

## City of Coos Bay

### *Public Works & Development Dept.*

500 Central Ave., Coos Bay, Oregon 97420 • Phone (541) 269-8918  
Fax (541) 269-8916

## FINAL ORDER NOTICE OF PLANNING COMMISSION DECISION AND ORDER

**APPLICATION:** Conditional Use #ZON2012-00010

**APPLICANT/  
OWNER:** City of Coos Bay  
500 Central Avenue, Coos Bay, OR 97420

**LOCATION:** 695 S. Empire Boulevard, Coos Bay, Oregon 97420  
T. 25, R. 13, S. 19DA, Tax Lots 2600, 2601, 2700 and 2800

**ORDER:** Approved with conditions on Tuesday, March 13, 2012  
Planning Commission Final Vote:

**Yea:** Chair Chris Coles, Commissioners Chris Hood,  
Bruce Harlan, Phil Marler, Danny Stoddard  
**Nay:** None **Abstain:** None

**APPEAL PROVISIONS:** See page 2.

**DECISION CRITERIA AND THE ADOPTED FINDINGS OF FACT, CONCLUSIONS, AND  
CONDITIONS:** See pages 2-5.

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### FINAL ACTION

Based on the Findings, Conclusions and applicant's submittal, attached hereto and incorporated herein by reference as Attachment A, approve Conditional Use application #ZON2012-00010 allowing a wastewater treatment plant facility on the above referenced subject property, giving the applicant three (3) years in which to commence construction, with the following conditions:

1. From Chapter 17.280.030(3)(d), the process shall produce no odor which is generally accepted to be offensive outside of the facility.
2. From Chapter 17.280.030(3)(e), any byproduct shall be disposed of off the premises. There shall be no emissions, gas, mist, vapor, particulate matter, or other air, water, or land pollution outside of the building/facility as a result of the process. If there is doubt that the proposed use will violate these standards or if a valid complaint has been registered about these pollutants, the applicant may be required to show written compliance with state or federal regulations.

3. Noise generated by the use at the property line shall not exceed permitted levels established by the Oregon Department of Environmental Quality (DEQ). If there is doubt that the proposed use will violate these standards or if a valid complaint has been registered about the level of noise the applicant may be required to show written compliance with state regulations.
4. Tax Lot 2601, which contains approximately .12 acre, must be redesignated Commercial (C) by the Comprehensive Plan and General Commercial (C-2) zoning or excluded from the project.
5. Approval of a Site Plan and Architectural Review is required, pursuant to CBMC Chapter 17.345, prior to the issuance of building permits.

The decision to approve will become final at **5:00 P.M. on March 30, 2012**, unless an appeal is filed.

### **APPEAL PROVISION**

A decision by the Planning Commission may be appealed to the Coos Bay City Council by an affected party. The party must file an intent to appeal with the City Recorder, which includes the required fee, within fifteen (15) days from the date of the decision. A notice of appeal shall contain all of the following:

1. Identification of the decision to be reviewed.
2. Statement of the interest of the appellant and whether the appellant has "standing to appeal." An individual is said to have "standing to appeal" if the person:
  - a. appeared before the Planning Commission orally or in writing, and
  - b. the person's interests are adversely affected by the decision.
3. Reasons the appellant feels aggrieved by the decision, and how the appellant feels the Planning Commission erred in its decision.

The scope of the review shall be limited to the issues raised in the request for appeal. The City Council will consider evidence in the record, evidence submitted at the appeal hearing which is relevant to the issues under review, and oral or written arguments submitted at the time of the appeal hearing addressing those issues.

Questions regarding the appeal procedure may be directed to the Public Works and Development Department, City Hall, 500 Central, Coos Bay, Oregon or phone (541) 269-8918.

## **DECISION CRITERIA, FINDINGS & CONCLUSIONS:**

The following is a list of the decision criteria applicable to the request. Each of the criteria is followed by findings or justification statements which may be adopted by the Planning Commission to support their conclusions.

Although each of the findings or justification statements specifically apply to at least one of the Decision Criteria of Chapter 17.355 of the Coos Bay Municipal Code, any of the statements may be used to support the Commission's final decision.

Based on their conclusions, the Commission must approve, approve with conditions, or deny the application. Conditions may be used by the Commission in order to address specific concerns about the request. The final decision by the Planning Commission may be appealed to the City Council as provided in Chapter 17.305.

