

WEST LINN CITY COUNCIL

FINAL DECISION NOTICE

AP-12-01

IN THE MATTER OF AN APPEAL OF AN APPROVAL OF A CONDITIONAL USE PERMIT AND CLASS II DESIGN REVIEW FOR A PUMP STATION AT 23120 BLAND CIRCLE

At their meeting of June 25, 2012, the West Linn City Council held a public hearing to consider the appeal by the Savanna Oaks Neighborhood Association (SONA) of a Planning Commission approval of a Conditional Use Permit and Class II Design Review. The Conditional Use and Class II Design Review approval was for a water pump station proposed by the City of West Linn Public Works Department at 23120 Bland Circle, file CUP-12-01/DR-12-03. The approval criteria for Conditional Use Permit are found 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.

At the beginning of the hearing, two procedural issues were raised. Interim Public Works Director Ken Worcester, speaking as the applicant, raised the issue of whether the appeal was legitimate, as he contended that there was not proper notice per Oregon public meeting law for the SONA meeting where there was a vote to appeal. Karie Oakes raised the issue that the minutes of the two Planning Commission hearings were not made part of the City Council record per Community Development Code (CDC) Section 99.220. City Attorney Tim Ramis clarified that the hearing could cover both these procedural issues as well as the appeal itself, and the Council voted to proceed as such with the hearing.

The hearing commenced with a staff report presented by Tom Soppe, Associate Planner. Ed Schwarz presented for the appellant. Mr. Worcester and Jim Whynot of the Public Works Department presented for the applicant. Alice Richmond spoke in opposition to the appeal. Roberta Schwarz, Gary Hitesman, Ms. Oakes, and John DeVries spoke in favor of the appeal. Mr. and Ms. Schwarz provided the appellant's rebuttal. Mr. Worcester and Mr. Whynot provided the applicant's rebuttal.

The Council passed a motion continuing the hearing until August 13, 2012, and leaving the record open only for new written testimony regarding the procedural issue relating to the Planning Commission minutes, accepting new submissions until July 2, 2012.

Mayor Kovash re-opened the hearing on August 13. After discussion, the Council voted to deny the appeal and uphold the Planning Commission's decision including the Planning Commission's conditions of approval, with staff's and the Planning Commission's findings and the following additional findings. The following additional findings are, when appropriate, listed below their related appropriate criteria from chapters 11, 55, and 60.

CHAPTER 12, SINGLE-FAMILY RESIDENTIAL DETACHED AND ATTACHED, R-7 DISTRICT

12.020 PROCEDURES AND APPROVAL PROCESS

C. The approval of a conditional use (CDC 12.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60 CDC, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

12.060 CONDITIONAL USES

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

10. Utilities, major.

Council Finding 1:

CDC Chapter 2, Definitions defines "Utility, major" as follows:

"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."

As a pump station, the proposal clearly fits into the major utility category as pump stations are listed among the examples in the definition. The existing use on site, the water storage tank (reservoir), is also a major utility per this definition. As the application proposed a conditional use, the addition of which on this site would also constitute a change to an existing conditional use site, Council finds that the application meets the above criteria and was reviewed under the proper procedures and approval process.

12.080 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 Section 60.070(1) and (2).

Council Finding 2:

The lot is over 43,000 square feet in size, much larger than the R-7 zone's required minimum size of 7,000 square feet. The site clearly has sufficient space for the existing reservoir, the small building proposed for the pump station, the driveway and parking area, and vegetative screening for the proposed structure. Both the existing reservoir and the proposed pump station building are at least 20 feet from any property line. Compliance with the criteria of Section 60.070 is demonstrated in additional detail later in these findings. The criterion is met.

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.

Council Finding 3:

As this is a new non-residential building, Class II Design Review approval is required, and the application is being processed as such. Compliance with the criteria of Chapter 55 is demonstrated in additional detail later in these findings. The criterion is met.

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

Council Finding 4:

The site is approximately 1 acre (43,560 square feet) and currently only contains the reservoir and surrounding fencing, which use approximately 7,920 square feet of the site, leaving approximately 35,600 square feet that is undeveloped except for the driveway approach to the reservoir and its small gravel turnaround. The new pump station building is proposed to be 16 by 22 feet in size, which is 352 square feet. The building is proposed to be built along the west side of the existing gravel driveway. Most of the site will be left undeveloped west of the reservoir, fencing, gravel, and pump station, and will continue to consist of trees and vegetation. There is adequate room to screen the proposed pump station from nearby properties, and adequate room for the screening required by Condition 6b. The site slopes gently to the south and west, and the pump station is proposed in a fairly flat area of the site, convenient to the reservoir and to existing and proposed water utilities. A clump of several insignificant Souler's willow trees, and one small fir tree within this cluster, will be removed. However, at least one shade tree will be planted by the gravel parking area per Condition 2. In all, the site contains adequate area for the addition of the proposed pump station and for appropriate screening associated with the proposed use.

Page 6-15 of the Water System Master Plan states, "Construction of a new booster pump station at the Bland Reservoir site to supply the Rosemont pressure zone would address the deficiency in the Rosemont and Horton pressure zones by providing adequate emergency supply capacity." This illustrates why the Horton Reservoir site would not be preferable to this site, and how this site is equipped to make up for the deficiencies elsewhere. Page 1-2 of the Water System Master Plan states "A hydraulic model was

developed and used to perform a detailed analysis of the City's transmission and distribution system piping, storage capacity and pressure zone limits under a variety of demand and fire flow conditions." The Bland Reservoir site was determined to be the best possible location for a pump station to feed the Rosemont Zone.

