

RESOLUTION NO. 1646

**CITY OF WILSONVILLE
CITY COUNCIL
WILSONVILLE WATER TREATMENT PLANT**

(Denies Appeals in Part and Modifies Development Review Board Decision in part)

A RESOLUTION DENYING IN PART AND ALLOWING IN PART FIVE APPEALS IN 00DB18, ADOPTING MODIFIED FINDINGS AND MODIFIED CONDITIONS, APPROVING A CONDITIONAL USE PERMIT AND SITE AND DESIGN PLANS FOR A WATER TREATMENT PLANT, PASSIVE RECREATION/WATER FEATURES, AN INFORMATION/INTERPRETIVE CENTER AND ACCESS ROAD IN THE RESIDENTIAL AGRICULTURE (RA-1) ZONE, AND REVIEW OF A TYPE "C" TREE REMOVAL PLAN. THE SITE IS LOCATED ON THE WILLAMETTE RIVER, SOUTH OF WILSONVILLE ROAD, JUST WEST OF WILSONVILLE CONCRETE AND EAST OF MOREY'S LANDING SUBDIVISION ON TAX LOTS 1800 AND 1900, SECTION 23B, T3S-R1W, CLACKAMAS COUNTY, OREGON. CITY OF WILSONVILLE, APPLICANT.

WHEREAS, an application together with planning exhibits for the above-captioned development, has been submitted in accordance with the procedures set forth in Section 4.008 of the Wilsonville Code, and

WHEREAS, the Planning Staff prepared reports on the above-captioned subject dated April 24, 2000 and revised May 1, 2000, and

WHEREAS, said planning exhibits and staff reports were duly considered by the combined Development Review Board – Panels A and B, at a regularly scheduled meeting conducted on April 24, 2000; the meeting was continued to May 1, 2000 to keep the record open for seven days, at which time exhibits, together with findings and public testimony were entered into the public record, and

WHEREAS, interested parties had an opportunity to be heard on the subject, and

WHEREAS, the Women's Prison and Intake Center is being sited in Washington County, but is being served with public infrastructure and services, including municipal water, from the City of Wilsonville pursuant to a Cooperative Intergovernmental Agreement between the Oregon Department of Corrections and the City of Wilsonville. Permitting of the Water Treatment Plant is necessary for the construction and operation of the Women's Prison and Intake Center; therefore, action on this application was taken

by the Development Review Board within 29 days of filing in order to allow for complete processing within the 60-day time limit established in SB 686 (Chapter 982, Oregon laws; ORS 421.635 et seq.), and action of the City Council is taken within 60 days, and

WHEREAS, five appeals on that decision were filed on May 17, 2000 from:

1. Ben Altman for Fred Meyer, Tim Knapp and Jack Kohl (Fred Meyer has subsequently withdrawn its participation in the appeal.)
2. Kathy Krueger
3. Lonnie Gieber and Morey's Landing Homeowners' Association
4. Joe Bernert Towing Company/Wilsonville Concrete Products by Jack Orchard, Attorney
5. Dolores Scott

WHEREAS, the City Council determined to hear the appeals on the record on June 1, 2000, and a Planning Staff Report regarding these appeals dated May 25, 2000 was received and considered by the City Council, and

WHEREAS, due notice of these matter having been duly given, the applicable criteria stated, and the parties and interested persons having been given an opportunity to be heard, the City Council, having reviewed the record and being fully advised in this matter.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

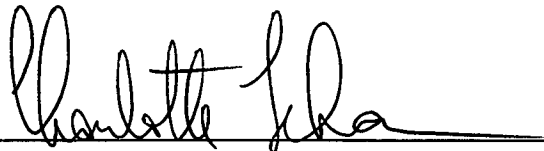
1. The above recitals are incorporated by reference herein, together with the following Findings are supported by substantial evidence in the record as a whole and are adopted by City Council.
 - a). The record regarding Transportation Master Plan and Comprehensive Plan Policies on transportation are supplemented by adding the Findings regarding Road and Transportation Plan of the May 25, 2000 Planning Staff Report and the Water Treatment Plant/Passive Park proposed in Case File No. 00DB18 is hereby found to be consistent with the proposals and policies of the Transportation Master Plan and Comprehensive Plan.

