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3 **BEFORE THE HEARING EXAMINER FOR THE CITY OF PUYALLUP**

4 Phil Olbrechts, Hearing Examiner

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RE: Water Pollution Control Plant Clarifier Conditional Use and Variance PLCUV-20230074	FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION.
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10 **INTRODUCTION**

11 The City of Puyallup Public Works Department seeks approval of a conditional use
12 permit and variance application for installation of a new secondary clarifier and
13 associated yard piping and electrical work at the City of Puyallup Water Pollution
14 Control Plant (WPCP) located at 1602 18th St SW, Puyallup, WA 98371. The
variance is requested to reduce a required six-foot landscape buffer to two feet to
match existing conditions. The applications are approved subject to conditions.

15 **ORAL TESTIMONY**

16 Josh Kubitza, City of Puyallup Planning Consultant, summarized the staff report. No
17 one else testified.

18 **EXHIBITS**

19 Exhibits 1-23 listed in the Exhibit List prepared by staff were admitted during the
20 hearing. In addition, the staff PowerPoint presented at the hearing was admitted as
21 Exhibit 24.

22 **FINDINGS OF FACT**

23 **Procedural:**

- 24 1. Applicant. Jessica Wilson on behalf of the City of Puyallup Public Works
25 Department.
2. Hearing. The Hearing Examiner conducted a virtual hearing on the
application at 1:00 pm on January 11, 2024.

1 **Substantive:**

2 3. Site/Proposal Description. The City of Puyallup Public Works
3 Department seeks approval of a conditional use permit and variance application for
4 installation of a new secondary clarifier and associated yard piping and electrical
5 work at the City of Puyallup Water Pollution Control Plant (WPCP) located at 1602
6 18th St SW, Puyallup, WA 98371. The project also includes associated yard piping
7 and electrical work, HVAC, and mechanical work in the RAS/WAS Building,
8 mechanical piping work at the Effluent Pump Station, and associated landscaping. A
9 portion of the existing concrete screening wall will have 70-feet removed and
10 replaced to facilitate the construction of the third secondary clarifier. The replacement
11 wall will be consistent with the existing wall.

12 The variance is requested to reduce the landscaping width required by PMC
13 20.58.005(2) from the required six feet to two feet. PMC 20.58.005(2) requires
14 perimeter landscaping in the setback areas of all sites, or up to twelve feet from all
15 property lines, which is less, to a minimum of six feet. The applicant is requesting
16 that the perimeter landscaping width be reduced to current conditions. The concrete
17 wall separating the clarifier site from neighboring residential properties is currently
18 two feet from the property line with two feet of landscaping. Seventy feet of that
19 wall will be replaced in its current location adjacent to the proposed clarifier to
20 facilitate construction of the clarifier. The wall will be replaced within its current
21 location as part of the clarifier project and the applicant wishes to retain the
22 nonconforming two-foot landscape buffer width.

23 The WPCP facility and its associated concrete wall has been at its current location for
24 over 20 years. The existing 10-foot concrete screening wall was constructed within
25 2.25-feet of the property lines in the 1980's and portions were replaced (in-kind) in
the 1990's. WPCP tax parcels 0420204097 and 0420204256 received a revised CUP
(Permit 99-65-004) and Variance (Permit 99-61-008) for relocating the perimeter wall
near single-family zoned properties and increasing the concrete perimeter fence
height. The entire WCPC facility is screened and secured with the 10-foot-tall
concrete screening wall within the required landscape buffer. The variance request to
reduce the perimeter landscape buffer to 2-feet will maintain the existing perimeter
landscape buffer width, continue to allow the 10-foot-tall solid concrete screening
along commercial zoned properties, and correct the existing encroachment.

4. Characteristics of the Area. The immediate surrounding area of the
construction limits consists of commercial uses (vehicle dealership and animal
hospital). The larger subject property and WPCP facility surrounding area consists of
manufactured single-family residential homes.

5. Adverse Impacts. No adverse impacts are anticipated from the proposal.
Pertinent impacts are addressed as follows:

1 A. Traffic and Parking. According to the staff report, the City's traffic engineer
2 has found that the proposal will not generate any more traffic. The proposal
will not involve any increase in staff, thus not creating any need for parking.

3 B. Critical Areas. The subject site is located within a volcanic hazard area and
4 within an aquifer recharge area.

5 PMC 21.06.1260 provides performance standards for projects located in the
6 volcanic hazard area and primarily regulates new uses. Since the proposed
7 third secondary clarifier is an expansion of an existing approved critical
facility, no additional director's approval is required for being located within a
volcanic hazard area.

