soppe,

Page 12 states "structure will somewhat mitigate impacts".

Commissioners should ask what that is supposed to mean? "somewhat mitigate" is unenforceable language, blurs the discussion of nexus, and completely ignores the purpose of an R-7 zoning designation. Not to mention that a LUBA appeal could likely be won 'solely' on this type of inappropriate language.

The city goes on to state that there is no code or regulation pertaining to noise levels that make this point, so it doesn't really matter because there is nothing the City can do about it? I am paraphrasing here but the point the city makes is difficult to discern. They don't want to spend the money needed on a pump station located in an R-7 zone?

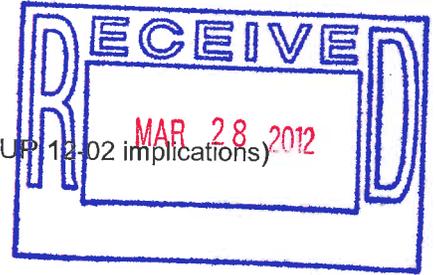
This is another observation regarding the appropriateness of the City conditional use process that fails to take into account the insertion of an industrial use into an existing residential neighborhood. Lacking proper regulation and guidelines that meet the intent of Oregon Land Use laws and the West Linn Comprehensive Plan, Planning Commissioners must deny CUP 12-02 for noncompliance of CDC Section 60, the West Linn Comprehensive Plan, and ORS 197.

Again, Thank you for your consideration.



Soppe, Tom

**From:** GARY [hitesman@q.com]  
**Sent:** Tuesday, March 27, 2012 4:44 PM  
**To:** Soppe, Tom; Pelz, Zach  
**Cc:** CWL Planning Commission; Heisler, Jane  
**Subject:** CUP 12-01\_Deny for failure to meet CDC 60(A) 4 (AND CUP 12-02 implications)



Page 8 describes the proposed layout as:

The equipment in the building would include three variable frequency drive pumps operating at up to 1800 gallons per minute. *There would be a power outlet provided for a backup generator that can be brought on site in case of power failure. Since the backup generator is a portable device that is not built into the site and which would only be brought on site and used during emergencies*, the noise it may produce is incidental, infrequent, and not regulated by the CDC.

**CDC 60(A) 4. is not met.** Code says "Adequate public facilities will be available to provide service to the property at the time of occupancy."

The design of the facility is not adequate to provide the level of service needed during an emergency nor provide the type of service belonging with the allowed uses in an R-7 Zone. In engineering terms, where back up energy generation is required to fulfill the function, the minimal design criteria is "n+1".

The back up generator provided during emergencies *will* exceed allowable noise levels in an R-7 zone. But because it is only "temporary", a loop hole exists within the code that would allow the city to build a pump station into an R-7 "on the cheap". This design solution does not meet the intent of CDC60(A)4 outright in that the public facility would provide inadequate service in the event of an emergency. From accessibility, timing, and unnecessary noise. The design proposal is additionally flawed because the applicant assumes back up generation will make it from wherever, up the hill, and through crumbling residential roads to the pump station, potentially *during an emergency* where the power has gone out.

A viable solution, or Condition of Approval, would be to include within the building envelope an emergency generator (on site) and ventilated with proper sound dampeners satisfying the noise level requirements established for an R-7 zone. But because this necessity will dramatically change the scope and submittal, CUP 12-01 should be denied and sent back to the drawing boards.

**A.)** The solution fails to provide the flexibility and fit this type of conditional use is advertised as providing. Given that a fire is often given as the rationale for having the pump station service the Rosemont Zone, lacking emergency backup on site is not only foolhardy, it does not meet the purpose of Chapter 12.

**B.)** CUP 12-01 is a perfect example of why industrial type facilities, in this case, "Utility, Major" do not belong in residential neighborhoods or in the Conditional Use category. The CDC should be revised to place "Utilities, Major and minor" under Chapter 80 and additional scrutiny employed within the code meeting the criteria of ORS 197 and the West Linn Comprehensive Plan.

**C.)** Fails to satisfy CDC 60(A) 4.

AND;

**D.)** CUP 12-01 establishes a poor precedent that would endanger all existing neighborhoods throughout West Linn where existing industrial uses have been conditionally approved earlier but have changed in scope, scale, appropriateness, safety, and fit..

Deny 12-01. Thank you for your consideration.

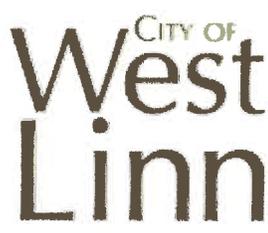
----- Original Message -----

**From:** [Soppe, Tom](#)  
**To:** [hitesman@g.com](mailto:hitesman@g.com)  
**Sent:** Tuesday, March 27, 2012 10:36 AM  
**Subject:** FW: CUP 12-01

Gary,

It is supposed to be 60.070(A) and (B).