The reservoir has been on site since the 1970's, before most nearby subdivisions were developed. Just about all of the risk of nearby property damage from a seismic event already exists due to the reservoir and is virtually unchanged by the addition of a pump station building and its underground pipes. That being said, the site plan keeps the pump station at least 8 feet away from the very small landslide hazard area on site. The pipe will be connected utilizing Megalug connections which offer superior protection in the case of unusual ground movements.

The development of the proposed new conditional use on site would not prevent future street connections that could be made via existing stub streets in the area. Should the site to the east develop, Crestview Drive would connect to the stubbed western section of Crestview Drive north of the site. Sunbreak Lane would be able to stub at the west end of this site along the property south of the site. Should the property to the south ever be annexed and subdivided, Sunbreak Lane could be dedicated through that property, and subsequently be extended further west if properties to the west are subdivided or partitioned. Therefore, placing the pump station building at the south end of the project site does not hinder the ability to develop an existing stub street westward as a possible eventual through street, should this ever occur. Alternately, when the property to the east and/or the property to the south develop, Sunbreak Lane could be extended southward to connect to Bland Circle instead.

There is an abandoned well on site near the proposed pump station building. Condition 7 requires this to be decommissioned to state Water Resource Division standards to ensure it is not a safety hazard, to ensure it does not interfere with the functioning of the pump station and related pipes, and to be in compliance with state requirements. In all, the characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and natural features.

Upon the implementation of the conditions of approval, the criteria of subsections 60.070(A)(1) and (2) are met.

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

Council Finding 5:

The Rosemont Pressure Zone has a small reservoir for the size of the zone it serves. A pump station providing a boost in pressure from another zone is needed for appropriate water pressure in the Rosemont Pressure Zone, which serves a large swath of the City. The City's 2008 Water Master Plan states:

Bland Intertie Supply to Rosemont: The storage and pumping analysis identified a deficiency in supply to the Rosemont pressure zone under

future conditions. Construction of a third pump station to boost water from a lower pressure zone into the Rosemont pressure zone is recommended. Through discussions with City staff it was determined that the best location for this pump station is at the Bland Reservoir site. Siting the pump station at this location provides a geographical distribution of the supply to the Rosemont pressure zone, is a hydraulically suitable location with adequate suction supply to the pump station and is located relatively close (approximately one-half mile) from an existing 12-inch diameter transmission main in the Rosemont pressure zone.

This application is consistent with the Water Master Plan, which is the document that establishes the City's short and long term water related policies, needs, and actions. Due to this, staff finds that the granting of the proposal provides a facility that is consistent with the overall needs of the community.

While the Rosemont Zone does border the Stafford areas outside the City limits that are now designated Urban Reserve by Metro, the applicant proposes the pump station to meet the basic needs of the Rosemont Zone as it is now designated within existing City limits. It is not meant to serve, or make it easier to ever serve, areas that are currently outside the City limits and/or the urban growth boundary. The City's current position against the urbanization of Stafford does not change due to this or any other current upgrade to City utility systems, and many other changes including new pipe sizes would be needed to ever serve Stafford. For this reason also, Council finds that the granting of the proposal provides only for a facility consistent to serve the needs of the City of West Linn within its current City limits, and that it is consistent with the needs of the City to function properly within those limits.

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

Council Finding 6:

The subject water utility site will not be open to the public. The only new off-site infrastructure needed to serve the pump station, outside the pump station itself, will be water pipes to connect it to the Bland Reservoir and to other water lines leading to the Rosemont Zone. An easement is needed through properties to the north to the Weatherhill Road water line which leads eventually via other water lines to the Rosemont Zone. If the applicant is unable to attain this easement, the existing utility/access easement through the property to the south will be used to connect to the water line under Bland Circle. This would lead via other water lines to the Rosemont Zone. Otherwise, existing public facilities provide all needed services to the site. The criterion is met.

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

Council Finding 7:

Compliance with the applicable requirements of the R-7 zone is demonstrated in Council findings 1-3 above. The criterion is met.

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

Council Finding 8:

City signs are exempt from the requirements of Chapter 52 per Section 52.109(D). No public sidewalk uses are planned, so Chapter 53 is not applicable. Findings 12-35 demonstrate compliance with the requirements of Chapter 55. Finding 19 below demonstrates compliance with Chapter 54. This criterion is met.

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

Council Finding 9:

The application is consistent with the Comprehensive Plan and Tanner Basin Neighborhood Plan. (Tanner Basin is the former name of the Savanna Oaks neighborhood.)

Tanner Basin Neighborhood Plan:

Goal 3: *Designate and Obtain Permanent Open Spaces for Native Habitat, Upper Woodland Habitat, Mature Trees and Access to Recreation.*

Goal 4: *Implement and enforce statewide Planning Goal 5 (Open Space, Scenic and Historic Resources, Natural Resources) resources and protections with special emphasis on upper woodlands habitat.*

West Linn Comprehensive Plan:

Goal 5-3: *Preserve trees in park lands, natural areas, and open space wherever possible.*

Policy 5-1: *Implement site design standards that prescribe how to place roadways and buildings to preserve trees.*

Policy 5-3: *Provide buffer areas around heritage trees, significant trees, and tree clusters to ensure their preservation.*

The City-owned site, in the upper areas of the city topographically, has woodland habitat areas and mature trees. The location of the pump station on site removes a few non-significant trees along the already-developed areas of the site while preserving the rest of the site. As such, the wooded nature of the site is retained and preserved. Therefore, the proposal is consistent with these policies.

