

March 22, 2017

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Mr. Gary Walvatne, Chair
West Linn Planning Commission
West Linn City Hall
22500 Salamo Road
West Linn, OR 97068

Re: City of West Linn File No. AP-16-02; Reconsideration of Denial of 34-Lot Subdivision Known as “Chene Blanc” and Water Resource Area Permit Located at 18000 Upper Midhill Drive in the R-4.5 Zoning District

Dear Chair Walvatne and Members of the Planning Commission:

This office represents Upper Midhill, LLC (the “Applicant”). This letter explains the changes that have been made to the 34-lot subdivision application since the West Linn City Council’s (the “City Council”) final decision on the application, the staff-recommended conditions of approval, and how the application complies with West Linn Community Development Code (“CDC”) 85.200.A., “Streets.”

1. Status of Application and Scope of Planning Commission Review.

As the staff report explains at pages 4 and 5, the City Council withdrew the denial of the subdivision application by filing a “Motion to Withdraw for Reconsideration” with the Oregon Land Use Board of Appeals (“LUBA”). Upon LUBA returning jurisdiction over the application to the City, the City Council remanded the application to the West Linn Planning Commission (the “Planning Commission”) with a limited scope of review to determine the application’s compliance with CDC 85.200.A.1., “Streets.”

The scope of review for this application is strictly limited. Issues not addressing CDC 85.200.A.1 should either be stricken from the written record, or not further considered by the Planning Commission. **Exhibit 1** to this letter is a document provided by the City entitled “Public Comments Received by 5:00 p.m. March 15, 2017 for AP-16-02”. I have circled the testimony contained in the documents in the exhibit that are outside of the scope of review of this hearing. The Applicant respectfully requests that the Planning Commission either redact the circled portions of the testimony, or not consider the issues further in its decisionmaking.

2. Staff Report.

The Applicant agrees with the staff report’s findings and recommended conditions of approval.

3. Difference between Prior Application and This Application.

The City Council denied the prior application for the sole reason that it found that the application did not satisfy CDC 85.200.A.1. because the public facilities would not be made “adequate” by the application.

This application addresses those issues. First, this application includes an updated traffic report by Kittelson and Associates (“Kittelson”) dated March 1, 2017 (beginning at Planning Commission packet page 46), including an updated traffic impact analysis.

Second, the Applicant’s supplemental findings of fact and conclusions of law beginning at Planning Commission packet page 35 address CDC 85.200.A.1. and the basis for the City Council’s denial of the subdivision application.

Third, the Oregon Department of Transportation (“ODOT”) submitted a written response dated February 3, 2017 (Planning Commission packet pages 101 and 102) in which ODOT concluded after reviewing the Applicant’s proposed mitigation:

“ODOT supports the proposed mitigation concept to improve mobility standards and address safety issues at this intersection. However, in order to construct this turn-lane to ODOT standards, the developer would need to extend the three-lane section from Arbor Drive to Shady Hall, creating a continuous two-way left-turn lane that includes bike lanes along this section of the highway. Because the City is already pursuing funding for the Highway 43 multi-modal transportation project to widen this segment of the highway to three lanes, ODOT recommends that the City collect a proportionate share of funding from the Applicant to apply to the future project.”

Additionally, ODOT stated:

“To mitigate the traffic impacts from the proposed subdivision until the Highway 43 multi-modal transportation project is constructed, ODOT recommends that the applicant be required to construct their proposed interim solution that includes restriping the highway with a northbound left-turn pocket on the south leg of the intersection, and a left-turn refuse/storage area on the north leg of the intersection. The applicant agrees with this recommendation and proposes at

Planning Commission package pages 40 and 41 that it can construct the interim mitigation in addition to making the in-lieu payment. The staff report at Planning Commission packet pages 10 and 11 includes Condition of Approval 3 requiring the applicant to construct the interim improvements and make a proportionate in-lieu fee payment in the amount of \$11,600 towards the Highway 43 multi-modal transportation project identified in the City's acknowledged 2016 Transportation System Plan ("TSP")."

Finally, the Applicant has proposed making off-site sidewalk improvements on Hillside Drive (Planning Commission packet page 41). The staff report recommends the highway mitigation and sidewalk improvements be made in Conditions of Approval 3 and 10 (Planning Commission packet page 11).

The Planning Commission can find a substantial difference between the prior application and this application because the Applicant is proposing additional satisfactory mitigation at the intersection of U.S. Highway 43 and Arbor Way and is proposing off-site sidewalk improvements on Hillside Drive.

4. The Application Satisfies the Applicable Approval Criterion.

The sole standard before the Planning Commission in deciding this application is CDC 85.200.A.1. The Planning Commission can find that the first portion of this standard is relevant only to the new streets proposed to be located within the subdivision because it refers to the "location, width and grade of streets." Substantial evidence before the Planning Commission demonstrates that the Applicant's proposed subdivision provides appropriate location, width and grade of streets.

The portion of CDC 85.200.A.1. upon which the City Council based its earlier decision and which the Planning Commission must apply to the application provides as follows:

"The street system shall ensure an adequate traffic or circulation system with intersection angles, grades, tangents, and curves appropriate for the traffic to be carried. Streets should provide for the continuation, or the appropriate projection, of existing principal streets and surrounding areas, and should not impede or adversely affect development of adjoining lands or access thereto."

