



## **B. HEARING AND RECORD HIGHLIGHTS**

1. The hearings officer received testimony at the public hearing about this application on February 22, 2024. All exhibits and records of testimony are filed at Clackamas County Department of Transportation and Development. At the beginning of the hearing, the hearings officer made the declaration required by ORS 197.763. The hearings officer disclaimed any *ex parte* contacts, bias, or conflicts of interest. The following is a summary by the hearings officer of selected testimony at the public hearing.

2. County planner Melissa Lord summarized the Staff Report and her PowerPoint presentation.

3. Consulting planner Eric Eisemann appeared on behalf of the applicant, Clackamas Water Environment Services (“WES”) and summarized the proposed upgrades to the existing sewage pump station. He accepted the findings and conditions in the Staff Report without exceptions.

4. At the end of the public hearing, the hearings officer closed the record and announced his intention to approve the application subject to the findings and conditions in the Staff Report.

## **C. DISCUSSION**

The hearings officer adopts the following findings as his own.

### **1. ZDO SECTION 317 HOODLAND RESIDENTIAL ZONING DISTRICT**

*317.03 Uses Permitted: Public utility facilities are a conditional use, which means the use is subject to Section 1203, Conditional Uses. A Public utility facility in the HR zone shall not include shops, garages, or general administrative offices.*

**Finding:** The applicant has applied for a Conditional Use permit for a public utility facility. The application does not include the development of a shop, garage, or general administrative office. Compliance with ZDO Section 1203 is reviewed later in this Final Order. **As proposed, this criterion is met.**

*317.04 Dimensional Standards: Dimensional standards applicable in the HR district are listed in Table 317-2. The minimum front and rear setback in the HR district is 15 feet, and the minimum side setback is 5 feet.*

**Finding:** The existing manhole lid will be replaced with an access hatch 32 feet and 7 inches from the eastern property boundary. All other work associated with this proposal will take place farther from property line, as depicted on the submitted site plan. All proposed development meets the minimum setbacks from all property lines. As proposed, the standards of this section are met.

### **3. ZDO SECTION 702 OPEN SPACE MANAGEMENT DISTRICT**

**Finding:** No work is proposed within the Open Space Management (OSM) zoned portion of the site. **This Section is not applicable.**

### **4. ZDO SECTION 1203.02 CONDITIONAL USES**

#### **a. 1203.02: Submittal Requirements**

This application includes a completed land use application form, site plan, application fee, and completed supplemental application addressing the criteria in ZDO Section 1203. The application also includes a vicinity map and a description of the proposed use. The application includes all of the submittal requirements under Subsection 1203.02. The applicant submitted the application on July 5, 2023 and additional materials on December 21, 2023. The application was deemed complete on December 21, 2023.

#### **b. 1203.03(A): *The use is listed as a conditional use in the zoning district in which the subject property is located.***

**Finding:** The subject property is located within the Open Space Management (OSM) and the Hoodland Residential (HR) districts. Section 702 of the ZDO controls land uses in the OSM district. The proposed project will not impact lands within the OSM district; therefore, this Final Order does not address Section 702

ZDO Section 317 controls land uses in the HR district; Table 317-1 lists the conditional uses allowed in the HR district. Table 317-1 specifies that “public utility facilities” are a conditional use, therefore a conditional use permit is necessary. **This criterion is met.**

#### **c. 1203.03(B): *The characteristics of the subject property are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.***

**Finding:** The hearings officer adopts the following in addition to the findings in the applicant’s narrative:

The subject property is approximately 20 acres in size and is currently developed with the Welches Golf Club Terrace Pump Station, a public utility facility. The location is suitable for the public utility because it provides sanitary sewer services to properties within the service district. The facility has existed on the site and served the eastern side of the Welches community by pumping to a gravity sewer in E. Fairway Avenue for the past 35 years.

The pump station occupies a very small portion of the 20-acre property. The property and existing improvements are of sufficient size to accommodate the use, as demonstrated by the facility’s existence for 35 years. Access to the site is from E. Highview Drive via a 20-foot wide access easement that is recorded on the plat of Mount Hood Golf Club Terrace. The access easement traverses through the southern ten feet of Lots 10 and 11, and the northern ten feet of Lot 12 of the subdivision. The existing control building is not

currently visible from the road, and the location of the new proposed generator and control building will not be visible from the road either.