Policy 8-3: *Encourage the use of alternative permeable materials for construction of parking areas to reduce stormwater runoff and improve water quality.*

The parking area will be gravel, as is consistent with this policy.

Goal 6-4-1: *Maintain and promote a quiet and healthful environment for the citizens of West Linn.*

Policy 6-4-1: *Require measures to adequately buffer residential developments and other noise-sensitive uses that are proposed to be located in noise congested areas.*

Policy 6-4-2: *Require development proposals that are expected to generate noise to incorporate landscaping and other techniques to reduce noise impacts to levels compatible with surrounding uses.*

Policy 6-4-3: *Require new commercial, industrial, and public facilities to be designed and landscaped to meet Department of Environmental Quality (DEQ) and City noise standards.*

The Sound Levels plan on Page 298 of the June 25 Council agenda packet shows that the station will not cause ambient noise to change off site except possibly the rearmost one to two feet of the site to the south. This one to two foot area does not reach the existing house on that site, and is within the areas where setbacks would prevent development if that site is ever annexed. The screening conditioned for the east and south edges of the property, the existing trees, the existing reservoir structure, and the existing and proposed fencing will further mitigate impacts on surrounding properties. The proposal is consistent with these policies.

Goal 7-1: *Protect life and property from flood, earthquake, other geological hazards, and terrorist threats or attacks.*

Policy 7-1: *Require development and associated alterations to the surrounding land to be directed away from hazardous areas.*

While there is one very small area on site that is a landslide hazard area per the Natural Hazards Mitigation Plan, the pump station is not proposed in this area. A geotechnical study addressing any such concerns about the proposal will be required by the Building Division as part of building permit review.

The Council finds that the applicant is providing all feasible technology and materials to make the pump station and its piping as safe as possible during a seismic event, and to property contain any rupture that might occur during a seismic or other damaging event. The proposal is consistent with these policies.

Policy 9-5: *Maintain public facilities (specifically right-of-way improvements in established commercial and industrial districts to promote economic activity).*

The pump station is proposed to alleviate a water supply deficiency in the Rosemont Pressure Zone, which includes the Cascade Summit Shopping Center and adjacent clinic building. Therefore the pump station helps to maintain the viability of existing water facilities in an established commercial area. The proposal is consistent with this policy.

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

Policy 11-5: *Where appropriate monitor, coordinate with, and regulate the activities of the following, as they affect existing and future residents and businesses:*

a: Water supply

The pump station is proposed to alleviate a water supply deficiency in the Rosemont Pressure Zone, which includes much existing water infrastructure that needs maintenance to an expected and acceptable level of water supply and pressure. The proposal is consistent with these policies.

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

The pump station will be well-screened per Condition of Approval 6, but will also be a forest green color matching the existing reservoir on site and blend into the wooded landscape.

Goal 11-2-1: *Provide municipal potable water service for public, commercial, and domestic uses within the city limits of West Linn.*

Policy 11-2-1: *Establish the City's Water Master Plan, 1999, which is a supporting document of the Comprehensive Plan, as guide for the 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.*

As discussed in the Background section above, the proposal of the pump station to supplement the Rosemont Zone at this location is a direct fulfillment of an item in the City's 2008 Water Master Plan which states, in part, the following:

Bland Intertie Supply to Rosemont: The storage and pumping analysis identified a deficiency in supply to the Rosemont pressure zone under future conditions. Construction of a third pump station to boost water from a lower pressure zone into the Rosemont pressure zone is recommended. Through discussions with City staff it was determined that the best location for this pump station is at the Bland Reservoir site. Siting the pump station at this location provides a geographical distribution of the supply to the Rosemont pressure zone, is a hydraulically suitable location with adequate suction supply to the pump station and is located relatively close (approximately one-half mile) from an existing 12-inch diameter transmission main in the Rosemont pressure zone.

This item reflects a need in the Rosemont Zone for adequate supply, which is part of the basic goal of providing water service and is one of the necessary projects to do so.

Upon the implementation of the conditions of approval, Council finds the application to be compliant with the West Linn Comprehensive Plan including the Tanner Basin (now named Savanna Oaks) Neighborhood Plan and the CDC, as noise, screening, tree preservation, and safety issues have been properly addressed, as no significant trees are proposed for removal, and as other water pump stations operate compatibly in residential areas throughout the City. Also the project is compatible with the Water Master Plan as the project fulfills a specific item required by that plan. The proposal is consistent with these policies.

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.

Council Finding 10:

Major utilities are a conditional use in the R-7 zone. The proposal is for an additional, related major utility on a site that already has a major utility. Therefore the proposal alters a conditional use site by adding another conditional use facility of the same category. Class II Design Review approval is required, so compliance with the criteria of Chapter 55 in Section 55.100 is required. See findings 12-35 below.