CDC 2.030, “Specific Words and Terms,” offers the following definition of “adequate public facilities”:

“Public facilities that must be adequate for an application for new construction, remodeling, or replacement of an existing structure to be approved are transportation, water, sewer, and storm sewer facilities. To be adequate, on-site and adjacent facilities must meet City standards, and off-site facilities must have sufficient capacity to (1) meet all existing demands, (2) satisfy the projected demands from projects with existing land use approvals, plus the additional demand created by the application, and (3) remain compliant with all applicable standards.

For purposes of evaluating discretionary permits in situations where the level-of-service or volume-to-capacity performance standard for an affected City or State roadway is currently failing or projected to fail to meet the standard, *AND AN IMPROVEMENT PROJECT IS NOT PROGRAMMED*, the approval criteria shall be that the development avoids further degradation of the affected transportation facility. Mitigation must be provided to bring the facility performance standard to existing conditions at the time of occupancy.” (Emphasis added.) (Planning Commission Packet page 22.)

The Planning Commission can make several finding based on substantial evidence in the whole record as to CDC 85.200.A.1. and the definition in CDC 2.030.

First, for on-site and adjacent public facilities, the Planning Commission can find that substantial evidence provides that the Applicant has proposed “adequate public facilities” as part of its subdivision site improvements.

Second, as the staff report found at Planning Commission packet page 7, because this application is a “discretionary permit” where the volume to capacity performance standard at the intersection of Oregon Highway 43 and Arbor Way is currently failing but because an improvement project is programmed (the Highway 43 Multi-Modal Program included in the City’s Improvement Project List for 2020, shown as a “High Priority Motor Vehicle Project” at TSP Figure 16), the Applicant is not required to avoid further degradation of the affected transportation facility. Thus, the Applicant’s proposed mitigation is more than satisfactory to address CDC 85.200.A.1., as defined by CDC 2.030.

Third, substantial evidence in the whole record shows that Hillside Drive, a local street, is not failing. Thus, the Applicant is not required to mitigate Hillside Drive but has nevertheless proposed to connect sidewalk gaps.

The standard for street performance as level-of-service or volume-to-capacity is measured at intersections. To the extent that traffic moves slowly on the surrounding local streets (Sky Parkway, College Hill Place, and Upper Midhill Drive), this is a benefit, not a detriment to the residents because safer streets are created. Further, slower and stopped traffic caused by school buses is not an issue for measurement of performance standards. School buses are a common fixture on city streets and their presence neither supports nor detracts from a finding of adequacy of a public facility.

Additionally, to the extent persons argue that construction traffic affects street performance, they are incorrect. CDC 85.200.A.1. is concerned with adequacy of public facilities impacted by the “use”. *See* CDC 2.030, definition of “use” as “the purpose for which land or a structure is designed, arranged, intended, occupied or maintained”. Construction traffic is not the “use.” Construction traffic is temporary traffic that everyone must experience before anyone’s home can be constructed. It is not appropriate nor required to consider construction traffic in the course of making a determination as to the satisfaction of CDC 85.200.A.1.

The Planning Commission can also find that the Applicant’s substantial evidence including the traffic impact analysis by Kittelson is substantial evidence that can and must be relied upon. The Kittelson report includes traffic counts conducted at the study intersections in October 2016 when public schools were in session (Planning Commission packet page 47). The City and ODOT have reviewed and agreed with the findings and conclusions in the Kittelson report. To the contrary, lay testimony regarding traffic impacts cannot be given greater weight than expert testimony (Planning Commission packet page 44).

Additionally, notwithstanding that the intersection of Oregon Highway 43 and Arbor Drive may be failing, the Applicant is not obligated to bring it to a passing performance standard. The staff report correctly applies the CDC to conclude that because an improvement project is programmed for the intersection, the Applicant is not required to bring the intersection to the performance standard. Instead, the Applicant has proposed appropriate mitigation in the form of striping improvements to allow southbound and northbound left-turn lanes with storage capacity and an in-lieu payment to contribute to the future improvement of the application. Kittelson, the City, and ODOT agree that providing interim left turns is sufficient to mitigate the impacts of this application, and to provide a temporary solution until the City and ODOT commence their 2020 project. As the staff report points out at Planning Commission packet page 7, “the applicant has agreed to construct interim mitigation improvements at the Arbor Drive/Willamette Drive intersection concurrent with occupancy of the development.”

Finally, the fact that surrounding local streets are narrow does not make them unsafe. The Kittelson study concludes that Upper Midhill Drive south of Arbor Drive “is sufficient to accommodate existing vehicle traffic and traffic generated by the proposed development, which is expected to be less than 10 vehicles per day, including one vehicle during the morning and one vehicle during evening peak hour” (Planning Commission packet page 49).

As to all of the streets, the Kittelson study notes that local streets “are designed to accommodate up to 1,500 vehicles per day. With the proposed development, these streets are projected to accommodate less than 900 vehicles per day” (Planning Commission packet page 49).

Finally, the Kittelson study concludes that the existing sidewalk network is “sufficient to accommodate existing pedestrian traffic and pedestrian traffic generated by the proposed development” (Planning Commission packet page 49).

For all of these reasons, the Planning Commission can find that substantial evidence supports a finding that the Applicant has satisfied the applicable requirements of CDC 85.200.A.1.