The site does not contain any mapped natural features, including steep slopes, habitat conservation area, stream conservations areas or floodplain.

The location, size, shape, topographic, natural and developed characteristics of the property are suitable to accommodate the continued use of the public utility facility.

**When considering the characteristics of the site, this criterion is met.**

- d. **1203.03(C):** *The proposed use is consistent with Subsection 1007.07, and safety of the transportation system is adequate to serve the proposed use.*

**Finding:** The hearings officer reviewed the proposal for compliance with 1007.07. The findings are included in the Final Order below. **This criterion is met.**

- e. **1203.03(D):** *The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses allowed in the zoning district(s) in which surrounding properties are located.*

**Finding:** Development is proposed in the HR zoned portion of the site, which is surrounded by other properties in the HR and OSM districts. Primary uses of the HR district are listed in ZDO Section 317, and primary uses in the OSM district are listed in ZDO Section 702. Generally, the primary uses allowed in these zoning districts is predominantly low-density residential and recreation. The site is associated with the Resort at the Mountain Golf Course to the west.

The proposed upgrades to the existing pump station will not alter the physical and visual characteristics of the surrounding area. The pump station is well established in the neighborhood and has been a part of the character of the area for the past 35-plus years. The proposed development will not alter the character of the surrounding area, and will not substantially limit, impair or preclude the use of surrounding properties for the primary uses allowed. **This criterion is met.**

- f. **1203.03(E):** *The proposed use is consistent with the applicable goals and policies of the Comprehensive Plan.*

**Finding:** The applicant addresses the Comprehensive Plan Chapter 7, Public Facilities and Services goals and policies in their narrative. Chapter 7 related to planning for utilities, including sanitary sewage treatment, and ensuring that adequate levels of those public facilities and services be available before urban levels of development. The applicant, Water Environment Services (“WES”) is one of the County’s sanitary sewer providers. The proposal implements the adopted Sanitary Sewerage Services capital facilities plan and the WES 2020-2025 Capital Improvement Plan. The hearings officer incorporates the findings made in response to this particular question and finds that the proposed use is consistent with the applicable goals and policies of the Comprehensive Plan. **This criterion is met.**

- g. **1203.03(F):** *The proposed use complies with any applicable requirements of the zoning district and overlay zoning district(s) in which the site is located, Section 800, Special Use Requirements, and Section 1000, Development Standards.*

**Finding:** Compliance with Section 800 is not applicable. The hearings officer reviewed compliance with Section 1000, as applicable, and the findings are included in the Final Order below.

## **5. ZDO Section 1000 Development standards**

Not all review subsections in ZDO Section 1000 are applicable. Below is an evaluation of the criteria that are applicable to the proposed conditional use.

### **Section 1002 – Protection of Natural Features**

*Section 1002 addresses the protection of various natural features including hillsides, the excessive removal of trees prior to development, the protection of trees and wooded areas through development, river and stream corridors, the winter ranges of deer and elk populations, certain open spaces near Mount Hood, significant natural areas, and significant landforms and vegetation.*

**Finding:** The application does not involve development on slopes greater than 20%. Tree removal is proposed with this conditional use permit, which is not defined as “excessive” tree removal; excessive tree removal (Subsection 1002.02) only applies to lands within the Portland Metropolitan Urban Growth Boundary. The proposal will not interfere with existing wooded areas or significant clumps of trees. A tree removal plan has been provided in the application materials. Ten trees are recommended to be removed; four of which are Cottonwood trees that have overgrown a sewer manhole and are blocking access. The development is not on lands designated as resource protection open space in the Comprehensive Plan.

The development area is shown on the Comprehensive Plan Map X-MH-2, Resource Protection Open Space, and is located more than 100 feet from natural wetlands. Therefore, compliance with Subsection 1002.06 is not applicable.

The property is within the deer and elk winter range below 3,000 feet in elevation as identified on Comprehensive Plan Map III-2, Scenic and Distinctive Resource Areas. The development is designed to minimize adverse wildlife impacts by maintaining the same existing development area and on the same existing gravel area. The project will not create any new disturbance into any potential habitat area or range than what currently exists. The applicable criteria of Section 1002 are met.