- b.) The Development Review Boards' Condition #25 supplemented by a definition of emergency vehicles means those vehicles commonly associated with or used in an emergency as defined in ORS 401.025(4).
 - c.) The findings and responses of Planning Staff Report regarding the five appeals, dated May 25, 2000, marked Exhibit A, attached hereto and incorporated herein as though fully set forth, are adopted.
2. The appeals are resolved as follows:
- a.) The appeal of the issues raised by Kathy Krueger are not substantiated by evidence when taken in the record as a whole and are hereby denied.
 - b.) The appeal of the issues raised by Lonnie Gieber, except for a better definition of "emergency vehicle", are not supported by evidence when taken in the record as a whole and are denied. Speculation about conclusions of a possible future traffic study, homeowners "requirements" and preferences are not valid appeal issues.
 - c.) In response to the appeal of Tim Knapp, and Jack Kohl, the Development Review Board Condition #5 is hereby modified to clarify that the applicant will return to the DRB for a subsequent public hearing process on the final road alignment that is selected to provide access to the site. Also, lack of sufficient address of unspecified issues raised at the Development Review Board hearings are not valid appeal issues and are not substantiated in the whole record. The Transportation Master Plan and Comprehensive Plan Policies are addressed in City Council Findings. The issue raised in paragraph IV is so general and lacking in specificity as to be impossible to respond to and is hereby denied. Findings regarding the RA-1 Zone are included in Exhibit A and provide additional basis to deny.
 - d.) The appeal of the issues raised by Dolores Scott are not substantiated by evidence when taken in the record as a whole and is hereby denied.
 - e.) The appeal of the issues raised by Joe Bernert Towing Company/Wilsonville Concrete Products are not substantiated by evidence when taken in the record as a whole and are hereby denied. Issue 3(c)

regarding the RA-1 zoning is a new issue not raised at an evidentiary hearing before the Development Review Board hearing and is also denied.

3. Adoption and approval of the Development Review Boards' findings, conditions, conclusions and decision is so ordered, save and except as modified by the inclusion of the findings, conditions, conclusions and determinations in Paragraphs 1 and 2 above.

ADOPTED by the Wilsonville City Council at a special meeting thereof this 1st day of June, 2000, and filed with the Wilsonville City Recorder this same date.



CHARLOTTE LEHAN, MAYOR

ATTEST:



Sandra C. King, CMC, City Recorder

SUMMARY of Votes:

Mayor Lehan	<u>Yes</u>
Councilor Helser	<u>Yes</u>
Councilor Barton	<u>Yes</u>
Councilor Kirk	<u>Yes</u>
Councilor Holt	<u>Excused</u>

PLANNING STAFF REPORT WITH CORRECTIONS FROM CITY COUNCIL HEARING

DATE: May 25, for City Council hearing on June 1, 2000

TO: Mayor Lehan and City Council

PREPARED BY: Blaise Edmonds, Associate Planner
Stephan Lashbrook, AICP, Planning Director

Resolution 00DB18: Consider five separate appeals of the decision rendered by the Development Review Board Panels A and B, which approved a Conditional Use Permit and Site and Design Plans for development of a City water treatment plant, passive recreation/water features park, and access road. The project site is located in the Residential Agriculture (RA-1) Zone.

SUMMARY

The City has received five separate appeals of the Development Review Board (DRB) action approving the Water Treatment Plant (WTP) project. A public hearing has been scheduled on June 1, 2000, for the City Council to hear these appeals on the record.

RECOMMENDATION:

The Planning staff recommends that the City Council uphold the decision of the DRB, including all conditions of approval. Additional findings and amended conditions are proposed. Appropriate Council action would be the adoption of Resolution No. 1646.