5. Conclusion.

The Applicant realizes that the persons who oppose this application wish to see the property remain vacant or developed with fewer lots. However, neither option is possible. First, the property has long been zoned R4.5, just as the neighboring lots are zoned, and development in that zone is appropriate. Second, 34 lots is the minimum density allowed pursuant to the CDC. The Applicant has no legal ability to provide fewer dwellings. If the 34-lot subdivision is not approved, the Applicant’s option is to proceed with the 42-lot townhome application. However, if the Applicant were not willing to construct the 34-lot subdivision, it would not have taken the time to work with the City to return the application to the Planning Commission for this review.

Finally, Ms. Christine Steele’s email reminds everyone that the Applicant has the right to develop its property. It must do so consistent with applicable land use regulations, which it has demonstrated are satisfied by substantial evidence. The property cannot be “taken” by a series of denials. This is especially true in light of the fact that the property is “buildable land” inside the Portland Metropolitan Urban Growth Boundary¹ and is entitled to review under objective approval criteria. ORS 197.303(1) and 197.307(4). The Applicant reserves its right to assert that CDC 85.200.A.1. is not a clear and objective approval criterion. However, the Applicant’s preference is to have the Planning Commission find that the sole approval standard is satisfied and to make the mitigation improvements that it has offered to make.

¹ City of West Linn “2013 Residential Units and Buildable Land Inventories” map, dated December 31, 2013, showing the site as “vacant” buildable land with a capacity for forty two (42) dwelling units.

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For all of these reasons in this letter, the Applicant respectfully requests that the Planning Commission find that the Applicant has met its burden of proof by substantial evidence in the whole record, and approve the application with the recommended ten (10) conditions of approval.

Very truly yours,



Michael C. Robinson

MCR:rsp
Enclosure

cc: Mr. Ryan Zygar (via email) (w/ encl.)
Mr. Andrew Tolle (via email) (w/ encl.)
Mr. Aaron Murphy (via email) (w/ encl.)
Mr. Matt Bell (via email) (w/ encl.)
Mr. John Boyd (via email) (w/ encl.)
Mr. Peter Spir (via email) (w/ encl.)
Ms. Megan Thornton (via email) (w/ encl.)
Mr. Seth King (via email) (w/ encl.)

Public Comments received by 5 p.m. March 15, 2017* for AP-16-02

(*the end of the written public comment period)

Spir, Peter

From: friedrich.baumann@daimler.com
Sent: Monday, March 13, 2017 9:01 AM
To: Spir, Peter
Cc: afbaumann@comcast.net; friedrich.baumann@daimler.com; scotchandler@hotmail.com; jmarlow@teleport.com
Subject: Upper Midhill Development

Dear Peter –

We would like to voice our opposition towards the above mentioned proposed development to the City of West Linn and its City Planning Commission.

Relative to city development code CDC 85.200 (A) the situation since the hearings on this proposed development during the Spring and Summer of last year have not improved or changed at all. Just the opposite:

- Traffic on Hwy 43 has gotten worse even before the new homes next to Burgerville have been occupied; we have witnessed one major accident at the intersection of Arbor Drive and Hwy 43 a few weeks ago. The proposed development will add to these dangers significantly due to the traffic generated; please also consider that it is not only the addition of personal vehicles at an avg. of more than 2 cars per household these days, also think about the significant increase in delivery activity for this neighborhood (from UPS, Amazon, to dry cleaning and pizza service).
- The challenges for the adjacent neighborhood streets remain, incl. the lack of sidewalks and the tight corners as well as steep climbs/declines.
- It is not clear to us how heavy construction equipment and traffic will approach and access the property during construction, which can last easily at least about 3 years.

- Since our property is on the Lake Oswego side to the West of the proposed development, we clearly expect that any street lighting exposed to our then double facing lots will be appropriately dimmed; leave alone the headlight glare from the neighborhood traffic at nighttime. In general, for all the Lake Oswego homes, the bedrooms face the site of the development.
- The significant sloping of the property will also lead to higher rpms for the cars exiting the neighborhood.
- We are still very concerned about the lack of professional water and erosion control planning for a development of this size. Given the experience in this part of Lake Oswego and West Linn (mud slide with loss of property on Woodhurst Place in the Winter of 2008/09) and the obvious water run-off from the Skylands' neighborhood in Lake Oswego all the way down to this property, which we could observe this Winter again, requires significant investment in water control measures, and erosion control infrastructure, which is totally missing in the proposal.

It is not advisable nor in the interest of the existing population in the next door neighborhoods of West Linn and Lake Oswego to take these risks in order to develop a piece of property which is so difficult to reach and difficult and extremely cumbersome to logistically integrate into the existing infrastructure. All roads and intersections are clearly undersized for the proposed growth in this area.

Annette and Friedrich-W. Baumann
17680 Woodhurst Place
Lake Oswego, OR 97034

If you are not the addressee, please inform us immediately that you have received this e-mail by mistake, and delete it. We thank you for your support.

Spir, Peter

From: Scarlett <scarlettisred@gmail.com>
Sent: Monday, March 13, 2017 2:35 PM
To: Spir, Peter
Subject: Letter to the Planning Commission regarding 18000 Upper Midhill

My husband, our three small children and I reside at 18040 Upper Midhill Dr, adjacent to the 6 acres of land in question. Approving the addition of 34 homes to our neighborhood would certainly be a public safety and traffic nightmare. Our neighborhood lacks stop light access to 43, has narrow roads off of 43 (Arbor and Robinwood), has no sidewalks coming off of 43, has no sidewalks by Midhill Park, includes multiple school bus stops, and large amounts of pedestrian foot traffic -most of which are children and elderly neighbors. Simply put, we cannot safely support the addition of 34 homes. As the traffic on 43 increases during rush hour, our neighborhood also sees an increase in "cut through" traffic on Arbor and Robinwood as people instead take Upper Midhill in order to gain access to Maryhurst instead of waiting in the long line at 43 for the light. This proposed development would certainly be a disaster in many, many ways for the existing residents.