**DECISION CRITERIA #1: The site for the proposed use will satisfy the specific conditions and/or intent set forth in Division IV of this ordinance, if applicable.**

### **STATEMENTS OF FACT AND FINDINGS:**

- 1a. CBMC, Division IV, Chapter 17.280.030, references limited manufacturing in the C-2 zoning district. Although the proposed use of a wastewater treatment plant would not be considered limited manufacturing (use of light, hand-operated machinery) the criteria appears to be pertinent to the proposed development.
- 1b. According to Chapter 17.280.030, the use is to be compatible with allowable commercial uses in appearance; and, no byproduct results that could cause on-site contamination of air, land, water, or noise quality.
- 1c. At this time, the design of the proposed treatment plant is in the very preliminary stages; however, it is understood that special considerations relating to air, land, water and noise quality will be considered. For example, the design engineer is exploring the option of enclosing the new headworks to help eliminate odor from the wastewater treatment plant. (Headworks: where all the wastewater enters the plant, bar screens (large metal racks) remove trash, sticks, plastic materials, rags, etc. This material must be removed early in the process or risk damage to equipment used in the treatment process.)

The applicant is requesting a three (3) year time frame in which to commence construction of the project. This will allow time to complete the design and for agency review of the project.

- 1d. Existing Wastewater Treatment Plant 2 (WWTP2) has been located immediately across S. Empire Boulevard for over 40 years. It is not anticipated that impacts such as air (odor) or noise will be different from what this area experiences today. Space at the existing plant is inadequate to implement improvements required to bring the City into compliance with state and federal requirements for wastewater management. The proposed plant will be designed to meet requirements for treatment of municipal waste through 2035.

- 1e. Existing WWTP2 serves the west side of the City and the Charleston area. The proposed treatment plant will serve the same area. The elevation of the entire block proposed for the new facility is advantageous based on the area that is serviced. Eliminating the need to pump sewage to a higher elevation, or a different location, to be processed is a cost saving feature.
- 1f. The hours of operation for a wastewater treatment facility are 24 hours per day, 7 days a week. The number of permanent staff that currently operates the plant is three personnel.

**CONCLUSION:** The decision criterion has been adequately addressed and approval of the proposal can be supported with the following conditions:

1. From Chapter 17.280.030(3)(d), the process shall produce no odor which is generally accepted to be offensive outside of the facility.
2. From Chapter 17.280.030(3)(e), any byproduct shall be disposed of off the premises. There shall be no emissions, gas, mist, vapor, particulate matter, or other air, water, or land pollution outside of the building as a result of the process. If there is doubt that the proposed use will violate these standards or if a valid complaint has been registered about these pollutants, the applicant may be required to show written compliance with state or federal regulations.
3. Noise generated by the use at the property line shall not exceed permitted levels established by the Oregon Department of Environmental Quality (DEQ). If there is doubt that the proposed use will violate these standards or if a valid complaint has been registered about the level of noise the applicant may be required to show written compliance with state regulations.

**DECISION CRITERIA #2:** The site for the proposed use is adequate in size and shape to satisfy any other property development requirements of the district in which it is located in addition to any requirements that may be imposed by Division IV.

**STATEMENTS OF FACT AND FINDINGS:**

- 2a. The 2-acre subject property is comprised of Tax Lots 2600, 2601, 2700 and 2800. Tax Lot 2601, .12 acre, is currently under review to be redesignated from residential to commercial. The remainder of the subject property is currently zoned C-2. In the C-2 zone there are no setback requirements from the side property lines nor a height limitation.
- 2b. Tax Lot 2800, .19 acre and the northern-most parcel, is currently an open channel for water from the drainage basin. This open channel is expected to remain a part of the development and collect a portion of the runoff from the development site.
- 2c. The proposed facility and 2-acre subject property will provide a viable long-term location for wastewater treatment improvements and allow for future growth if necessary. The proposed facility will be designed to meet DEQ (Department of Environmental Quality) and EPA (Environmental Protection Agency) requirements for treatment of municipal waste through 2035.

- 2d. Off-street parking will be available at the proposed facility as well as at the existing facility. It is unknown at this time if existing WWTP2 will be used in tandem with the new facility. The number of permanent staff that currently operates the plant is three personnel although there can be a maximum of 12 personnel and a minimum of five personnel at any given time. There is no anticipated client/customer visits on a daily basis; however, there are tours on occasion that are pre-arranged.
- 2e. WWTP2 serves the west side of the City and the Charleston area. The new treatment plant will serve the same area. The elevation of the entire block proposed for the new facility is advantageous based on the area that is serviced. Eliminating the need to pump sewage to a higher elevation, or a different location, to be processed is a cost saving feature in addition to making the plant function properly.

