



## Memorandum

Date: February 8, 2013  
To: West Linn City Council  
From: Zach Pelz, Associate Planner  
Subject: AP-12-02 and AP-12-03 – draft conditions of approval as requested by the City Council on January 28, 2013

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Following their deliberation on January 28, 2013, regarding the Lake Oswego-Tigard Water Partnership requests to expand an existing water treatment plant and install a new raw- and finished-water transmission line in West Linn, the City Council directed staff to prepare a list of conditions for possible approval of these requests. The attached draft list of conditions of approval includes staff's originally recommended conditions of approval (from the October 5, 2012, memo to the Planning Commission amending the April 18, 2012, staff report regarding the water treatment plant and the October 17, 2012, raw- and finished-water transmission line staff report) and conditions of approval suggested by the City Council during their deliberation on January 28, 2013.

**Water Pipeline Expansion  
AP-12-03  
Recommended Conditions of Approval**

The City Council recommends approval of the proposed project subject to the following conditions:

1. Approved plans. The project, including relocated utilities, shall conform to the Site Plan, except where revised by the Draft 60% Alignment, dated September 18, 2012; the pedestrian and circulation plan, except where revised by the Draft 60% Alignment, dated September 18, 2012; the Tree Protection Plan; and the Erosion Control and Sediment Plan, except as modified in conformance with these conditions of approval.
2. Safe Operations, Traffic Control and Management Plans. The applicant shall implement all applicable provisions and recommendations of the Safe Operations Plan and the Traffic Control and Management Plan and recommendations in the DKS Traffic Memorandum, including revisions. The applicant shall also implement the following Greenlight recommendations:
  - a. The applicant shall appoint a neighborhood construction impact coordinator or Ombudsman, to the neighborhood that can field and respond to concerns raised by the neighborhood before and during construction.
  - b. The applicant will designate a 20 MPH maximum contractor speed limit on Mapleton Drive, Kenthorpe Way, and Old River Road. Additionally, this maximum speed limit will be a part of all contractor documents associated with the Water Treatment Plant and pipeline projects.
3. Noise.
  - a. The ENVIRON Noise Mitigation recommendations contained in Sections 11 and 10 shall be implemented.
  - b. Noise generating construction activities outside the hours of 7:00 AM to 7:00 PM on weekdays or 9:00 AM to 5:00 PM on weekends may only be permitted with written approval from the City Manager. Any request to the City Manager to extend work hours shall include justification for the proposed construction outside allowed work hours, beginning and end dates, a description of the equipment and activities proposed during that time, and documentation that this information was presented at least 7 days earlier to the Robinwood Neighborhood Association president.
  - c. Back up beepers shall be not permitted for construction activities outside of the hours of 7:00 AM to 7:00 PM on weekdays or 9:00 AM to 5:00 PM on weekends; spotters or other alternative methods approved by OSHA will be required.
4. Street restoration.