My family and I love living in West Linn, and we adore our quiet, safe, neighborhood. We can walk our dogs, allow our children to ride their bikes, and push our baby strollers to the park without concern of heavy traffic or dangerous conditions. We implore the planning commission to kindly consider the effects that such a large development will have on our quality of life, and the safety of our children and families.

Thank you for your time.
Scarlett Harris

Spir, Peter

From: Shroyer, Shauna
Sent: Monday, March 13, 2017 1:59 PM
To: Spir, Peter
Subject: FW: Upper Midhill Development

From: Jessica Harra [mailto:jessica.harra@gmail.com]
Sent: Monday, March 13, 2017 1:43 PM
To: #Board - Planning Commission <PlanningCommission@westlinnoregon.gov>
Subject: Upper Midhill Development

My name is Jessica Harra, and I am a homeowner at 17701 Hillside Dr. in West Linn. I am writing in regards to the future development of the property located adjacent to mine, at the end of Upper Midhill Dr.

I am strongly opposed to the 34 home proposal that is currently on the table (as well as the 42 town homes). Our neighborhood just does not have the proper facilities in place to manage that many more people coming through every day. The intersection on Hwy. 34 at Arbor drive is already a problem for the number of people who use it every day, and adding in another 60+ vehicles would severely exacerbate the problem.

Upper Midhill Dr. as a possible solution to this problem can hardly manage more than one vehicle at a time, and that street is full of small children going to the neighborhood park.

Another issue for me is the blind hill on Hillside Drive. When driving up, you cannot see over the top of the hill safely. The same can be said for driving down that hill. The homes on the hill cannot see anyone coming from the top when they are backing out of their driveway. Currently it isn't much of an issue because there are only 2 homes at the top. However, if and when you develop a through road, there will be hundreds more trips a day past that hill. I have three small children, as does the other neighbor at the top of the hill. There is just no way to make that road safe enough for that many cars a day. Not to mention that there are 11 children under 10 who reside in JUST the small stretch of Hillside Dr. that would be affected by this.

Please consider upholding the original denial of this application. I think that was the best decision for our community. I sincerely hope the developer will keep in mind the safety of all of our families and consider building fewer homes on the property.

Thank you so much for your time,
Jessica Harra

Spir, Peter

From: Stephen Morrison <elevenvales@gmail.com>
Sent: Tuesday, March 14, 2017 4:57 AM
To: Spir, Peter
Subject: Fwd: request to uphold upper midhill decision

To: West Linn Planning Commission,

I've learned that after the first request for a 34 lot development was rejected a new development for town homes is being considered. Legal chicanery must be at work because this obviously makes no sense. The circumstances have not changed so I have submitted to you a letter presented to the City Council that sums up my grave concerns.

If a development ultimately is allowed please ensure that it will have minimal impact on the safety and quality of life on the residents of Upper Midhill, let alone the drivers attempting to get through. I've been told that a traffic light at Arbor and 43 is not tenable. Perhaps the rules affecting this thinking should be re-evaluated, regardless of what happens to the lot in question.

Thank you for reading and listening.

Stephen Morrison
18590 Upper Midhill Dr.

----- Forwarded message -----

From: Stephen Morrison <elevenvales@gmail.com>
Date: Tue, Jun 7, 2016 at 4:44 PM
Subject: request to uphold upper midhill decision
To: ima_citycouncil@westlinnoregon.gov

West Linn City Council Members,

The appeal to reverse the decision of the Planning Commission in part relies on a reference to the lack of evidence for not meeting city standards with regards to public facilities providing 'sufficient capacity to meet existing and projected demands.' It does acknowledge that the Arbor Rd./Hwy. 43 is an exception and then makes the nonsensical claim that their development would not make problems on that intersection worse. Their development would only aggravate the problem and force traffic down Upper Midhill to Marylhurst Rd. I'm not familiar with what the 'city standards' are but just one drive or walk down Upper Midhill Dr. and you realize it does not meet any reasonable standard for providing the increased transportation that would inevitably come. It is a very narrow, intimate road with a regular smattering of kids playing and people walking. In some places to simply pass another car going the other way requires pulling over and waiting for it to pass.

Marylhurst Rd. is the closest road to this projected development with a traffic light allowing cars to turn left on Hwy. 43. This fact alone, along with the projected increase of 300 cars a day going in and out, can allow us to project that Upper Midhill Dr. would be dramatically affected. I ask that you make sure this does not happen. It simply doesn't have the capacity to absorb this kind of increased cross-through traffic.

I have children and therefore will be unable to attend the June 20th meeting, so I appreciate you taking the time to read my comments.

Sincerely,

Stephen Morrison
18590 Upper Midhill Dr.

Spir, Peter

From: 崔磊 <cuileifirst@gmail.com>
Sent: Tuesday, March 14, 2017 5:49 PM
To: Spir, Peter
Subject: opposition about 34-home development

Dear Peter

My name is Lei Cui. My wife, Ting Xu and I own our home at 17656 Woodhurst Place, Lake Oswego. Our home is adjacent to the new development 34-lot single houses.