**CONCLUSION:** The site for the proposed facility will be designed to meet DEQ and EPA requirements for treatment of municipal waste through 2035. The decision criterion has been addressed and approval of the proposed facility can be supported with the following condition:

Tax Lot 2601, which contains approximately .12 acre, must be redesignated Commercial (C) by the Comprehensive Plan and General Commercial (C-2) zoning or excluded from the project.

**DECISION CRITERIA #3: The site for the proposed use is served by streets and highways which are adequate in width, construction, and placement to safely carry the quantity and kind of traffic generated by the proposed use.**

**STATEMENTS OF FACT AND FINDINGS:**

- 3a. The subject property is served by the following streets:
  - a. S. Empire Boulevard is classified as an arterial street, paved to 30 feet in width, no curbs or sidewalks;
  - b. Fulton Avenue is a local street that is paved to about 36 feet in width with curb and sidewalk on both sides of the street;
  - c. S. Marple is a local street that is approximately 36 feet in width with no curb or sidewalks; and,
  - d. Undeveloped Webster Avenue, platted to 30 feet in width.
- 3b. It is not anticipated that traffic from the proposed facility will affect adjacent properties. The planned use of the proposed treatment plant will have much less traffic generation, both vehicular and pedestrian, when compared to a commercial activity.

It is not anticipated that the amount of traffic generated will increase, but rather will be re-routed from the existing treatment plant to the proposed plant.

**CONCLUSION:** The site for the proposed treatment plant is adequately served by existing streets. Traffic generation will be that which is redirected from the existing plant on the west side of S. Empire Boulevard at the west end of Fulton Avenue. The decision criterion has been adequately addressed and approval of the proposal can be supported.

**DECISION CRITERIA #4: The proposed use will not have an adverse physical effect on the development or use of abutting property.**

**STATEMENTS OF FACT AND FINDINGS:**

- 4a. Within 250 feet of the subject property there are two businesses and 12 dwelling units. The property to the west, across S. Empire Boulevard, to the south, and to the north is zoned C-2. Property to the east is zoned R-2 (Single-family and Duplex Residential)."

The C-2 zoned property lying west of the subject property includes a commercial art gallery, and six dwelling units. To the north of the subject property, north of undeveloped Webster Avenue is a RV park zoned C-2. To the east is R-2 zoned property where most of the lots are developed with single-family dwellings. To the south, across Fulton Avenue, is property zoned C-2 and developed with a grocery store and parking lot.

- 4b. The proposed project will be located on the entire city block, extending from undeveloped Webster Avenue to Fulton Avenue, and abutting both S. Empire Boulevard and S. Marple Street.
- 4c. The specific use of the language, "adverse physical effect," requires the adjoining property suffer or incur some type of physical ramification as a result of the proposed use, which in turn adversely effects the ability to develop or use the adjoining property.

Technically, there is no "adjoining" property since the proposed development encompasses the entire block and is separated from other properties by public right of ways. However, the applicant is sensitive to the livability and success of nearby uses. As design for the facility progresses, the applicant will explore options for such potential concerns as noise, lighting, and odor.

- 4d. Mailed notice was sent to the affected property owners and the City has not received any objections.

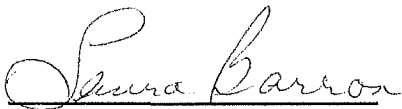
**CONCLUSION:** Conditions set forth under Decision Criteria #1 addresses byproducts of the proposed use, odor and noise. The proposed use will not have an adverse physical effect on the development or use of abutting property. The decision criteria has been adequately addressed and approval of the proposal can be supported with the following condition:

Approval of a Site Plan and Architectural Review is required, pursuant to CBMC Chapter 17.345, prior to the issuance of building permits.

**EFFECTIVE DATE OF APPROVAL:**

Unless a different time limit has been established by Commission action, approval shall be withdrawn if the authorized construction or use is not commenced within one year or is not pursued diligently to completion, or, if authorized occupancy or use has been discontinued for over 120 consecutive days. The applicant has been granted a three (3) year time frame in which to commence the project. This will allow time to complete the design and for agency review of the project.

The effective date of the permit may be delayed if substantive conditions are attached to the approval. The Commission may grant an extension of time for a period not to exceed one year if circumstances beyond the control of the applicant cause delays.



Laura Barron  
Planning Administrator

DATE: March 15, 2012

Attachments: *(previously provided)*

- A – Application and submitted information
- B – Maps

c: Applicant/owner  
Darrell Sanders  
Bill Boger, Civil West Engineering  
Gloria Kiryuta, OR Department of State Lands  
Jon Gasik, OR Department of Environmental Quality  
Anita Andazola, USACOE  
Dave Perry, DLCD