- a. The applicant shall be responsible for full-width street restoration along Mapleton Drive from tax lot 2900 (at the east end of Mapleton Drive) to its intersection with Highway 43.
  - b. The applicant shall also restore any damaged bike paths and pedestrian walkways to their original condition.
  - c. The applicant shall be responsible for street restoration along Old River Road in those locations impacted by the replacement intertie connection.
  - d. All street, utility, bicycle path and pedestrian walkway restoration will be subject to review and approval by the City Engineer in accordance with the City of West Linn Public Works Design Standards.
5. Abandoned facilities. The applicant shall be required to remove all abandoned water system facilities as determined to be appropriate by the City Engineer.
  6. Revegetation. Following construction, the disturbed portion of tax lots 100 and 200 shall be revegetated with native plant materials and trees in accordance with a revegetation plan approved by the Planning Department consistent with CDC Section 32.080.
  7. HDD Disturbance Evaluation. Methods and recommendations from the Horizontal Directional Drill Disturbance Evaluation in Exhibit PC-3, Section 6 shall be followed.
  8. HDD area fencing. The applicant shall contain the HDD transition and staging area within cyclone fencing for the duration of the use of that site.
  9. AC pipe replacement in Mapleton Drive. The applicant shall replace the existing 6-inch asbestos cement water distribution line in Mapleton Drive between Nixon Avenue and Hwy 43 with an 8-inch ductile iron water distribution line (including fire hydrants and service lines to the meter boxes) as a result of the applicant's conflicting alignment. The design and specifications of this water line replacement will be subject to the review and approval by the City Engineer.
  10. Connection to intertie pump station. The applicant shall construct a replacement water line connection from the existing intertie pump station at Old River Road to the new 48-inch finished-water line. The design and specifications of this replacement will be subject to review and approval by the City Engineer.
  11. Construction lighting. All lighting in the HDD staging area shall be located and shielded to avoid glare and off-site trespass.
  12. Traffic control at intersection of Nixon Ave. and Mapleton Dr. Before the applicant commences any open cut pipeline construction on Mapleton Drive, the West Linn Public Works Director shall evaluate the applicant's proposed traffic control and safety plan for the intersection of Nixon Avenue and Mapleton Drive. If the Public Works Director determines additional traffic control and safety measures are needed, those measures shall be implemented by the applicant.
  13. Nixon Avenue Protections. Construction vehicles may not use Nixon Avenue. Not more than 30 days before the applicant commences any open cut pipeline

construction on Mapleton Drive, the West Linn Public Works Director (Public Works Director) shall create a digital video record of the pre-construction pavement conditions on Nixon Avenue. A similar video record shall be made of the post-construction pavement conditions within thirty days of completion of construction of the open-cut pipeline on Mapleton. If the Public Works Director determines local residential traffic detoured onto Nixon Avenue during construction has caused observable, additional damages to paved surfaces, the applicant shall repair those areas of damage, to the satisfaction of the Public Works Director, not more than 60 days after receiving notice from the Director. If the applicant fails to make necessary repairs within 60 days, the Public Works Director may cite the applicant pursuant to West Linn Municipal Code 3.300(5).

14. Removal of construction offices and staging. The applicant shall be required to remove all materials, staging and offices associated with project construction immediately after the completion of project construction.
15. Construction Management Plan. The applicant and its agents shall comply with the provisions of the CMP as set forth in Exhibit A attached to these conditions. Prior to the issuance of any occupancy or building permits, the Plan terms shall be confirmed to include:
  - a. a process for identifying special needs persons, for communicating with such persons, and accommodating access needs of special needs persons residing along those portions of Mapleton Drive, Kenthorpe Way and Highway 43 directly affected by project construction.
  - b. a 5-foot wide pedestrian and bicycle access way around the work zone to ensure safe passage for citizens and schoolchildren.
  - c. during construction, the applicant shall provide for contact person(s), accessible by telephone on a 24-hour, 7-day per week basis. Contact person(s) shall be authorized to take action to address the issue raised. Contact information shall be made available to all affected residents and businesses.

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

16. Community Impact Fee. The applicant shall enter into an intergovernmental agreement with West Linn in lieu of a franchise or other licensing fee for the use of public streets in West Linn. That agreement shall require a one-time payment of \$5 million to be used for West Linn water system improvements to meet the overall needs of the community.

17. Intertie Agreement. The intergovernmental agreement between the applicant and the City of West Linn regarding the intertie shall be modified to provide that it may not be terminated or renegotiated prior to December 31, 2041, without the written consent of both parties.
18. Shop Local Marketing Plan. Prior to the issuance of any City right-of-way permits for work required in conjunction with the proposed pipeline on Highway 43, the applicant shall receive approval of a “Shop Local” Marketing Plan from the City’s Economic Development Director. This Plan shall require implementation of the business retention strategies found on pages 62-70 and 164 of Exhibit ‘E’ prior to the beginning of construction on Highway 43. The Marketing Plan shall be distributed via regular mail to the Chair of the Robinwood Neighborhood Association, all businesses located along Highway 43 within the Robinwood neighborhood boundaries, and the City Manager.