My wife and I moved here two years ago. One of the most important reasons I bought this house is the beautiful wood scenery in my backyard. As the new development is built, the beautiful environment will be destroyed.

Secondly, I think the density of the development does not match that of the properties on all four sides surrounding it. 34 houses will be built on 6 acres of land, the density is too big. How crowded it will be a community. It will be very unsafe. And the subdivision plan will result in multiple double frontage lots with new roads through existing backyards.

Thirdly, the new street will be adjacent to the back property line for those of us on the east side of the street on Woodhurst Place. There is only a little bit of space between my yard and new development. And everyday there are a lot of motor vehicles and pedestrians pass beside our backyard, that will affect our lives very much, especially at night. As a result of our backyards having a slope, it is difficult to install fences for everyone who owns a home at Woodhurst Place. The new road is so close to our yards. This will be a very unsafe condition.

Lastly, the developer is carving out the lots to different construction contractors. According to them, the construction of the whole project will last two and a half years. This will cause a great impact on our life.

For these reasons, I respectfully request the West Linn City Planning Commission deny this application of the proposed 34-lot subdivision.

Thank you very much!

Best regards

Lei Cui and Ting Xu

Spir, Peter

From: Scot <scotchandler@hotmail.com>
Sent: Tuesday, March 14, 2017 9:32 PM
To: Spir, Peter
Subject: 18000 Upper Midhill Drive

To: John Boyd, Peter Spir and the West Linn Planning Commission

Re: 18000 Upper Midhill Drive

I am writing to you to voice my opposition to the proposed development at 18000 Upper Midhill. It is my firm belief that both the Planning Commission and the City Council acted wisely and judiciously in denying the application for this development. Referencing CDC 85.200, I would like to call attention to the following points:

- 1) The developer and his attorneys have relied upon Kittelson and Associates to provide a review of what they believe to be "adequate public facilities". Reviewing their Traffic Impact Analysis submitted to the Commission, there is a glaring omission of any studies conducted on Hillside Drive, one of the two entrances into the proposed development. See Attachment B in their recent study submitted to the Commission. Future traffic would theoretically be using this street as much as Upper Midhill. Thus, it cannot be ignored during the review process.
- 2) Review of Hillside Drive is pertinent, as a substantial amount of heavy equipment will be utilizing this access point throughout the multi-year construction period. That, coupled with traffic from existing residents on the street will cause
- 3) It is also relevant and crucial for the Planning Commission to make complete determinations of all costs necessary to make the public facilities improvements proposed by the developer as well as the ones that have not been discussed at length.

I strongly encourage the Planning Commission to seek outside opinions beyond just those attributed to a consulting firm that has been hired by the developer and his attorneys. The impacts associated with this proposed development will be felt by all local residents for many, many years to come.

Sincerely,

Scot Chandler

Spir, Peter

From: Jerry Marlow <jmarlow@teleport.com>
Sent: Wednesday, March 15, 2017 1:04 PM
To: Spir, Peter
Subject: 18000 Upper Midhill Drive propopsed development

March 15, 2017 1:00PM

I am writing to you as one of the many homeowners in Lake Oswego and West Linn that surround the subject proposed 34 home development. We were all very much encouraged when the West Linn Planning commission voted to DENY this application on April 20, 2016. Following this DENIAL the applicant appealed to the West Linn City Council and was DENIED again on August 15, 2016. On October 3, 2016 the applicant appealed to LUBA. Many of us were under the impression this was the final step in

the process. Sadly it appears we were wrong. What appears now to be correct is that as long as an applicant has the resources and is willing to spend those resources to buy favorable opinions from attorneys, engineers and so called traffic experts he can prevail on any given issue.

The established neighborhoods and individual homeowners become lost in this process. All of the issues raised during this process have adverse effect on everyone living adjacent to or in close proximity to this proposed development. Only the developer and his hired experts who do not live in the surrounding neighborhoods are left unaffected. I cannot believe this is the intention of the rules and regulations we are all supposed to live by.

Once again I am strongly opposed to this development and appeal to the West Linn Planning Commission to uphold its previous decision to DENY this application.

Jerry and Donna Marlow
17668 Woodhurst Place
Lake Oswego, Oregon 97034

To: West Linn Planning Commission

Date: March 15, 2017

I am writing regarding the Upper Midhill's proposed development.

In reviewing the reconsideration papers of Upper Midhill Estates, two of the main traffic arguments for the reconsideration of building 34 homes, are the payment of a fee and fixing the intersection of Willamette and Arbor Drive. Neither of these fixes get to the real problem of minimizing the amount of increased traffic due to the addition of 34 homes in the neighborhood.

The fee of \$11,600 for the, " long term highway 43 multimodal transportation plan" per the appeal, may help in the future but does nothing to help residents whose primary concern with the devolpment now is decreasing the traffic in the neighborhood. Many current residents of Upper Midhill have young children who play outside and having increased traffic caused by this new subdivision will decrease neighborhood safety.

Making changes to the intersection of Highway 43 and Willamette Drive will not decrease the amount of traffic. Having a designated left turn lane and northbound having a left turn pocket, will perhaps help with traffic flow. But it wii still be difficult to make a left hand turn especially at peak hours. With 34 additional households, the new number of cars and trips will not, "improve our sense of neighborhood and community." (CDC 85.01). Instead we will have 34 households squashed into a lot, trees cut down that have been here hundreds of years, and habitats of animals destroyed.