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 condition 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.*

Council Finding 11:

The building location and fencing proposed by the applicant, along with conditions regarding screening, signage, fence location, and tree planting, make the project compatible with the surrounding residential uses.

CHAPTER 55, DESIGN REVIEW

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.

Council Finding 12:

Section 33.020 Applicability states, “This chapter applies to all new development and redevelopment sites, as required by the City’s Public Works Design Standards, except one- and two-family dwellings that do not involve a land division.” While it applies to most new non-residential buildings, the small size of this building and surrounding pavement would have 487 square feet total. If a new building, addition, and or new pavement make for 500 or more new square feet of impervious area, the Public Works Design Standard of requiring treatment (and detention, if appropriate) is triggered. As only 487 square feet of new impervious surface is proposed, Chapter 33 requirements do not apply. Condition 5 allows for the proposed sanitary sewer line used for water testing/and or leakage to be drained to a bioswale or other stormwater treatment facility. As the applicant is the Public Works Department, this would be designed to City standards if implemented.

2. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.

Council Finding 13:

Although the proposed building is small enough to be considered an accessory structure per the CDC, it is found to not be an accessory structure as it performs a significant utility function that is more than incidental to the existing reservoir on site. Therefore Chapter 34 does not apply.

5. Chapter 42 CDC, Clear Vision Areas.

Council Finding 14:

Chapter 42 only regulates intersections of public right of ways with other public right of ways, and intersections of public right of ways with driveways. The site does not front a street, so clear vision is not an issue within the site. The proposal will not change the area where the access to this and the adjoining site intersects Bland Circle. There are not sight-obscuring structures at the intersection of the driveway and Bland Circle.

6. Chapter 44 CDC, Fences.

Council Finding 15:

While the provisions of Chapter 44 limit fencing to 3 feet tall within front setback areas and 6 feet elsewhere, Subsection 55.100(J)(8) exempts security fences from these requirements and allows them to be up to 8 feet tall including at the front property line. The applicant

proposes a 6-foot tall fence around the site, and Condition 3 ensures the gate area will be consistent with this. Per the applicant all fencing will be without razor wire, unlike the existing fencing for the reservoir, and will therefore be more compatible with the residential neighborhood. Also, Condition 6a requires that where 6b conditions vegetative screening, the fence be behind the screening so the neighborhood sees the vegetation instead of the chain link fence.

7. *Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.*

Excerpted from Chapter 46:

46.100 PARKING REQUIREMENTS FOR UNLISTED USES

A. Upon application and payment of fees, the decision-making authority, as provided by CDC 99.060(B), may rule that a use not specifically listed in CDC 46.090 is a use similar to a listed use and that the same parking standards shall apply. The ruling on parking requirements shall be based on the requirements of Chapter 99 CDC and findings that:

- 1. The use is similar to and of the same general type as a listed use;*
- 2. The use has similar intensity, density and off-site impacts as the listed use; and*
- 3. The use has similar impacts on the community facilities as the listed use.*

Council Finding 16:

Utilities and/or pump stations are not uses listed under Section 46.090, which lists the minimum parking requirements for most uses in the City. Nor is the pump station similar to other uses listed in 46.090. The site will not be open to the public. When it is served it would normally be served by one or two staff members at a time in one vehicle. There is room to park more than one vehicle within the site. Therefore the parking needs are met.

8. *Chapter 48 CDC, Access, Egress and Circulation.*

Excerpted from Chapter 48:

48.030 MINIMUM VEHICULAR REQUIREMENTS FOR RESIDENTIAL USES

E. Access and/or service drives for multi-family dwellings shall be fully improved with hard surface pavement:

- 3. Minimum vertical clearance of 13 feet, six inches.*

4. *Appropriate turnaround facilities per Fire Chief's standards for emergency vehicles when the drive is over 150 feet long. Fire Department turnaround areas shall not exceed seven percent grade unless waived by the Fire Chief.*

5. *The grade shall not exceed 10 percent on average, with a maximum of 15 percent.*

6. *A minimum centerline turning radius of 45 feet for the curve.*

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;*

3. *Meet the requirements of CDC 48.030(E)(3) through (6).*

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.

D. Gated accessways to non-residential uses are prohibited unless required for public safety or security.

Council Finding 17:

The access, egress, and circulation on site meet all provisions of Chapter 48 except for the following:

- Subsection 48.040(A)(1) is not met as it requires two-way service driveways for non-residential uses to be 24 feet wide, whereas the site has a 15-foot-wide driveway through the neighboring property in a 20-foot-wide easement.
- Subsection 48.030(E)(4) which requires a turnaround for emergency vehicles.
- Subsection 48.030(E)(5) which requires the maximum driveway grade be 15% whereas portions of the driveway are somewhere between 16% and 25% grade according to the Site Analysis on Page 286 of the June 25 Council agenda packet.

All three of these are existing non-conforming conditions at this site. The pump station proposal itself conforms to the CDC even if some existing conditions at the site do not, and

even if some conditions of site's off-site access do not. Subsection 66.080(B)(1) states that if the alteration of a non-conforming structure (or, as implied, a non-conforming site) meets the provisions of the code, it is permitted. Therefore the criteria of Chapter 48 are met for the proposal of the pump station itself, and an authorization to enlarge/alter a Non-Conforming Structure is not needed. Also, the letter from Tualatin Valley Fire and Rescue on pages 279-280 of the June 25 packet indicates the site is exempt from further fire access improvements. The site will be gated for security as it is a utility.