8 PMC 21.06.1120 – PMC 21.06.1140 provides performance standards for
9 projects located in the critical aquifer recharge area. The proposed third
10 secondary clarifier is an activity that does not cause a degradation of ground
11 water and will not adversely affect the recharging of the aquifer. Per PMC
12 21.06.1120, the proposed third secondary clarifier may be permitted in a
13 critical aquifer recharge area and would not need a critical area report
14 provided that the project complies with the city storm water management
regulations. The City's development engineer has reviewed the project and
recommends approval, see Final DRT letter. The city's development engineer
will ensure compliance with city's storm water management regulations at
civil construction permit.

15 C. Compatibility. The proposal is fully compatible with surrounding uses. The
16 proposed project will be within the confines of the existing WPCP site. The
17 proposed project will preserve the character of the surrounding neighborhood
18 which consists of multi-family residential and general commercial zones. The
19 development, which is only four feet high, will be screened from
20 neighboring properties by the 10-foot high existing concrete wall. The
requested two (2) foot minimum setback and associated variance request for
two feet of landscaping will not adversely affect the established character of
the surrounding neighborhood as the existing facility and concrete screening
wall has been in place for more than twenty years.

21 D. Utilities. According to uncontested comments from the applicant, the existing
22 water, sewer, and electrical utility connections available at the WPCP are
23 adequate to support the construction and operation and maintenance needs of
the proposed improvements.

24 6. Special Circumstances. This variance is necessary due to the need to provide
25 adequate public wastewater treatment facilities, and by the existing site conditions
that result from previously approved actions within the public facilities contiguous
zone in which the subject property is located. The variance will allow the third
secondary clarifier to be installed in a location that creates the most efficient use of

space and existing facilities. The WPCP is confined to the existing parcels included within the facility. Additional treatment capacity, including future facility improvements, required to serve the growing population of the Puyallup sewer service area must be able to be accommodated with the parcels currently included in the WPCP.

The existing 10-foot concrete screening wall was constructed within 2.25-feet of the property lines in the 1980's and portions were replaced (in-kind) in the 1990's. WPCP tax parcels 0420204097 and 0420204256 received a revised CUP (Permit 99-65-004) and Variance (Permit 99-61-008) for relocating the perimeter wall near single-family zoned properties.

CONCLUSIONS OF LAW

Procedural:

1. Authority of Hearing Examiner. PMC 20.80.005 and 20.85.005 and authorize the hearing examiner to hold a hearing and issue final decisions on conditional use and variance applications.

Substantive:

2. Zoning Designation. The property is currently zoned PF, Public Facilities Zone.

3. Review Criteria. PMC 20.44.012(3) requires a conditional use permit for community facilities located in the PF zone. PMC 20.80.010 governs the review criteria for conditional use permits. PMC 20.85.010(3) governs the criteria for variances. Pertinent criteria are quoted below and applied via corresponding conclusions of law.

Conditional Use Permit

PMC 20.80.010 Required findings to grant:

Each determination granting a conditional use permit shall be supported by written findings of fact showing specifically wherein all of the following conditions exist:

(1) That the use for which the conditional use permit is applied for is specified by this title as being conditionally permitted within, and is consistent with the description and purpose of the zone district in which the property is located;

1 4. Criterion met. The criterion is met. PMC 20.44.012(3) authorizes waste
2 treatment plants in the PF zone as a conditional use as a community facility.

3 **PMC 20.80.010(2):** *That the granting of such conditional use permit will not be*
4 *detrimental to the public health, safety, comfort, convenience and general welfare,*
5 *will not adversely affect the established character of the surrounding neighborhood,*
6 *and will not be injurious to the property or improvements in such vicinity and/or zone*
7 *in which the property is located;*

8 5. Criterion met. The criterion is met for the reasons identified in Finding of Fact
9 No. 5.

10 **PMC 20.80.010(3):** *That the proposed use is properly located in relation to the other*
11 *land uses and to transportation and service facilities in the vicinity; and, further, that*
12 *the use can be adequately served by such public facilities and street capacities*
13 *without placing an undue burden on such facilities and streets;*

14 6. Criterion met. The criterion is met. The proposal is located within an existing
15 treatment facility that is shielded from adjoining residential uses by a ten-foot
16 concrete wall. As determined in Finding of Fact No. 5A, the proposal will not
17 generate any additional traffic and thus will not add to street capacity problems. As
18 determined in Finding of Fact No. 5D, the proposal will also be served by adequate
19 water, sewer and electricity.