Sincerely

Joanne Desky

2317 College View Drive

West Linn, 97068

Spir, Peter

From: Christine Steel <steelc123@gmail.com>
Sent: Wednesday, March 15, 2017 12:09 PM
To: Spir, Peter
Cc: Axelrod, Russell; Martin, Bob; Perry, Brenda; Cummings, Teri; Sakelik, Richard; Stein, Eileen; Boyd, John; Thornton, Megan; Andrew Tull
Subject: Communication to Planning Commission re Upper Midhill Remand
Attachments: SteelMemoReUpperMidhillRemand.docx

Hello Peter –

Attached is a one-page memo regarding my support of the 34-lot subdivision development on Upper Midhill, along with three recommendations to improve traffic and pedestrian safety. Please distribute this to the planning commission.

I have cc'd the city council and a few city staff in case some of these recommendations are beyond the purview of the developer to initiate and/or enforce.

Thanks much,
Christine Steel
18100 Upper Midhill Dr.
West Linn, OR 97068

DATE: March 15, 2017

TO: Planning Commission

CC: John Boyd, Peter Spir, Eileen Stein, Megan Thornton, City Council, Andrew Tull

RE: Support for 18000 Upper Midhill Development and Traffic Safety Recommendations

Dear Planning Commission Members:

This letter is in support of approving the reconsideration of the 34-lot subdivision at 18000 Upper Midhill and contains three recommendations regarding traffic impact and pedestrian safety to consider in addition to those in the published staff report.

I have cc'd the city manager and city council in this message because some of the traffic recommendations I suggest may not be entirely within the purview of the developer, but may require initiation and/or enforcement by the City. They may also require cooperation by more than one department within the City.

My first suggestion regards Highway 43 at its intersection with Arbor Drive, where a left-turn lane on the south side of the intersection and a refuge lane on the north side have been proposed. I also suggest the creation of dedicated left-turn lanes on Arbor Drive itself, on both the east and west side of Hwy 43. This would look similar to Pimlico Drive where it meets Hwy 43. Creation of two outgoing lanes on each end of Arbor would help accommodate traffic back-ups for vehicles entering Hwy 43, and would also indicate to opposing drivers on Arbor what the driver on the other side is preparing to do according to which lane he has chosen. Knowing which way the guy across from you is preparing to go is extremely helpful when both of you are dealing with fast-moving cross traffic.

Second, I suggest that the narrow, southern end of Upper Midhill be posted with 15 mph signs. In addition, signage such as "Local Traffic Only" (permanently) and "No Construction Traffic" (during construction) should be installed. With this end of the street only 16 feet wide, the advantages of this are self-evident. Commuter and construction traffic do not belong here.

Third, I suggest that the wider section of Upper Midhill between Arbor Drive and the proposed development site should also be posted with 15 mph signage as long as development and home construction activities are taking place. There are a large number of young children who ride tricycles, scooters, bikes, etc. within these two blocks, and a lower speed for traffic, particularly heavy construction vehicles, will help to keep them safe.

In a perfect world, 18000 Upper Midhill would become a nature park, and I could continue to hear woodpeckers by day and owls by night making their homes in the oak forest. But this land is privately owned and its owner has the right to realize the economic potential of his investment. The 34-lot plan is sympathetic to the larger lots surrounding it, and is preferable to other, denser plans (one of which has already been submitted to the city). As residents of an older, established neighborhood, we have to be open to change and welcoming to new residents who wish to enjoy the suburban life we enjoy.

Please consider these three additional recommendations in your deliberation. I encourage you to approve this application with thoughtful and reasonable safety-related conditions of approval. I also encourage the city council and city staff to initiate, maintain, and enforce traffic control measures which fall under its jurisdiction.

FROM CHRISTINE STEEL

Spir, Peter

From: Doug and Dorianne Palmer <cooperdel2@msn.com>
Sent: Wednesday, March 15, 2017 10:07 AM
To: Spir, Peter; Doug and Dorianne Palmer
Subject: Upper Midhill Petitions for March 22 Planning Commission Meeting
Attachments: ATT00001.gif; Petition.pdf

Dear Mr. Spir and Planning Commission Members,

Attached are petitions signed by 63 people who live near the proposed development at 18000 Upper Midhill.

We are respectfully requesting Planning Commission uphold their decision to reject the development.

Thank you,
Dorianne Palmer

Spir, Peter

From: Thornton, Megan
Sent: Wednesday, March 15, 2017 10:19 AM
To: Spir, Peter
Cc: 'Tim Ramis'
Subject: FW: Upper Midhill Petitions
Attachments: ATT00001.gif; Petition.pdf

Peter,

Attached is a petition asking the City to oppose the current application, as well as the expedited land division application.

Regards,
Megan

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

From: Stein, Eileen
Sent: Wednesday, March 15, 2017 10:16 AM
To: Boyd, John <jboyd@westlinnoregon.gov>; Thornton, Megan <mthornton@westlinnoregon.gov>
Subject: FW: Upper Midhill Petitions

More testimony on Upper Midhill. Eileen

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

From: Doug and Dorianne Palmer [mailto:cooperdel2@msn.com]
Sent: Wednesday, March 15, 2017 10:08 AM
To: City Council <citycouncil@westlinnoregon.gov>
Subject: Upper Midhill Petitions

City Council Members,

Attached are petitions signed by 63 people who live near the proposed development at 18000 Upper Midhill.