9. *Chapter 52 CDC, Signs.*

Council Finding 18:

City signs are exempt from the provisions of Chapter 52 per Section 52.109(D).

10. *Chapter 54 CDC, Landscaping.*

Excerpted from Section 54.020(E):

E. Landscaping – By type, location and amount.

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.*

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.*

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

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.*

f. A parking, loading, or service area which abuts a property line shall be separated from the property line by a landscaped area at least five feet in width and which shall act as a screen and noise buffer, and the adequacy of the screen and buffer shall be determined by the criteria set forth in CDC 55.100(C) and (D), except where shared parking is approved under CDC 46.050.

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).

Council Finding 19:

Landscaping for the site will remain well above the 20% minimum for non-residential sites as provided by Subsection 54.020(E)(2). The increased amount of gravel for access and parking results in the equivalent of one to two more spaces to park maintenance vehicles that visit the site. Therefore to meet or exceed the provisions of Subsection 54.030(E)(3)(a) above, Condition of Approval 2 requires a shade tree to be planted next to one of these spaces. The location and species of the tree will be required by Condition of Approval 2 to be approved by the City Arborist. The landscape strip south of the new gravel area, up against the property to the south, will be more than 5 feet wide. Screening is conditioned by Condition 6b for the edge of the gravel areas to the east and south of the building, against the properties to the south and east. The criteria of Chapter 54 are met upon the implementations of the conditions of approval.

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.*

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.*

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.*

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.

Council Finding 20:

There are no heritage trees on site. The willow and fir tree cluster proposed for removal contains no significant trees, per the City Arborist. All significant trees on site will be preserved. No dedication is necessary as this is already a City-owned site. The proposed pump station location does not preclude possible densification of the site for other uses in the future, so (d) is met as well as other criteria above.

Concerns have been raised by project opponents a) regarding whether the site plan originally presented to the neighborhood should have been submitted in the application instead of the submitted site plan, b) regarding whether it was the applicant or the applicant's consulting firm that originated the idea to switch to the submitted site plan, and c) whether the switch to the submitted site plan was done in good faith. Early in the design process, the City's Water System Supervisor expressed site design improvements that would result in better utility and emergency vehicle access to the pump station and reservoir. The designing consulting firm agreed with the Supervisor's assessment and also concluded that the revised pump station location would offer better hydraulics. The change to the submitted site plan was made at that time for these reasons, in good faith, during a time that allowed for further public comment during the subsequent Planning Commission phase.

Council concurs with the Planning Commission that the applicant's submitted site plan is preferable to the site plan originally presented at the neighborhood meeting, due to both access and hydraulic issues. The trees proposed for removal in are not significant, and Condition 6b requires screening vegetation that is more durable and appropriate for the site than what the applicant originally proposed. This screening will replace trees proposed for removal and will replace these trees' function of screening the existing reservoir.

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

Council Finding 21:

The existing topography and natural drainage slope gently to the south and west and will continue to do so after the installation of the proposed pump station building. The small building is proposed for a relatively flat area of the site. 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.

Council Finding 22:

The most updated material related to the subject matter addressed by this criterion is in the City's Natural Hazards Mitigation Plan. Map 16, Potential Landslides, in this plan shows the Oregon Department of Geology and Mineral Information (DOGAMI) potential landslide areas, none of which are on this site. Map 17 Landslide Vulnerability Analysis shows landslide hazard areas in the City. One very small landslide hazard area overlaps the border between this site and the parcel to the east. This is a very small landslide hazard area on a slope that is not steep, and the small building is proposed approximately 8 feet west of it. Because the building is not proposed within the hazard area and because Council does not see a potential for danger in being close to this small area, Council finds the criterion is met. Also, at building permit stage the Building Division will require a geotechnical study to show that it is safe to build at this location.

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.

Council Finding 23:

The proposed pump station building will be approximately 75 feet from the existing reservoir structure. The proposed pump station building will be 90-100 feet from the nearest off-site building (the house to the south). Council finds there is adequate distance between the proposed building and existing buildings.

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: grays, 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.

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.

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.

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.

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.

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.

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.

Council Finding 24:

The pump station building will be forest green, matching the color of the existing reservoir on site. It will have a pitched roof and overhanging eaves. The building is one story and approximately 15 feet high and 16 by 22 feet in size. It is not an oversized scale for a residential area, and the screening conditioned by Condition 6(b) will further ensure that any perceived architectural incompatibility is kept to a minimum. No windows are proposed, as this is a small building for a utility not open to the public. The walls will be concrete, as this is a utility building. The building’s small size and the screening required by Condition 6b make bulk-related transitioning unnecessary. If anything, the pump station building would act as a new transition between the large reservoir to the north and the residences to the south. The building will be heavily screened from views from nearby residential land, per Condition 6b and existing vegetation to the west on site. The building

is not large enough to affect solar access on or create microclimates in other properties, or to have walls large enough to be addressed by Subsection (g). The size of the building itself is inherently “human scale”, and the building is on a site that does not border a sidewalk or any other public right-of-way. The building will have skylights to provide light on the inside for when workers are servicing, maintaining, or otherwise dealing with the equipment. While utility buildings can be dug into the ground to help them further blend into residential areas as shown in the Idaho Falls, Idaho example submitted by Roberta Schwarz, the small size and height of this building and the conditioned screening render this unnecessary. Council finds that the architecture criteria are 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:*

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.