BACKGROUND:

After conducting a public hearing that spanned two consecutive Monday nights, the combined panels of the Development Review Board (Panels A and B) approved a Conditional Use Permit and the Site and Design Plans with conditions to develop the City's proposed water treatment plant and passive recreation park on property adjoining the Willamette River. The Development Review Board adopted the staff findings and conditions with amendments. Please refer to the DRB minutes for the previous hearings for this project. There were several key issues that the DRB considered in reviewing this project:

- SB 686. This project is going through the expedited process specified in Senate Bill 686 related to utilities that are needed to serve the state prison that is now being built in the Wilsonville area. The City of Wilsonville and the

Oregon Department of Corrections have entered into an intergovernmental agreement specifying that the City is responsible for providing urban services to the new prison.

- The Public Facilities Water Strategy (PFWS, Ordinance No. 514). Per Category 1(2)(b) of Ordinance No. 514, the proposed Water Treatment Plant (WTP) provides for essential governmental services. Therefore the proposed WTP is allowed to go forward through the planning review process leading to a building permit. The proposed passive recreation landscaping treatment and water features fall under Category 2 of the PFWS Ordinance No. 514. City water for landscape irrigation and for the proposed water features may not be available until after April 2002.
- Conditional Use. The proposed WTP, passive recreation and public information center (interpretive center) were reviewed in accordance with Wilsonville Code (WC) subsection 4.120(4) and (5)(a to d) for a conditional use permit.
- The traffic report. The Traffic Impact Report (traffic report), prepared by DKS Engineers and dated March 28, 2000, indicates that the WTP and passive recreation use will generate little or no traffic during the PM peak hour. Furthermore the proposed WTP is an “essential government service” thus the WTP was approved under Ordinance No. 463 (Public Facilities Transportation Strategy).
- The West Side Master Plan relative to the proposed WTP.
- The proposed bridge crossing for the proposed access roadway. The impact of the proposed Water Treatment Plant, the passive recreation park and access road on Primary Open Space, Secondary Open Space, and the Willamette River Greenway.
- The public access road that is proposed as part of the project would intersect at Industrial Way, which extends to Wilsonville Road.
- Bicycle and pedestrian safety.
- The arborist report, dated April 6, 2000.
- The proposed landscape plan. A water-wise landscape plan is required under Ordinance No. 514.
- Buffering and screening of the adjacent residential neighborhoods.

- The proposed architecture.
- The proposed exterior lighting.
- Noise levels.
- Public restrooms. Public restrooms are needed in conjunction with the proposed administration building and with the proposed passive recreation park.
- Environmental and wildlife impacts.
- Seismic design.

**CITY OF WILSONVILLE
 WATER TREATMENT PLANT
 PASSIVE RECREATION/WATER FEATURES
And
 ACCESS ROAD
 Conditional Use Permit
And
 Site and Design Review**

Approval criteria of the City Council include Section 4.017 (Appeal Procedures) of the Wilsonville Code. Additionally, the Development Review Boards considered the following approval criteria:

APPROVAL CRITERIA:
City of Wilsonville Code

<p><u>Zoning:</u> 4.012: Hearing procedures. 4.008: Application procedures-general. 4.009: Jurisdictions and Powers. 4.010: Review Procedures-General. 4.011: Notice and public hearing procedures. 4.120: Residential Agriculture 1-acre minimum zone(RA-1). Treatment plant as a conditional use. Parks are permitted outright. 4.150: Off-street parking 4.155: Conformance required 4.158: Sight-obscuring fence or plantings. 4.161: Protection of natural features 4.161(1)(b): Preservation of trees and natural features 4.161(4)(a and b): Preservation of trees. 4.421(1)(a): Requiring preservation of landscape insofar as practical 4.421(1)(b): Proposed structures shall be located and designed to ensure harmony with the</p>	<p><u>Site Design Review:</u> 4.400: Purpose 4.420: Jurisdiction and powers of the Board. 4.421: Criteria of Design Standards 4.400: Procedures 4.441: Effective date of decisions 4.442: Time limit on approval 4.443: Preliminary consideration 4.450: Installation of landscaping</p> <p><u>Willamette River Greenway</u> 4.500: General purpose 4.502: Definitions 4.504: Greenway boundaries 4.506: Outright permitted uses 4.508: Conditional uses – Permitted 4.510: Findings 4.514: Use management standards.</p>
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<p>natural environment.</p> <p>4.161 (2)(c) 3): Requires that all developments be planned so as to minimize removal of trees” “and preserve the natural scenic character”.</p> <p>4.162: Flood plain regulations</p> <p>4.163: Buffering and screening</p> <p>4.165: Public safety and crime prevention.</p> <p>4.166: Landscaping.</p> <p>4.167: Street improvement standards</p> <p>4.168: Sidewalk and pathway standards</p> <p>4.174: Conditional use regulations -- authorization</p> <p>4.177: Conditional use regulations - Public utility structures.</p>	<p><u>Tree preservation and protection:</u></p> <p>4.600.00: Purpose and declaration</p> <p>4.660.30: Tree removal permit required</p> <p>4.610.00: Application review procedure. Relocation or replacement</p> <p>4.610.40: Type C permit</p> <p>4.620.00: Tree location, mitigation or replacement</p> <p>4.620.10: Tree protection during construction</p> <p>4.620.20: Maintenance and protection standards</p> <p>4.630.00: Appeal</p> <p><u>Comprehensive Plan:</u></p> <p>Land Use goals, policies and objectives:</p> <p>Public Facilities and Services</p> <p>Citizen Involvement</p> <p>Water System Plan and Policies</p> <p>Policy 4.5.1:Primary and Secondary Open Space</p> <p>Special Area of Concern #7</p> <p>Policy 3.1.5: Line extensions and individual services</p> <p>Wastewater Collection Systems Plan</p>
<p><u>Other Planning Documents:</u></p> <p>Transportation Master Plan, July 12, 1991</p> <p>Bicycle and Pedestrian Master Plan, Dec. 20, 1993</p> <p>Parks and Recreation Master Plan</p> <p>Wilsonville West Side Master Plan</p> <p>Ordinance No. 463: Public Facilities Transportation Strategy for development in the Wilsonville Road corridor due to the lack of street capacity. Exemption for “Essential Government Services” Page 21 of 23.</p>	<p>Ordinance No. 476: Amending POS & Willamette River Greenway Boundary standards. Public Works Standards.</p> <p>Ordinance No. 482: Amending Public Works Standards.</p> <p>Ordinance No. 514: Public Facilities Water Strategy, Essential Government Services Exemption</p> <p>Senate Bill 686: Corrections facility siting, requirement to provide public services, requirement to issue permits in 60 days</p>

SUPPLEMENTAL FINDINGS IN RESPONSE TO ISSUES RAISED BY APPEALS

The findings and conclusions in Exhibit ‘A’ (*original staff report with proposed findings and conditions of approval*) together with the supplemental findings support the Development Review Board decision for approval of the Conditional Use Permit and the Site and Design Review Plans.

Finding 1. Appeal of Kathy Krueger (Findings 1 –6)

- A. Appellant Kathy Krueger claims in a letter of appeal dated May 17, 2000, that the “DRB did not adhere to its own standards of review as is required under Section 4.440 in regards to the plans, drawings, and sketches the applicant submitted.”

WC Section 4.440 identifies the documents that must be submitted by an application seeking site design review approval of a proposed development. In summary, the section requires applicant to submit:

- (a) a site plan showing the proposed layout of all structures and other improvements;
- (b) a landscape plan;
- (c) architectural plans showing all building elevations and preliminary floor plans;
- (d) a color board and a phased development schedule;
- (e) a design plan for exterior signs.

Appellant's assertion is without merit, as applicant's submittal included drawings which satisfy all of the requirements of WC 4.440. Because of the large size of the subject site, some elements of the required documents were drawn on separate pages to achieve a sufficient scale to allow the element to be legible.

Site Plan: Sheet 1 shows the proposed layout of all structures and improvements on the entire site. Sheets 2, 3 and 4 are drawn at a larger scale and show the locations of driveways, pedestrian walks, landscaped areas, fences, walls and off-street parking areas. Sheet 2 shows the direction of traffic flow into and out of off-street parking areas, the location of the proposed parking spaces and loading berth, and vehicle turning and maneuvering areas. Sheets 9 and 15 show how site drainage will be provided. The provision of utilities to the project was described in the text of the application at page 26.