### **Section 1003 and 1004 – Hazards to Safety and Historic Protection**

*Section 1003 addresses various hazards to safety including flood, soils, fire, and mass movement areas. Section 1004 addresses standards related to historic preservation.*

**Finding:** The standards in these Sections are not applicable to this development.

### **Section 1005 – Sustainable Site and Building Design**

*Section 1005 addresses the development of sites and design of buildings so as to efficiently utilize land, create lively, safe, and walkable centers, support the use of non-auto modes of transportation, reduce impact of development of natural features, utilize opportunities arising from a site's configuration, design illumination so dark skies are maintained when possible and accommodate the needs of users of developments. It applies to institutional, commercial, and industrial development; multifamily dwellings; and developments of more than one, two- or three-family dwellings.*

**Subsection 1005.02 – General Site Design Standards.**

*This section establishes standards for the sites of commercial, industrial, and multifamily developments and addresses standards for the placement and orientation of buildings, on-site pedestrian circulation, the placement and orientation of building entrances, and other use- and zone-specific standards.*

**Finding:** The proposed development involves replacing the existing valving and below grade vault, and installation of a permanent standby power generator to eliminate the need for a portable generator. The foundation for the generator is approximately 4.5 feet by 9 feet and will be located under the covered roofline of the control building. The roof coverage of the building is approximately 28 feet by almost 15 feet. The new replacement control building itself is approximately 12 feet 8 inches by 10 feet 8 inches. The proposal involves restoring the existing gravel surfacing on the site.

The pump station facility and associated equipment are clustered together and limited to a small corner of the site within an existing easement. Onsite walkways and interconnected walkway systems are not necessary as the entire pump station, including the control building, is not open to the public at any time. The site is located outside of the Urban Growth Boundary. Therefore, Subsection 1005.02(E and F) are inapplicable.

The property is not located on a major transit street, a street intersecting a major transit street, or located at a major transit stop. Therefore Subsection 1005.02(G and H) are not applicable.

Subsection 1005.02(I through L) are not applicable to this development.

Due to the nature of the development proposal, the standards of this subsection are largely not applicable. **This criteria is met.**

**Subsection 1005.03 – Building Design.**

*This section provides standards for building facades, entrances roof design, exterior building materials, the screening of mechanical equipment, and other use- and zone-specific standards.*

**Finding:** The standards of Subsection 1005.03(A) generally apply to building facades visible from a public or private street or accessway; these standards are not applicable to the proposed control building, as the building is not visible from any streets or accessways.

There is no public entry to the control building, as this is an un-staffed utility facility that is not open to the public. The building does not face the street and is not sited to meet

Section 1005.02(E). The proposed roof is pitched and includes eaves overhanging at least 24 inches. The new control building will be made of CMU block and will have a standing seam metal roof. Architecturally treated concrete is a permitted building material. The color palette is brown and green earth tones to “match” the surrounding natural area. **This standard is met.**

Due to the nature of the development proposal, many of the standards of this subsection are not applicable. **As applicable, this criteria is met.**

#### **Subsection 1005.04 – Outdoor Lighting.**

*This section provides standards to ensure that onsite lighting is compatible with the site and surrounding uses while preventing light trespass and pollution.*

**Finding:** The applicant proposes one wall-mounted light located on the control building and the proposed fixture meets the standard of this subsection, as demonstrated in the submitted applicable materials. **This criterion is met.**

### **Section 1006 – Utilities, Street Lights, Water Supply, Sewage Disposal, Surface Water Management, and Erosion Control**

*Section 1006 addresses the provision of appropriate infrastructure for utilities, water supply, and sewage disposal, as well as the management of surface water and site erosion.*

#### **1006.03(D) Water Supply.**

*The following standards apply inside the Portland Metropolitan Urban Growth Boundary, Government Camp, Rhododendron, Wemme/Welches, Wildwood/Timberline, and Zigzag Village:*

**Finding:** The site is located within the jurisdictional boundaries of the Salmon Valley Water Company (the “Water District”). The applicant proposes to construct a new 1.5-inch water service from E. Highland Road to serve the new control building. The proposal also involves the extension of an existing four-inch main that will align with the proposed valve and bypass vaults.