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.

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.

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.

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.

Council Finding 25:

Per the practical considerations raised in Subsection (i) above, there is not a need for the small proposed building to meet these criteria in large part due to how the site will only be open to utility workers, not the public. The proposed utility will be fenced per the applicant's proposal to surround the site with 6-foot fencing, and will be screened evergreens and native shrubs per Condition 6b. Because the site does not border a street, the pump station's architecture does not affect the pedestrian-friendliness, bicycle-friendliness, or architectural atmosphere of the surrounding streets. The proposal complies with Section 7 as much as possible for a small utility building at this location, which is all that is required per Subsection (i).

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.

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.*

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

Council Finding 26:

The pump station proposed is a small one-story building. However as a windowless utility building on a site surrounded by residential uses, screening is appropriate. The pump station will be barely visible if at all from the residential uses to the west and northwest. This is due to the multitude of trees located in the central and western areas of the site and on the next site to the west, and due to the large existing reservoir. The entire site will be fenced with a 6-foot perimeter cyclone fence as part of what is proposed in this application, except for areas already visually employing the wood fencing of surrounding residences. The new fencing will not have razor wire atop the chain link, unlike the current fencing around the reservoir.

The applicant originally proposed arbor vitae for screening on the south and east sides of the site, the only places from which the pump station would be otherwise visible from off site. Fast-growing evergreen trees and other shrubs on the ground would be a better solution for screening the pump station and for helping screen the existing tank, as they would be more attractive and they would provide the screening of the tank now provided by the trees proposed for removal. The applicant should work with the property owner to the south as their view is most affected by the building of the pump station, as the landscaping near their property should be to their liking, and because vegetation within their property could be a part of the final screening scenario. Per Condition 6b screening in the form of evergreens and native shrubs is required on the east and south sides of this area of the site, and working with the property owner to the site is required by 6b also. To appropriately screen some of the new chain-link fencing from nearby residences, the fencing will be placed behind the required vegetative screening per Condition 6a. While the trees proposed for removal do help to screen the existing reservoir from properties to the south, Condition 6b's requirement to plant fast-growing evergreens will result in a similar (or perhaps better) level of reservoir screening within several years. The criteria are met as the combination of existing, proposed, and conditioned vegetation and fencing appropriately screens the existing and proposed utilities.

D. Privacy and noise.

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.*

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.

Council Finding 27:

The applicant's submitted Sound Levels plan on Page 298 of the June 25 Council agenda packet shows that the station will not cause ambient noise to change off-site, except possible the rearmost 1-2 feet of the site to the south. This does not overlap with the existing house on that site, and is within the development setbacks for all low-density residential zones should the site to the south be annexed. (The site to the south is not annexed, but is designated as low-density residential by the Comprehensive Plan, so it will be zoned as such if it is ever annexed.) The highest possible sound level the proposal would cause off-site would be 55 decibels when two pumps are running. There is no language in the CDC or the West Linn Municipal Code prohibiting projects from causing this noise level on the edges of nearby properties. A generator will not be kept on site but would be brought in by truck if needed during an emergency. Municipal Code Section 5.487(3) exempts emergency equipment from the rest of Section 5.487, the City's noise ordinance: "Sounds produced by the performance of emergency work, vehicles or equipment, including police, fire and ambulance, are exempt from the provisions of this section." The same goes for other generators at pump stations, schools, and other sites in residential areas throughout the City, whether stored on site or brought in by truck. New lighting is proposed to be directed downward, and the screening required by Condition 6b will further help screen the lighting from surrounding properties. Pump station lighting will not be on at all hours. Council finds that the criteria in this section are met.

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.

Council Finding 28:

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 Condition 3 ensures the gate will be consistent with this proposal. 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 screening required by Condition 6b also helps demarcate the border of the site. The proposed and existing fencing, the proposed gate, and the required screening appropriately demarcate the space per the above criteria upon the implementation of the conditions of approval.

1. *Public facilities. An application may only be approved if adequate public facilities will be available to provide service to the property prior to occupancy.*

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.*

Council Finding 29:

Less than 500 new square feet of impervious surface is proposed. The pump station building, combined with its impervious pavement area at the entrance, will be 487 square feet in size. 500 new square feet of impervious surface are needed to require stormwater treatment and detention improvements per Public Works standards for any new development. The proposed impervious footprint will be surrounded by gravel to mitigate runoff effects. Parking for Public Works vehicles will be in the existing and new gravel in this part of the site. Condition 5 allows for the proposed sanitary sewer line used for water testing/and or leakage to be drained to a bioswale or other stormwater treatment facility. As the applicant is the Public Works Department, this would be designed to City standards if implemented. The 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.*

Council Finding 30:

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. The applicant is pursuing easements for the proposed water line to connect to the line under Weatherhill Road, and if these cannot be acquired, the alternative is to connect through the existing utility and access easement south to the water line in Bland Circle. The 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.