Landscape Plan: Sheets 3 and 4, L1 through L4 and L-11 through L-15 show the locations of trees to be removed and retained, the location and design of landscaped areas, and materials to be irrigated. The varieties and sizes of trees and plant materials to be planted are shown on sheet L-11, with details on sheets L-12 through L-13. A detailed 3-sheet tree survey, prepared by DeHaas and Associates, was submitted with the application.

Architectural Drawings: Architectural drawings for all of the proposed structures, including all elevations, are shown on sheets 24 – 48. These drawings include floor plans with sufficient detail to allow their area to be calculated, so that yard areas could be calculated, and to allow the effect of the building floor plans on the exterior to be determined to assure adequate exposure for interior spaces.

Color Board and Phased Development Schedule: Applicant submitted Exhibit L at the April 24 hearing, which contained samples of all of the exterior materials. The site plan drawings show the proposed layout of all structures at full development of this site to 70 mgd capacity.

Sign Design: The application did not include proposed signage. As stated in the application (page 15) and staff report, a subsequent application will be filed with the Development Review Board for approval of signs.

FINDING 2: Applicant's submission addressed all of the requirements of WC Section 4.440 by including drawings and plans of the proposed site plan, landscape plan, tree survey, architectural drawings, color board, and development schedule. A sign design plan was not required with this application as Applicant did not propose any signs. DRB review and approval of a design plan for signs will be required before any signs can be erected.

- B. Appellant Kathy Krueger appeals the DRB decision as a whole for approving an intake structure sized for 120 mgd, asserting that:

“The applicant obviously intends to build out the plant at sometime to 120 mgd, therefore it should show evidence in its findings that the site can support that size of a plant, that visual impacts to the neighbors have been minimized, and that negative impacts to the surrounding environment have been minimized. The applicant did not show any evidence to support granting a permit with the intent to build out at 120 mgd. ... I am requesting that the council deny approval of this application as it is written because of lack of substantial evidence and analysis to support a treatment plant of 120 mgd. The public deserves the opportunity to review site plans, and analyze the applicant's findings as they pertain to a plant built out at this capacity. The DRB should have requested the applicant to submit such data and findings for review before granting approval.”

Finding 3. There is no evidence in the DRB record to demonstrate that Applicant has any intention of building a plant at this site larger than 70 mgd capacity at full build-out. The application document (4/3/2000) states at page 5: “The treatment facility design envisions eventual expansion of the plant to a production capacity of 70 mgd.” Under the terms of the DRB decision, the maximum approved treatment capacity for this site is 70 mgd.

Finding 4. The capacity of the intake pipeline is also clearly explained in the addendum to the application (4/11/2000) at page 1: “ The capacity of the water intake pipe screened opening is 70 million gallons per day (mgd). The capacity of the intake pipeline is 120 mgd. The City of Wilsonville and Tualatin Valley Water District together have water permits for water rights in excess of 120 mgd at this location. Installing the pipeline at the ultimate potential expansion capacity adds a small amount to the cost but avoids the possibility of disturbing the riverbed with future (estimated to be more than 50 years out) construction work to install a larger pipe. If the decision is made in the future to install a larger

capacity intake screen, a new approval from the City and from the Corps of Engineers and the Division of State Lands would be required.”

Finding 5. That discussion in the application demonstrates that the Applicant and its partner in the development of the proposed water treatment plant (TVWD) have permits for water rights at this water diversion point of more than 120 mgd. They have determined that there are two advantages to building the initial intake pipeline to a capacity of 120 mgd:

First, the application states that oversizing the intake pipe will avoid the potential for further construction activities and their associated disturbances. (Application 4/3/2000, page 6.) This segment of the Willamette River is subject to a listing of several salmonid species under the federal Endangered Species Act. Riverbed disturbances can adversely affect these species. By avoiding the need for future riverbed construction, the potential for those adverse impacts is limited to the initial construction of the proposed intake pipeline.