20 **PMC 20.80.010(4)** *That the site is of sufficient size to accommodate the proposed use*
21 *and all yards, open spaces, walls and fences, parking, loading, landscaping and other*
22 *such features as are required by this title or as are needed in the opinion of the*
23 *hearing examiner are properly provided to be compatible and harmonious with*
24 *adjacent and nearby uses;*

25 7. Criterion met. The criterion is met. The proposal will be located within the
confines of the existing treatment plant as bordered by the ten-foot concrete wall. As
determined in Finding of Fact No. 5, the proposal will not create any additional need
for parking and as assessed in the staff report, the proposal is fully compliant with all
setbacks and other zoning bulk and dimensional standards except for landscape
perimeter width, which has been waived as authorized by the variance approved by this
decision.

PMC 20.80.010(5) *That the granting of such conditional use permit will not be*
contrary to the adopted comprehensive plan, or to the objectives of any code,
ordinance, regulation, specifications or plan in effect to implement said
comprehensive plan.

1 8. Criterion met. The criterion is met. The proposal is consistent with the City's
2 comprehensive plan because the comprehensive plan future land use map designates
3 the project site as Public Facility, which is consistent with the proposed use. As
4 previously noted, the proposal is consistent with the applicable PF zoning purpose
5 and intent. Staff has reviewed the proposal for consistent with all applicable
6 development standards pertinent to conditional use permit review and found the
project consistent. There is nothing in the record to show otherwise and the proposal
as presented is found to conform to all applicable development standards, subject to
meeting the criteria for all other applicable permits.

7 **Variance**

8 **PMC 20.85.010(1):** *The variance shall not constitute a grant of special privilege*
9 *inconsistent with the limitations upon uses of other properties in the vicinity and/or*
10 *contiguous zone in which the property on behalf of which application has been filed is*
11 *located. For purposes of this subsection, vicinity shall be defined to only include a*
radius of 1,000 feet or be within the boundaries of an established subdivision when
the variance request pertains to a single-family residential use.

12 9. Criterion met. The criterion is met. The project site is fairly unique so there is no
13 readily ascertainable comparable property to specifically adjudge special privilege.
14 However, it is very likely that any other variance applicant under similar
15 circumstances requesting a variance to maintain the status quo at no harm to
surrounding properties would likely also qualify for a variance.

16 **PMC 20.85.010(2):** *That the granting of such variance will not be detrimental to the*
17 *public health, safety, comfort, convenience and general welfare, will not adversely*
18 *affect the established character of the surrounding neighborhood within a radius of*
19 *1,000 feet, and will not be injurious to the property or improvements of such vicinity*
20 *and/or contiguous zone in which the property is located.*

21 10. Criterion met. The criterion is met for the reasons identified in Finding of Fact
22 No. 5. Given that the exterior of the project site will not change as perceived by
surrounding property owners and that the proposal will not create an exterior adverse
impacts, it is clear that there will be no change in the character of the surrounding
neighborhood.

23 **PMC 20.85.010(3):** *That such variance is necessary, because of special*
24 *circumstances relating to the size, shape, topography, unusual natural features,*
25 *location or surroundings of the subject property, to provide it with use rights and*
privileges permitted to other properties in the vicinity within a radius of 1,000 feet
and/or contiguous zone in which the subject property is located. Such circumstances
shall not be the result of some action caused by the applicant and/or previous
property owners.

1 11. Criterion met. The criterion is met due to special circumstances relating to the
2 location of the property. The variance is necessary due to the need to provide
3 adequate public wastewater treatment facilities to the public from its current location.
4 It would clearly not be feasible and/or cost effective to place the clarifier off-site.
The site plan, Ex. 6, and vicinity map, Ex. 11, show that the proposed location is the
only place to put it within the existing facility grounds.

5 **DECISION**

6 Based upon the conclusions of law above, the request conditional use and variance
7 applications are approved.

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9 Dated this 26th day of January, 2023.

10 *Phil Olbrechts*
11 Phil Olbrechts,
City of Puyallup Hearing Examiner

12 **Appeal Right and Valuation Notices**

13 This decision may be appealed to the City of Puyallup Appellate Hearing Examiner by
14 filing a petition for review with the City of Puyallup Planning Director as regulated by
15 PMC 2.54.150 et. seq.

16 Affected property owners may request a change in valuation for property tax purposes
17 notwithstanding any program of revaluation.
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