**Water Treatment Plant  
AP-12-02  
Recommended Conditions of Approval**

Approval of the proposed project is subject to the following conditions:

1. Approved plans. The Project shall conform to the plans and figures submitted by the applicant in its August 20, 2012, application submittal except as modified by subsequent submittals dated September 27, 2012, and December 4, 2012, and except as modified by these conditions of approval.
2. Good Neighbor plan. The applicant shall implement applicable provisions of the Good Neighbor Plan.
3. Hazardous Materials Management plan. Prior to issuance of building permits, the applicant shall submit to the Planning Department an updated Hazardous Materials Management Plan for the approved WTP that has been reviewed by Tualatin Valley Fire & Rescue and satisfies all applicable regulations, including compliance with applicable state regulations governing the handling of hazardous materials.
4. Noise.
  - a. The ENVIRON Noise Mitigation recommendations contained in Section 11 shall be implemented.
  - b. Chemical unloading shall only be allowed between 7:00 AM and 7:00 PM on weekdays and 9:00 AM to 5:00 PM on weekends.
  - c. The applicant shall submit a follow-up noise study to the Planning Director that is prepared by a licensed professional acoustical engineer, between three and six months after the issuance of the first certificate of occupancy, identifying whether the facility meets the noise standards in OAR 340-035. If the noise standards are not met, the applicant shall submit evidence of remedial action within 60 days that achieves compliance.
  - d. Noise generating construction activities outside the hours of 7:00 AM to 7:00 PM on weekdays or 9:00 AM to 5:00 PM on weekends may only be permitted with written approval from the City Manager. Any request to the City Manager to extend work hours shall include justification for the proposed construction outside allowed work hours, beginning and end dates, a description of the equipment and activities proposed during that time, and documentation that this information was presented at least 7 days earlier to the Robinwood Neighborhood Association president.
  - e. Back-up beepers shall be not permitted for construction activities outside of the hours of 7:00 AM to 7:00 PM on weekdays or 9:00 AM to 5:00 PM; spotters or other alternative methods approved by OSHA working will be required.
5. Pedestrian path. The applicant shall install a No Parking sign at the beginning of the through-site pedestrian path at both Mapleton Drive and Kenthorpe Way. (The applicant may choose any Manual on Uniform Traffic Control Devices (MUTCD)

approved marking it deems appropriate for this application.) Additionally, the applicant shall record a public access easement over the through-site pathway between Mapleton Drive and Kenthorpe Way.

6. Stormwater.

- a. Prior to the issuance of a public works permit, the applicant shall submit to the City Engineer the final stormwater operations and maintenance plan pursuant to CDC Section 33.030(C).
- b. Vegetated swales along Kenthorpe Way and Mapleton Drive shall be located between the street and sidewalk except in those areas where an alternate configuration is necessary to protect mature trees, as determined by the City Arborist in consultation with the City Engineer.
- c. At time of building permit submittal, the applicant shall execute a stormwater maintenance agreement with the Public Works Department and record a public storm drainage access easement for all stormwater treatment and detention facilities located on private property.

7. Fire flow. At the time of building permit submittal, the applicant shall provide detailed fire flow calculations for each building on site that satisfy TVF&R requirements.

8. Sewage system.

The WTP shall not generate flows in excess of 60 GPM to the City's sanitary system, unless an analysis prepared by the applicant and approved by the City Engineer demonstrates that the City has sufficient capacity to serve the increased flow.

Prior to final occupancy and thereafter as needed, the applicant shall demonstrate to the satisfaction of the City Engineer that its discharge to the City's sanitary sewer system will not exceed 60 GPM.