Thanks  
Tom

 Tom Soppe  
[tsoppe@westlinnoregon.gov](mailto:tsoppe@westlinnoregon.gov)  
Associate Planner  
22500 Salamo Rd  
West Linn, OR 97068  
P: (503) 742-8660  
F: (503) 656-4106  
Web: [westlinnoregon.gov](http://westlinnoregon.gov)

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**From:** Pelz, Zach  
**Sent:** Tuesday, March 27, 2012 10:31 AM  
**To:** Soppe, Tom  
**Cc:** Sonnen, John  
**Subject:** FW: CUP 12-01

Tom,

Gary Hitesman asked me to forward this to you.

Thanks,

Zach

Zach Pelz, Associate Planner  
Planning and Building, #1542

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**From:** GARY [<mailto:hitesman@g.com>]

**Sent:** Tuesday, March 27, 2012 10:10 AM

**To:** Pelz, Zach

**Subject:** CUP 12-01

Zach,

Please forward to Tom Soppe and forward his email address to me, if possible. Thank you.

Tom,

Just a small technical question. In the staff report, you write;

*criteria set forth in Section 60.070(1) and (2).*

Do I assume correctly that you are referring to Section 60.070(A) (1.) and (2.)?

*Thank you.*

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**Soppe, Tom**

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**From:** GARY [hitesman@q.com]  
**Sent:** Tuesday, March 27, 2012 5:19 PM  
**To:** Soppe, Tom  
**Subject:** Policy 11-1 not met. Indeed, mismanaged.

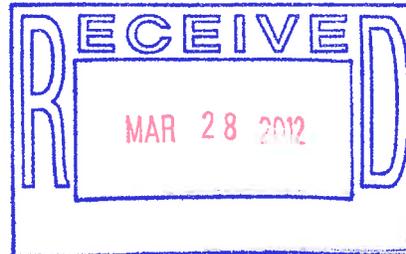
**Comprehensive Plan is not met.**

**With instances of water infrastructure deteriorating all around us, the City elects to increase capacity on the fringe of our city while "the interior" goes wanting for lack of a proper maintenance policy and program. The new pipes put in were approved from CUP 10-03 and paid for by school bond funds and did not undergo the typical public process.**

**Maintenance and infrastructure in all areas is evidently, not a first priority. CUP 12-01 is a waste of decreasing city revenue and promotes potential growth in areas on the backs of existing neighborhoods with failing infrastructure.**

**CUP 12-01 appears quite willful and outside considerations of Metro and ORS 197.**

***Policy 11-1: Establish, as the City's first priority the maintenance of services and infrastructure in all areas within the existing City limits.***



Soppe, Tom

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**From:** GARY [hitesman@q.com]  
**Sent:** Tuesday, March 27, 2012 5:24 PM  
**To:** Soppe, Tom  
**Cc:** Heisler, Jane  
**Subject:** CUP 12-01 Failure to meet Comprehensive Plan

**Policy 11-10:** *Assure all visible public facilities are constructed with attractive design and materials where appropriate.*

*City response:* The pump station will be well-screened, but will also be a forest green color matching the existing reservoir on site and blend into the wooded landscape.

Yeah, right.

*Deny 12-01 for failure to meet the Comprehensive Plan and Chapter 55.*



Soppe, Tom

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**From:** GARY [hitesman@q.com]  
**Sent:** Tuesday, March 27, 2012 5:58 PM  
**To:** Soppe, Tom  
**Subject:** Finding No. 34 inaccurate

Finding No. 34 defines the site as a major utility site but does not address that the use is surrounded within an R-7. The city attempts to strike a bargain for itself by being site specific in their response while ignoring the context. The city continues to ignore the intent and purpose for a conditional use with metaphorical horse blinders and blankets.

The Planning Commission should deny CUP 12-01 until (G.) is truly dealt with. Just because there are empty lots around the city property does not mean the city can ignore future potential public amenities. The site needs to be designed to fit within the overall context of the neighborhood, not empty lots and potential future roadways.

Potential residences will not sell as well due to the hardship of being adjacent to this proposed city utility. This CUP detracts instead of encourages economic vitality and job creation.

And just because the city poorly maintains the existing water tower should not allow the city to use it as the context from which the design will relate too. If strict adherence to Chapter 60 and 55 were truly enforced, the water tower would be buried. But code only requires reasonableness. The city should work better with residents and neighborhoods to provide civic amenities that benefit the neighborhood, not detract and devalue.

A discussion on broadening the definition of nexus and Chapter 60 and 55 needs to happen before CUP 12-01 is deemed complete.

Page 35 says;

*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 wan hedge) or draping vine;
2. A trellis or arbor;
3. A change in level;
4. A change in the texture of path material;
5. Sign; or
6. Landscaping.