We are respectfully requesting City Council uphold their decision to reject the development, and ask City Council's assistance in opposing the Expedited Land Decision application for 41-44 townhomes, should the applicant pursue that route.

If it is not too much trouble, would you let me know you have received this?

Thank you,
Dorianne Palmer

Megan Thornton

Assistant City Attorney

Administration

22500 Salamo Rd
West Linn, OR 97068
mthornton@westlinnoregon.gov
westlinnoregon.gov
503-742-8663

[https://westlinnoregon.gov/sites/all/themes/aha_responsive_2016/logo.png]<http://westlinnoregon.gov>

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We, the undersigned request the West Linn City Council and Planning Commission uphold their denial of the application of Project SUB-15-03 for a 34 home development at 18000 Upper Midhill, and further ask the City Council to assist in opposing an Expedited Land Decision application for 41-44 townhomes at that same address.

We believe that the council made the correct decision to deny the applicant's request to create a large development of homes that are entirely out of character with the surrounding neighborhood and would place an undue amount of stress on an already overtaxed public infrastructure, including but not limited to:

- unsafe access to and from Highway 43
- unsafe pedestrian access through the existing neighborhood
- difficult passing situations on narrow roadways
- an indeterminate length of time from initial ground-breaking to final construction

We respectfully ask that the Planning Commission and the City Council stand by their earlier decisions in accordance with the majority view of the neighbors surrounding the proposed development and not give in to a smaller minority opinion that has recently surfaced, and also ask City Council's assistance in opposing the Expedited Land Decision application for 41-44 townhomes, should the applicant pursue that route.

Name	Address	Phone #	Signature
Jason Harris	17701 Hillside	503-420-1052	
Jessica Harris	17701 Hillside Dr.	503-889-6184	Jessica Harris
Aubrey Orenstein	17725 Hillside	866-919-8683	Aubrey Orenstein
Sean Orenstein	17725 Hillside Dr.	971-803-1248	Sean Orenstein
Scott Leonard	17795 Hillside Dr.	503-927-7476	Scott Leonard
Shanta Ladinsky	1362 Skye Parkway	910-812-6442	Shanta Ladinsky
M. L. Leonard	1362 Skye Parkway	503-862-3152	M. L. Leonard
Kate Rushton	1358 Skye Parkway	971-645-3780	Kate Rushton
Sam Mader	1358 Skye Parkway	503-234-4543	Sam Mader
Sarah DeAngelis	2557 Marlhurst Dr 97048	503-568-5112	Sarah DeAngelis
Linda Lamb	17887 Hillside Dr 97068	805-490-0787	Linda Lamb
TRACY LAMB	17887 HILLSIDE DR	3109075411	Tracy Lamb
Kim Ebeck	17922 Hillside Dr	503-502-6830	Kimberly Ebeck
Theresa	2010 College Hill	699-4122	Theresa
Dawn Wilson	2060 College Hill	503-851-4741	Dawn Wilson

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Name	Address	Phone #	Signature
Anthony Wilson	2060 College Hill	503-851-4740	
MIKE MCDONALD	2120 COLLEGE HILL PL.	503 636 3684	
Danny Gunderson	18270 upper Midhill Dr.	503-541-5200 0357	
Anne Bellmar	18298 Upper Midhill Dr.	503-675-1948	
Jessica Weiler	18318 upper midhill Dr	503-568-6652	
Todd Weiler	18318 upper midhill Dr	503-568-6651	
Claire Follett	18942 upper midhill Dr	971-645-2198	
Stacy Vu	16505 Upper Midhill	503-333-0914	
James Moore	18580 Upper Midhill	971-218-2508	
Stephan Morris	18550 Upper Midhill Dr	503-697-6961	
Lori Dawson	2315 Arbor Dr.	503-939-8515	
Jenna Mahoney	18415 Upper Midhill	503-481-3338	
Chris Morris	18040 Upper Midhill	971-645-1172	
Sealeth Harris	18040 Upper Midhill	20954 0277	
Lee Szabo	2440 SW COLLEGE HILL PL		

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Name	Address	Phone #	Signature
Lorre WATTS	18485 SW Pacific Dr. 132	503-830-4844 cell 503-625-4740	<i>Lorre Watts</i>
Sue Yockey	2317 College View Dr. West Linn OR 97068	503-578-3922	<i>Sue Yockey</i>
JORANE DICKY	2317 College View Dr. West Linn, OR 97068	1503-548-3822	<i>Jorane Dicky</i>
DOBBINLE PALMER	2391 College View Dr.	503-709-8894	<i>Dobbinle Palmer</i>
Keith Hamilton	18250 Upper Midhill Dr. W. W. OR 97068	503 922 0913	<i>Keith Hamilton</i>
Christine Hamilton	18250 UPPER MIDHILL DRIVE W. OR 97068	503-504-2947	<i>Christine Hamilton</i>
ROBERT STANGE	2470 MARYVIEW CT	523-344-4946	<i>Robert Stange</i>
Tom Coleman	2471 Maryview Ct	503-880-2174	<i>Tom Coleman</i>
Bob Jordan	2401 MARYVIEW AVE PR., S.O., 97034	503 699 1743	<i>Bob Jordan</i>
Terry Jordan	2401 Maryview Pl Lake Oswego OR 97034	971 409 7635	<i>Terry Jordan</i>
Bob Nichols	17422 Woodhurst Pl L.O 97034	965 826 7201	<i>Bob Nichols</i>
Scot Chandler	17632 Woodhurst	503-303-7602	<i>Scot Chandler</i>
Lizelle Chandler	17632 Woodhurst Pl.	503-303-7602	<i>Lizelle Chandler</i>
Susan Harrison	17637 WOODHURST PL	503-626-1162	<i>Susan Harrison</i>
Charles Dinn	17644 Woodhurst	503-799-5671	<i>Charles Dinn</i>