Council Finding 31:

There is currently no sanitary sewer on site. The only sanitary sewer proposed on site as part of the project is for the purpose of removing any water, should water collect due to leakage or testing from the pump station. This would be drained via a floor drain, with a four-inch drain line linking to the line under Bland Circle and Tannler Drive downhill. The applicant proposes this drain between the site and Bland Circle to be within the westernmost 7.5 feet of the property to the east. This is a property that is also R-7 and is large enough to be divided as a subdivision in the future. The applicant is working with the owner of 23150 Bland Circle to secure an easement to contain this drain; its location within the westernmost 7.5 feet of the property will ensure that R-7 side setbacks can be implemented with any new development on the property in the future. Condition 5 requires that the easement proposed to contain this and the electrical line be recorded with Clackamas County. There is the possibility that sanitary sewer service may not be necessary, if water used in the pump station building can be drained outside to a bioswale or other stormwater treatment facility. The applicant is working with the Building Division to see if there is a stormwater treatment solution that complies with plumbing code. Under the possibility of this scenario, Condition 5 allows the easement to be recorded for the electrical line only.

J. Crime prevention and safety/defensible space.

- 1. Windows shall be located so that areas vulnerable to crime can be surveyed by the occupants.*
- 2. Interior laundry and service areas shall be located in a way that they can be observed by others.*
- 4. The exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime.*
- 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.*

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.*

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

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.*

Council Finding 32:

The site is proposed to be fully fenced and gated as part of this project. Therefore the site itself should not be vulnerable to crime on site regardless of the lighting on site. As a utility building not open to the public, there are no windows (except skylights) or interior service areas. The newly developed areas of the site will be screened well from surrounding residents, but this is reasonable per Subsection (7) above since there will not be public access. Lighting will be directed downward, and the screening required by Condition 6b will further help screen this from surrounding properties. Pump station lighting will not be on at all hours. The applicant proposes a 6-foot-tall fence to surround the site as a utility security fence; Condition of Approval 3 requires the gate to be the same height for consistency and neighborhood compatibility.

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.*

Council Finding 33:

The building is proposed to be one story. There are not other buildings on site that have interiors, as the existing reservoir is the only other structure. There are no stairs, only a driveway, between the site and Bland Circle. There is no transit service in the area. The site will not be open to the public. The Building Division's permitting process requires that any legally required ADA compliance will occur.

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.*

Council Finding 34:

While City property signage is exempt from sign permits and from the provisions of Chapter 52 Signs, the above criteria do apply since Design Review is required for the proposal. Therefore Proposed Condition of Approval 4 requires the applicant to use the Parks and Recreation Department's standard material and colors for the sign, so it is compatible with subsections 2 and 3 regarding neighborhood compatibility and clarity.

There are no residences, stores, or industries on site. The only signage will be on the gate, so no signs will affect clear vision areas where the driveway intersects with the street. There are not necessarily future uses beyond the reservoir and pump station planned. There are not bicycle and pedestrian routes on site as the site is not open to the public. Therefore the Council finds that subsections 1 and 4-6 do not apply.

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.

Council Finding 35:

The site does not front on a street, so new street lights are not proposed. There will be no need for television or other utilities that pertain to non-utility buildings. The applicant proposes the electrical conduit, including the vault, between the site and Bland Circle to be within the westernmost 7.5 feet of the adjoining property to the east. This is a property that is also R-7 and is large enough to be divided as a subdivision in the future. The applicant is working with the owner to secure an easement to contain this electrical conduit and to contain the sanitary sewer drain discussed above. These utilities' location within the westernmost 7.5 feet of said property will ensure that R-7 side setbacks can be implemented with any new development on that property in the future. Condition 5

requires this easement or an alternative easement to be recorded with Clackamas County before the pump station project undergoes final inspection.

Council Finding 36:

In oral and written testimony, Gary Hitesman and Karie Oakes have asserted that not including the minutes of the two Planning Commission hearings of April 4 and April 25 for CUP-12-01/DR-12-03 in the City Council packet for the June 25 hearing, amounts to a violation of CDC 99.220(C) and 99.040(A)(3)(d).

CDC 99.220(C) states that *“the official record shall include . . . the verbatim record made by video recording or other available means, the minutes of the hearing, and other evidence of the proceedings before the hearings body.”*

CDC 99.040(A)(3)(d) states that the planning director will, *“Make the application, all documents or evidence relied upon by the applicant and applicable criteria available at least 20 days prior to the hearing or date of the Director’s decision. Make the staff report available at least 10 days prior to the scheduled date of the public hearing(s).”*

Council finds the minutes of all Planning Commission hearings have been included in the record, as is consistent with CDC 99.220(C). This section does not require that such minutes be included in the City Council packet or staff report that are to be made available prior to the first appeal hearing before the City Council.

Furthermore, because the application and associated materials were made available to the public throughout the Planning Commission hearing process, Council finds that the 20 day requirement of CDC 99.040(A)(3)(d) is complied with. In addition, the staff report for the appeal was prepared and made available to the public at least 10 days prior to the initial appeal hearing before Council, also in compliance with CDC 99.040(A)(3)(d).

While Council finds that there is no violation associated with the timing of including the Planning Commission hearing minutes in the record, to the extent that such a violation could have occurred it would have been procedural in nature. Should such a violation somehow have occurred, no parties have been prejudiced by not including the Planning Commission minutes in the staff report (before the minutes were prepared), for the following reasons. First, the video recording of the Planning Commission meetings were available to the public in advance of the appeal hearing, and the video record contains a much more thorough and accurate record of the proceedings before the Planning Commission. Second, the Planning Commission minutes have been included in the record and the record held open for written testimony in response to the minutes and any issues associated with the minutes. Therefore, all parties have had the opportunity to review the minutes in question, make any comments in response to those minutes, and have such comments included in the record of decision and considered by the Council in deciding this appeal.