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

**FINDING NO. 34:**

The site is a major utility site. It is publicly owned, but is not in an area usable to the public. Access is meant only for staff maintenance and operation of the utilities. The site does not front a street but has access through a private residential property to the south via an easement. The applicant proposes 6-foot fencing and a 12 foot gate. Proposed Condition of Approval 3 requires the gate to be only 8 feet tall as utility fences are limited to 8 feet tall per Subsection 55.1000(8) below. This gate does not demarcate a boundary between a public street and a private access driveway; it instead demarcates the boundary between an easement on private property and a publicly-owned limited-access utility site. The fence and gate appropriately demarcate the space per the above criteria upon the implementation of Condition of Approval 3.

**Soppe, Tom**

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**From:** GARY [hitesman@q.com]  
**Sent:** Tuesday, March 27, 2012 6:12 PM  
**To:** Soppe, Tom  
**Subject:** CUP 12-01 Deny

The bane of the city of West Linn and a source of public dissonance has always been the engineering department of West Linn. Perhaps even more than it's Planning Department.

The City does not currently have a city engineer that can properly evaluate the need and purpose, let alone determine a level "of satisfaction". The previous engineer overseeing this project was fired. Until an experienced city engineer can be hired to oversee the best interests of the city and its citizens, CUP 12-01 should be denied. There is no ability nor track record that substantiates the claims of the planning department and their own engineering department.

The city engineer had worked for several years on obtaining the easements and the city is still unable to guarantee that the easement will come along. Therefore, the Commission cannot approve this CUP without better definition and less unknown contingencies. The findings as recorded are unenforceable and more aspirational in spirit than factual in nature.

Deny 12-01.

*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. 36:**

The City's Public Works Engineering Division is the applicant, and the application has been prepared by an engineering consulting firm. No water infrastructure is needed to serve the pump station in terms of water usage at the station; and the application proposes the appropriate infrastructure to be included with the station to fulfill its purpose of aiding the Rosemont Pressure Zone further north in the City. As explained in Finding 6 above, an easement is needed for the proposed water line to connect to the line in Weatherhill Road, and if that is not able to be acquired by Public Works, the alternative is to connect through the existing utility and access easement south to the water line in Bland Circle. The criterion is met.



Soppe, Tom

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**From:** GARY [hitesman@q.com]  
**Sent:** Tuesday, March 27, 2012 6:27 PM  
**To:** Soppe, Tom  
**Subject:** CUP 12-01 Foppery

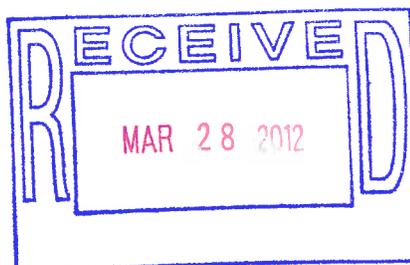
The planning department intermingles the site, the neighborhood, and the community with an undisciplined and haphazard process that denotes a lack of understanding and implementation of proper planning practices.

There is an overarching concept and proper stewardship that is lacking with city administrators and within city policies and actions. Sadly, this type of infrastructure belongs in maybe Gresham, Sherwood, or Vancouver, Washington. This proposal would be DOA most likely anywhere else in Oregon.

Even Oregon City does a better job of their infrastructure. A project like this has the city manager laughing at us as if he was watching a play. It is indeed our own fault if residents of West Linn continue to allow this most "excellent foppery."

"This is the excellent foppery of the world, that,  
when we are sick in fortune,--often the surfeit  
of our own behavior,--we make guilty of our  
disasters the sun, the moon, and the stars: as  
if we were villains by necessity; fools by  
heavenly compulsion; knaves, thieves, and  
treachers, by spherical predominance; drunkards,  
liars, and adulterers, by an enforced obedience of  
planetary influence; and all that we are evil in,  
by a divine thrusting on: an admirable evasion  
of whoremaster man, to lay his goatish  
disposition to the charge of a star!"

- William Shakespeare, *King Lear*, 1.2.132



Soppe, Tom

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**From:** GARY [hitesman@q.com]  
**Sent:** Tuesday, March 27, 2012 6:56 PM  
**To:** Soppe, Tom  
**Subject:** CUP 12-01 ROFL

The solution is to pour in place a concrete box and paint it green?

Oh, but don't worry! There will be a row of arborvitae. And the razor wire goes away for awhile.

THIS IS A JOKE! This is worse than coyote ugly, this is the destruction of civilization as we know it. The city has defined "heinous" more splendidly than I ever thought possible.

Your hearing date is off by 3 days.

Honestly, poured in place concrete has a redeeming quality to it yet the city is going to cover it up with paint that will start peeling in a couple years! Outstanding! Well done!

"What fools we mortals be."

~ Shakespeare, Puck, "Midsummer Nights Dream"

"What fools we city administrators be." ~ rip off of Shakespeare

DENY 12-01. Please.