Second, Applicant and its partner have determined it would be cost-effective to build their original intake pipeline to that full capacity at this diversion point, rather than to size it to match the ultimate capacity of the treatment plant to be built on the site above the diversion point. (Addendum Application 4/11/2000, page 2.) The incremental cost of the 120 mgd pipeline compared to a 70 mgd pipeline is relatively small, compared to the advantage of avoiding future river disturbances.

Finally, building the intake to the proposed capacity of 120 mgd does not commit the Applicant to construction of a treatment plant on this site to the same capacity. Treatment facilities do not have to be located adjacent to the intake source; all that is required is that the facilities have a pipeline connecting them to that source. Water diverted from the river through the intake pipe does not have to be treated at this plant. Raw water diverted through the intake in excess of the 70 mgd ultimate capacity of this plant would have to be treated at a water treatment plant at another location. The DRB members acknowledged this in their deliberations. (Draft Minutes May 1, 2000, page 78.) There is no evidence in the record regarding the impact of the intake pipeline on adjacent properties, or demonstrating that a smaller intake would reduce any potential impacts. Without such evidence, there was no reason for the DRB to consider a proposal to limit the intake pipeline capacity.

FINDING 6. The DRB did not commit an error in approving the intake pipeline with a capacity larger than that of the proposed treatment plant. The record demonstrates that the ultimate water treatment plant capacity proposed for this site by the Applicant is 70 mgd. Additional intake pipeline capacity beyond 70 mgd does not commit the Applicant to build a plant larger than 70 mgd at this location. The DRB approval limits the ultimate treatment plant buildout to the proposed 70

mgd capacity. Water diverted through the proposed intake in excess of the proposed ultimate plant capacity can be treated at a plant to be built at another location. The record does not support any finding regarding the impact of the pipeline capacity, nor does it support any condition to limit the capacity of the intake pipeline.

2. Appeal of Dolores Scott (*Findings 7-25*)

- A. Appellant Dolores Scott appeals on the ground that the DRB approval should have limited the capacity of the intake pipeline to 70 mgd. Her claim asserts that:

“The DRB is allowing for possible expansion of the treatment plant beyond 70 MGD by approving the design water intake of 120 MGD and indicating that any plans for expansion would be reviewed by the DRB at that time. Since the applicant is planning for expansion by constructing a water intake for 120 MGD, the plans for a 120 MGD plant should be reviewed at this time to determine if the site can support a 120 MGD plant. Otherwise, the intake should be limited to 70 MGD.”

Finding 7. There is no evidence in the record to demonstrate that Applicant has any intention of building a plant at this site larger than 70 mgd capacity at full build-out. The application document (4/3/2000) states at page 5: “The treatment facility design envisions eventual expansion of the plant to a production capacity of 70 mgd.” Under the terms of the DRB decision, the maximum approved treatment capacity for this site is 70 mgd.

Finding 8. The capacity of the intake pipeline is also clearly explained in the addendum to the application (4/11/2000) at page 1: “ The capacity of the water intake pipe screened opening is 70 million gallons per day (mgd). The capacity of the intake pipeline is 120 mgd. The city of Wilsonville and Tualatin Valley Water District together have water permits for water rights in excess of 120 mgd at this location. Installing the pipeline at the ultimate potential expansion capacity adds a small amount to the cost but avoids the possibility of disturbing the riverbed with future construction work to install a larger pipe. If the decision is made in the future to install a larger capacity intake screen, a new approval from the City and from the Corps of Engineers and the Division of State Lands would be required.”

Finding 9. That discussion in the application demonstrates that the Applicant and its partner in the development of the proposed water treatment plant (TVWD) have permits for water rights at this water diversion point of more than 120 mgd. They have determined that there are two advantages to building the initial intake pipeline to a capacity of 120 mgd:

First, the application states that oversizing the intake pipe will avoid the potential for further construction activities and their associated disturbances. (Application

4/3/2000, page 6) This segment of the Willamette River is subject to a listing of several salmon species under the federal Endangered Species Act. Riverbed disturbances can adversely affect these species. By avoiding the need for future riverbed construction, the potential for those adverse impacts is limited to the initial construction of the proposed intake pipeline.