Council Finding 37:

Issues raised in the SONA appeal submittal or at other instances during the appeal process have included a) the notice process for the 2008 Water Master Plan; b) emergency backup generator service on site; c) the City's contracted attorney for the Lake Oswego water system application being allowed to give advice during the Planning Commission hearing for this proposal, and; d) whether the voter's guide discussed whether the school would need more water than is currently provided for in the Rosemont zone. These are all issues that have already been addressed by Planning Commission decision, that have already been made moot by answers provided by the applicant and staff, and/or that are not under the purview of the Council in reviewing the application under the provisions of chapters 12, 55, and 60. Therefore changes to the conditions of approval in the Planning Commission decision are not necessary. Regarding each of these issues individually, Council finds the following:

a) The Council finds that the notice process for the review and subsequent adoption of the 2008 Water Master Plan is not at issue in these proceeding, and to the extent that anyone has standing to challenge that notice, that such a challenge should not be made at the appeal of a quasi-judicial application for the expansion of a pump station.

b) The Council finds that there are no approval criteria that apply to the emergency back-up generator service on site, and accordingly the back-up generator is not at issue in this appeal. There is no proposed change to provision of back-up generator service associated with this appeal.

c) The Council finds there are no approval criteria regarding the scope of the advice given by a contract attorney at a Planning Commission hearing, and accordingly this is not at issues in this appeal.

d) The Council finds that there are no approval criteria that apply to whether the voter's pamphlet addressed the amount of water needed by a school in the Rosemont zone. Therefore this is not an issue in this appeal.

Council Finding 38:

Mr. Hitesman claims on Page 9 of his attachment to his July 2nd submittal that the City's need for this pump station is not anticipated by the Water Master Plan. This is not true as the Water Master Plan, in the actual quote excerpted on this page of Mr. Hitesman's submittal, states "The storage and pumping analysis indentified a deficiency in supply to the Rosemont pressure zone under the future conditions. Construction of a third pump station to boost water from a lower pressure zone into the Rosemont pressure zone is recommended."

Council Finding 39:

On pages 18-19 of his attachment to his July 2nd submittal Mr. Hitesman discusses the Goal 14 section of the Comprehensive Plan; this application is not relevant as this case does not pertain to urbanizing rural areas.

Council Finding 40:

The remainder of Mr. Hitesman's comments in his submittal, not pertaining to the minutes or the topics addressed in Council findings 39-40, involve matters that are either a) already addressed in the record, b) consist of conjectures about the City's motives in proposing the pump station, and/or c) give his opinion about what items in the Water Master Plan should be prioritized. None of these remarks are relevant to the approval criteria.

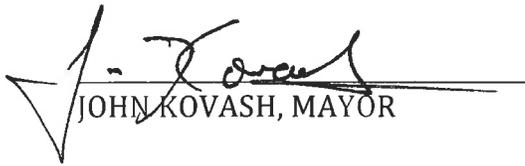
The conditions of approval are as follows:

1. Site Plan. With the exception of modifications required by these conditions, the project shall conform to the Proposed Site Plans dated January 25, 2012 located on Page 113 (close-up) and Page 114 (entire site) of Exhibit PC-3, and shall conform to the Building Elevations plan dated January 25, 2012 on Page 115 of Exhibit PC-3.
2. Shade Tree for Parking Area. A minimum of one shade tree at least 2 inches in diameter at breast height (DBH) shall be planted beside at least one of the new gravel areas where parking may occur. The species and exact location of the tree(s) shall be approved by the City Arborist.
3. Front Gate Height. The proposed gate at the driveway entrance shall be a maximum of 6 feet in height.
4. Signage. The sign proposed to be located on the gate identifying the site and its utilities, as discussed on pages 64 and 67 of Exhibit PC-3 by the applicant, shall be of the style and material used by the Parks and Recreation Department for signs identifying parks, as this will make the signage compatible with the residential neighborhood.
5. Utility easement on 23150 Bland Circle. The utility easement proposed by the applicant to accommodate sanitary sewer and electrical lines serving the site, connecting from the site to Bland Circle along the west edge of the 23150 Bland Circle property, or an alternative easement approved by the City Engineer, must be recorded with Clackamas County before final inspection is approved for the project. Alternately the easement would not need to include sanitary sewer if an alternative solution such as a stormwater bioswale or similar design could be implemented on site.
6. Screening.
 - a. In the areas where vegetative screening is proposed, the proposed fence location shall be shifted 5 feet away from the property boundary (per Section 54.020 E[3][b]) to accommodate the proposed vegetation on the pump station site and to allow it to screen these fencing areas.

b. The proposed arborvitae on the east and south frontages shall be replaced with evergreen trees, such as Leyland cypress, interspersed with native shrubs. The applicant will coordinate landscaping and fencing materials with the property owner to the south to screen the pump station and reservoir.

7. Decommission Well. The existing well on site shall be decommissioned to state Water Resource Division standards.

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



JOHN KOVASH, MAYOR

9-17-12

DATE

This decision was mailed on Sept 18, 2012.

Therefore, this decision becomes effective at 5 p.m., Oct 9, 2012.