The applicant provided a preliminary statement of feasibility from the Water District with their application, confirming that water service, including fire flow, and is available in the levels appropriate for the development and adequate water system capacity is available, or can be made available. **This criterion is met.**

#### **1006.04 Sanitary Sewer Service.**

*All development that has a need for sanitary sewers shall install the facilities pursuant to the requirements of the district or company serving the development. Approval of a development that requires sanitary sewer service shall be granted only if the applicant provides a preliminary statement of feasibility from the sanitary sewage treatment service provider and the collection system service provider.*

**Finding:** The site is located in the Water Environment Services (“WES”) sanitary sewer district. WES is also the applicant. The applicant provided a preliminary statement of feasibility from the sewer provider with their application materials, confirming that sanitary sewer capacity in the wastewater treatment system and the sanitary sewage collection system is available to the development. At this time, the applicant does not propose a use that will require sanitary sewer service. Any future development will be reviewed for compliance with the onsite wastewater treatment requirements of this section. This section is not applicable.

#### **1006.06 Surface Water Management and Erosion Control.**

The following surface water management and erosion control standards apply:

- a. *Positive drainage and adequate conveyance of surface water shall be provided from roofs, footings, foundations, and other impervious or near-impervious surfaces to an appropriate discharge point.*
- b. *The requirements of the surface water management regulatory authority apply. If the County is the surface water management regulatory authority, the surface water management requirements of the Clackamas County Roadway Standards apply*
- c. *Approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority. The statement shall verify that adequate surface water management, treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.*
  - i. *The service provider may require a preliminary storm water management plan, storm drainage report, natural resource assessment and buffer analysis prior to signing the preliminary statement of feasibility*
  - ii. *The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve surface water treatment and conveyance system capacity for the development.*

**Finding:** As noted above, WES is the surface water management authority for the site as well as the applicant. The application materials included a preliminary statement of feasibility confirming that there adequate surface water management, treatment, and conveyance to serve the development is available or can be made available through improvements completed by the developer. **This criteria is met.**

*Section 1007 - Roads and Connectivity*

*Subsection 1007.02 – Public and Private Roadways*

*Subsection 1007.03 – Private Roads and Access Drive*

*Subsection 1007.04 – Pedestrian and Bicycle Facilities*

*A-C: General Standards, Design and Requirements*



*D-G: Location and Construction of Sidewalks and Pedestrian Paths*

*H: Sidewalk and Pedestrian Path Width*

*I-N: Accessways, Bikeways, Trails, Bike/Pedestrian Circulation*

**Finding:** E. Highview Dr is classified as a Local street (Comprehensive Plan map 5-4b). Clackamas County has adopted roadway standards that pertain to the structural section, construction characteristics, minimum required right-of-way widths and access standards for local streets. This Subsection includes roadway development standards, including the layout of new public and county roads, and private roads and access drive development standards. The site is accessed by a single driveway from E. Highview Dr; the driveway does not serve any other lot or development. No bicycle or pedestrian facilities are proposed or necessary to accommodate the proposed upgrades to an existing pump station. The pump station is not open to the public and does not have office space or work space for employees; it is an unmanned facility. The proposed scope of work will not increase the number of vehicle trips generated by the existing public utility facility. The standards of this section have been met, as applicable.

**1007.07 Transportation Facilities Concurrency.**

*Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner.*

**Finding:** Compliance with 1007.07 is required pursuant to Section 1203.03(C). The proposed development is limited modification and/or replacement of portions of an existing sanitary sewer pump station on the same property and will not increase motor vehicle traffic. Therefore, the development is exempt from concurrency requirements. The proposed facility upgrades and alterations will not change the volume of vehicular traffic generated by the facility; the property has been used as a pump station for more than 35 years and the scope of work will not increase the traffic demand to or from the facility. **This criterion is met.**

**Section 1009 Landscaping.**

*Section 1009 seeks to ensure that sites are design with appropriately selected, designed, installed, and maintained landscape materials and that landscaped areas are used for appropriate purposes.*

**Finding:** An estimated 99.9% of the site is undeveloped and will remain undeveloped. The existing site includes around 300 square feet of impervious surface including the existing control building, a wet well, and a valve vault. The new control building and roof will have a footprint of 409 square feet. Improvements to the wet well and valve vault are not expected to increase impervious area. The majority of the site will retain the existing natural ground cover vegetation. Section 1009 includes landscaping standards for improvements such as parking lots, loading areas, recreational areas and various other features that do not exist and are not required for this development. **This section is met.**

**1010 Signs; 1010.08 Signs for Institutional Uses.**

*Pursuant to Section 202, Definitions, a utility facility is an institutional use.*

**Finding:** The application materials submitted by the applicant did not identify any new/proposed signage with the conditional use. Any future signage will require compliance with this section. Pertaining to the proposed development, this subsection is not applicable.