Second, Applicant and its partner have determined it would be cost-effective to build their original intake pipeline to that full capacity at this diversion point, rather than to size it to match the ultimate capacity of the treatment plant to be built on the site above the diversion point. (Application Addendum 4/11/2000, page 2.) The incremental cost of the 120 mgd pipeline compared to a 70 mgd pipeline is relatively small, compared to the advantage of avoiding future river disturbances.

Finally, building the intake to the proposed capacity of 120 mgd does not commit the Applicant to construction of a treatment plant on this site to the same capacity. Treatment facilities do not have to be located adjacent to the intake source; all that is required is that the facilities have a pipeline connecting them to that source. Water diverted from the river through the intake pipe does not have to be treated at this plant. Raw water diverted through the intake in excess of the 70 mgd ultimate capacity of this plant would have to be treated at a water treatment plant at another location. The DRB members acknowledged this in their deliberations. (Draft Minutes May 1, 2000, page 78) There is no evidence in the record regarding the impact of the intake pipeline on adjacent properties, or demonstrating that a smaller intake would reduce any potential impacts. Without such evidence, there was no reason for the DRB to consider a proposal to limit the intake pipeline capacity.

FINDING 10. The DRB did not commit an error in approving the intake pipeline with a capacity larger than that of the proposed treatment plant. The record demonstrates that the ultimate water treatment plant capacity proposed for this site by the Applicant is 70 mgd. Additional intake pipeline capacity beyond 70 mgd does not commit the Applicant to build a plant larger than 70 mgd at this location. The DRB approval limits the ultimate treatment plant buildout to the proposed 70 mgd capacity. Water diverted through the proposed intake in excess of the proposed ultimate plant capacity can be treated at a plant to be built at another location. The record does not support any finding regarding the impact of the pipeline capacity, nor does it support any condition to limit the capacity of the intake pipeline.

- B. Appellant Dolores Scott claims that the DRB erred by approving the development proposal without prior approval from BPA for construction of a bridge in its power line easement, and by not finding that construction of the bridge and pipeline through that easement will meet Zone 4 hazard area building codes. She asserts that:

“The applicant has not obtained approval from Bonneville Power Authority [sic] to build a 109-foot bridge in the BPA easement under high voltage power lines. This bridge is being constructed in a wetland area and also in a Zone 4 geologic hazard area which is the highest designation for earthquakes in Oregon. The applicant also plans to build a 60 foot [sic] water pipe under this wetland area in this Zone 4 hazard area. They have not indicated that the construction would meet Zone 4 specifications.”

Finding 11. A permit from Bonneville Power Administration (BPA) will be necessary before Applicant can proceed with construction of the proposed bridge and 60-inch pipeline through the BPA power line easement. Applicant acknowledged this requirement and stated at the May 1 DRB meeting that a draft application is being prepared for submission to BPA. (Draft Minutes May 1, 2000, page 21)

Finding 12. Applicant is not required by the Wilsonville Code to obtain all necessary permits from other agencies before the city can grant design review approval of a proposed development. The DRB took the appropriate action by adding a condition requiring the applicant to obtain the necessary BPA permit:

“6. The City shall coordinate with BPA for development within the BPA easement.” (Conditions of approval as amended and adopted by the Development Review Board Draft Minutes at p. 82, May 1, 2000.)

Finding 13. As Joan Kelsey, Assistant City Attorney, testified on May 1, the order followed in this case is standard procedure with state and federal permitting agencies. (Draft Minutes May 1, 2000, pages 21 - 22) That is, typically those agencies act on applications for accessory permits during or after the local land use body had granted its approval of the primary development.

Finding 14. The City is assured that Applicant will comply with the condition to coordinate with BPA through its authority to permit occupancy of the proposed structure upon completion of permit conditions. WC Section 4.009 (2)(b) gives the DRB authority to “review and approve, approve with conditions, or deny the proposed architectural, site development, landscaping or sign plans of the applicant.” WC Section 4.192 provides that “the Planning Director shall insure that the development has occurred in substantial conformance with the approved Site Development Plans.” Where substantial inconsistencies occur, the Director may withhold authorization for connection of domestic water service until the violation is corrected. Continuing violations are also punishable as misdemeanors.