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Name	Address	Phone #	Signature
JERRY MARLOW	17668 WOODHURST PLACE	503-699-1710	<i>Jerry Marlow</i>
DONNA MARLOW	17668 Woodhurst Place	503-699-1710	<i>Donna Marlow</i>
Michael Mahanay	18145 Upper Midhill Dr	503-504-5211	<i>Michael Mahanay</i>
Derek Coulter	18180 Upper Midhill Dr	806-681-6979	<i>Derek Coulter</i>
Katherine Buckatwon	18163 upper midhill Dr. West Linn, 97068	503-708-6568	<i>K. Buckatwon</i>
Phillip Burecton	18183 Upper Midhill West Linn 97068	503-708-6980	<i>Phillip Burecton</i>
SARA DAWDY	17812 Hillside Dr. West Linn, OR 97068	812-929-8982	<i>Sara Dawdy</i>
Craig MacGleason	1373 Skye Place West Linn	503-758-6871	<i>Craig MacGleason</i>
DIANNA PERBEE	1389 SKYE PKWY	503 309 1770	<i>Dianna Perbee</i>
Randy Williams	18097 Hillside	503-636-3052	<i>Randy Williams</i>

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Name	Address	Phone #	Signature
Doug Palmer	2391 CollegeView Drive	503-603-0601	
Frank Groznik	4255 DAKEDGE RD, LD, OR	971-678-4476	
Lacy Bebet	17690 WOODHURST PL	760-519-7413	
JOHN CROWDER	17625 WOODHURST PL.	770-375-1567	
Robert Stowell	#2606 MARIA CT	(503)636-3980	
Sandra Kaufman	18035 UPPER MIDHILL	503-697-6982	
PAUL RACHMAN	18035 UPPER MIDHILL	503-697-6982	

Spir, Peter

From: Doug and Dorianne Palmer <cooperdel2@msn.com>
Sent: Wednesday, March 15, 2017 4:55 PM
To: Spir, Peter
Subject: March 22 Planning Commission Meeting- Upper Midhill
Attachments: IMG_2303.jpg; IMG_2306.jpg

Planning Commission Members,

In addition our earlier letter below, and attached photos, we would like to add the following comments:

The traffic accidents at Arbor and Hwy 43 are increasing. They have been for years, and the traffic study done in 1999 identified the intersection as failing. The developer only offered to contribute a miniscule amount towards improvements to that intersection, again with no guarantee anything will be done. He offered (oddly) to put in sidewalks up Arbor Drive, but not to fund improvements that would make the intersection of that very same street safer. Additionally, the proposed turn lane on Arbor would interrupt the bike lane, putting cyclists (including my husband) at much more risk by the enormous amount of traffic filtering through that area daily.

CDC 02.030 requires that "the development avoids further degradation of the affected transportation facility." This development will add almost 400 additional car trips per day.

It would be unreasonable to add hundreds of car trips to that problem, and also the alternate route down Upper Midhill, which is as narrow as 16 feet in areas. At least once a week, I have to turn around and drive back the way I came because I cannot pass a truck in the road. There is a park on that street, and children everywhere.

Again, in 1999 the Arbor intersection was declared "failing," and it has gotten worse every single year. I would be dangerous to allow this development to cause the amount of damage to this quiet neighborhood that it will. Please uphold the denial of this application.

Thank you so much for your consideration.
Doug, Dorianne, Mia and Jude Palmer

City Council Members,

We live on College View Drive. We oppose the development, SUB-15-03 at Upper Midhill Drive as proposed.

The applicant is proposing a 34 home development. That will add an estimated 389 car trips per day to streets that are already taxed due to the amount of traffic. Arbor drive at Highway 43 is already a heavily impacted and failing intersection. There currently is no plan to address this dramatic increase. The Highway 43 Upgrade Plan addresses improvements to many intersections in West Linn, but Arbor Drive is excluded. This intersection is often the scene of accidents and traffic complaints. One of my pregnant neighbors was rear ended with her small

children in the car.

The applicant assured our neighborhood association he would make a financial contribution to fund improvements at Hwy 43 at Arbor. There is no guarantee improvements would take place, or that his contribution would be enough to fund them, even though construction of 34 homes over many years would have considerable negative impact on that intersection.

Congestion at Arbor would cause traffic to travel down Upper Midhill Drive to Marylhurst to the light at Hwy 43. Upper Midhill is an extremely narrow street, with sections as narrow as 16 feet, and a neighborhood park. We frequently exit by Upper Midhill, and if another car is coming from the opposite direction, one car has to pull over and stop. (Please see the three attached photos of Upper Midhill.) Additionally, there are 12 bus trips down this street every school day. This is the alternate route for well almost 400 car trips per day.

Due to these points, we are respectfully asking to uphold the Planning Commission's denial of this application based on CDC 85.200 regarding adequacy of public facilities.

Thank you for your time.

Dorianne and Doug Palmer
2391 College View Drive