9. Garbage and recycling facilities.

- a. At time of building permit submittal, the applicant shall submit construction plans which demonstrate compliance with refuse and recycling standards of CDC subsections 55.100(O)(3) and (4). The applicant shall provide construction details which demonstrate that the trash containers will be located on a level concrete pad, at least four inches thick, at ground elevation or other location compatible with the local franchise collection firm's equipment. The pad shall be designed to discharge surface water runoff to avoid ponding.
- b. Prior to building permit issuance, the applicant shall submit construction details as necessary to determine whether the design of garbage and recycling facilities are consistent with Metro standards.

10. Overhead utilities. Prior to building permit issuance, the applicant shall pay a fee-in-lieu of undergrounding overhead utilities along Kenthorpe Way and Mapleton

Drive equal to the estimated cost of performing such work as accepted by the City Engineer.

11. Fencing. Fencing shall not exceed three feet in height within 20-feet of the site's northern property line on Kenthorpe Way and within 20-feet of the site's southern property line on Mapleton Drive.
12. Parking. Prior to the issuance of any site development permits, a specific parking plan for construction workers shall be provided to the Planning Director that identifies the location of the off-site parking location for workers. If the off-site parking is located within the City of West Linn, it must be consistent with applicable City regulations. On-street vehicle parking is prohibited during construction.
13. Geotechnical Engineering Report. All methods and recommendations found in the Geotechnical Engineering Report and GeoDesign Inc. memorandum dated January 7, 2013, shall be implemented unless superseded by any follow-up report prepared by a civil engineer and approved by the City Engineer, consistent with applicable regulations.
14. Street Improvements.
  - a. The applicant shall construct street improvements in accordance with the street improvements in the application, Section 21, figures 3.0-3.4.
  - b. A public sidewalk easement shall be recorded over the sidewalks to be installed on Mapleton Drive and Kenthorpe Way.
15. The applicant will designate a 20 MPH maximum contractor speed limit on Mapleton Drive, Kenthorpe Way, and Old River Road. Additionally, this maximum speed limit will be a part of all contractor documents associated with the Water Treatment Plant and pipeline projects.
16. Tree Protection Easement. Prior to issuance of any site development permits, the applicant must establish a conservation easement for all tree protection areas, as shown on the applicant's site plan in Section 21, Figure 3, containing clusters of two or more significant trees. The easement shall be approved by the Planning Director and recorded with Clackamas County.
17. Use of Topsoil. The applicant's final construction documents will demonstrate that planting practices will use either stockpiled soil or, if necessary, imported topsoil.
18. West Linn Public Works Design Standards. At the time of building permit submittal the applicant will demonstrate compliance with the City of West Linn Public Works Design Standards regarding maintenance and access standards.
19. Fence opening along emergency access road and Mapleton Drive frontage. Prior to issuance of any permits for the Water Treatment Plant, the applicant shall amend the site plan to provide two pedestrian access openings in the split rail fence, one along the west edge of the emergency access road and one along the Mapleton Drive frontage.

20. Construction Management Plan. The applicant and its agents shall comply with the provisions of the CMP as set forth in Exhibit A attached to these conditions. Prior to the issuance of any occupancy or building permits, the Plan terms shall be confirmed to include:
- a. a process for identifying special needs persons, for communicating with such persons, and accommodating access needs of special needs persons residing along those portions of Mapleton Drive, Kenthorpe Way and Highway 43 directly affected by project construction.
  - b. a 5-foot wide pedestrian and bicycle access way around the work zone to ensure safe passage for citizens and schoolchildren.
  - c. during construction, the applicant shall provide for contact person(s), accessible by telephone on a 24-hour, 7-day per week basis. Contact person(s) shall be authorized to take action to address the issue raised. Contact information shall be made available to all affected residents and businesses.

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

21. Intertie Agreement. The intergovernmental agreement between the applicant and the City of West Linn regarding the intertie shall be modified to provide that it may not be terminated or renegotiated prior to December 31, 2041, without the written consent of both parties.
22. Eminent Domain cases. With respect to any pending eminent domain cases involving the project approved under this order, the applicant shall pay defendants' reasonable attorney fees as ordered by the court.