#### **1015 Parking and Loading.**

*Section 1015 is designed to ensure that developments in Clackamas County provide sufficient and properly designed parking for motor vehicles and bicycles as well as appropriate off-street loading areas.*

**Finding:** In case of expansion of a building or use that, prior to the expansion, does not meet the minimum parking space requirements in Table 1015-1 or 1015-2, the minimum number of additional parking spaces required shall be based only on the floor area or capacity added and not the existing area or capacity prior to the expansion.

The Golf Club Terrace pump station is developed with an existing small control building with no specifically designated parking spaces. The existing control building will be removed and replaced by a new approximately 135 square foot control building. The development proposal will not increase parking demand, as the site will continue to operate as an unstaffed (“unmanned”) facility. The gravel driveway and maneuvering area will continue to provide adequate off street parking for occasional maintenance needs of the unstaffed facility. **This criteria is met.**

#### **1021 Solid Waste and Recyclable Material Collection.**

*This section outlines the standards for refuse and recycling for institutional developments.*

**Finding:** The requirements and standards of Section 1021 are applicable to this proposal. However, the Golf Club Terrace pump station is an unstaffed facility. It does not include an administrative office, workshop, or other area for employees to work, it is unlikely that this development will generate any garbage or recycling on the site. The primary “development” proposed on the site is the placement of a new generator on a concrete pad; this will not generate an increase in waste production. Based on the scope of work of the proposed developed the hearings officer finds that there is no need for solid waste and recycling material collection on site. **Section 1021 is inapplicable.**

### **D. CONCLUSION**

Based on the findings and discussion provided or incorporated herein, the hearings officer concludes that Case No. Z0274-23-C (Golf Club Terrace Pump Station) should be approved, because the application does or can comply with applicable standards of the Clackamas County ZDO, provided it is subject to conditions that ensure timely compliance in fact with the ZDO and relevant Comprehensive Plan Policies.

## **E. DECISION**

Based on the findings, discussion and conclusions provided or incorporated herein and the public record in this case, the hearings officer hereby approves Z0274-23-C (Golf Club Terrace Pump Station) subject to the following conditions:

### **Conditions of Approval:**

1. Approval of this land use permit is based on the submitted written narrative and plan(s) filed with the County on July 5, 2023 and additional materials received December 21, 2023. No work shall occur under this permit other than which is specified within these documents, unless otherwise required or specified in the conditions below. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of any approval resulting from the decision described herein.
2. The conditional use approval is valid for four (4) years from the date of the final written decision (ZDO 1203.05). If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four year period, the approval shall be implemented, or the approval will become void. "Implemented" means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:
  - a. A building permit for a new primary structure that was part of the conditional use approval, or
  - b. A permit issued by the County Engineering Division for parking lot or road improvements required by the conditional use approval.

If the approval of a conditional use is not implemented within the initial approval period established by Subsection 1203.05(A), a two-year time extension may be approved pursuant to Section 1310, Time Extension. [Subsection 1203.05(B)]

If the approval of a conditional use is not implemented within the initial approval period established by Subsection 1203.05(B), a five-year time extension may be approved pursuant to Section 1310. [Subsection 1203.05(C)]

3. If a conditional use is implemented pursuant to Subsection 1203.05 and later discontinued for a period of more than five consecutive years, the conditional use shall become void. [Subsection 1203.06]

4. Proposed temporary construction easements shown on the plan must be obtained before beginning any work on the affected properties.
5. The applicant shall obtain a Utility Placement Permit from the County Engineering Division prior to commencing any work in the E. Highview Drive right-of-way.

DATED this 28th day of February 2024.



Joe Turner, Esq., AICP  
Clackamas County Land Use Hearings Officer

### **APPEAL RIGHTS**

ZDO 1307.14(D)(6) provides that, with the exception of an application for an Interpretation, the Land Use Hearings Officer's decision constitutes the County's final decision for purposes of any appeal to the Land Use Board of Appeals (LUBA). State law and associated administrative rules promulgated by LUBA prescribe the period within which any appeal must be filed and the manner in which such an appeal must be commenced. Presently, ORS 197.830(9) requires that any appeal to LUBA "shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final." This decision will be "final" for purposes of a LUBA appeal as of the date of mailing (which date appears on the last page herein).