Finding 15. Failure to comply with the condition to coordinate with BPA by obtaining the necessary permits for use of the power line easement would be a substantial inconsistency with the approved site development plans, as conditioned by DRB. Applicant could not put into use the proposed bridge or the pipeline until the applicant could demonstrate that the necessary BPA permits had been obtained. This condition, backed up by the city's enforcement authority, assures that construction of these improvements will not occur without receiving prior permission from BPA.

FINDING 16. Applicant was not required to obtain BPA permits for construction of the proposed bridge and pipeline within its power line easement prior to receiving site design review approval from the DRB. It was proper for DRB to condition its approval upon having the Applicant coordinate with BPA to obtain necessary permits prior to occupancy.

Finding 17. Appellant is in error in claiming that the site must comply with Zone 4 seismic hazard code requirements. Applicant demonstrated at the April 24 and May 1 hearings that the subject site is not in a Zone 4 seismic hazard area and that the bridge, pipeline, and other proposed structures will be built to comply with or exceed the applicable Uniform Building Code (UBC) Zone 3 requirements. (Draft Minutes April 24, 2000, pages 38-39, May 1, 2000, pages 19-21)

Finding 18. Review of structural design for compliance with seismic standards is a function of the building code and is not within the authority of the DRB. The DRB satisfied its authority by including in its final decision conditions 5 and 6 of the Building Official's proposed conditions and concerns.

“5. The treatment plant, including all control buildings essential to the operation of the plant, shall be designed as essential facilities, as defined in Chapter 16 of the State Structural Specialty Code. Structural observations shall be provided during construction as specified in Chapter 17.

6. Seismic site hazard soil investigations shall be provided and submitted for review as specified in 1804.3 of the Uniform Building Code.”

Finding 19. Applicant testified that the Uniform Building Code determines the standards that must be met for the design and construction of buildings by designating seismic hazard zones, and that the Willamette Valley has been designated under the UBC as Zone 3. (Draft Minutes April 24, 2000, page 38) Applicant also submitted a copy of a report of geotechnical investigations it arranged to be conducted on the site, which confirmed that the site is located in Zone 3, and included recommendations for designing structures to address seismic concerns. Geotech Report, Squier Associates, March 6, 2000 (Exhibit MM).

Applicant further testified that the design for the all of the proposed structures was being done to comply with the essential facilities standards for Zone 3. (See Draft transcript of DRB hearing, May 1 – p. 20.) These standards are stricter than the typical Zone 3 code, to provide additional protection for the continuation of the water treatment and distribution functions of this development in the event of an earthquake. That testimony included details on elements of the pipeline design, such as shorter joint distances and welded joints, that provide flexibility if subject to seismic activity. Applicant's testimony also reported that two structural engineers (Applicant's engineer and an independent value engineering consultant) had agreed with the recommendation to design to a Zone 3 essential facility standard.

FINDING 20. The applicable UBC seismic zone for this site is Zone 3. The record demonstrates that the proposed design complies with the strict essential facilities standards of Zone 3. UBC Zone 4 seismic hazard standards do not apply to structures proposed to be built on this site. It was proper for DRB to condition the applicant to comply with the applicable essential facilities standards of the UBC.

3. Appellant Dolores Scott claims that the DRB decision does not protect adjacent residents and the wildlife corridor from negative impacts of the access road through the throat of the property.

“The road that will access the water treatment plant will pass through the 60-foot corridor that connects the north and south portions of the property. The DRB has left the plan for the alignment of this road with the pedestrian/bicycle pathway and landscaping to be reviewed at a later date. The design of this throat area will greatly impact the residents for Morey's Landing at Brockway Drive, Oaks Park [sic] and the wildlife corridor from north to south.”

Finding 21. The DRB decision and conditions regarding the design and landscaping of the access road through the 60-foot corridor provides appropriate protection for the residents of Morey's Landing and of the Oak Leaf Mobile Home Park. There is no evidence in the record asserting that the placement of the access road or the landscape design within that 60-foot corridor has any impact on the adjacent properties. The discussion of the DRB members in drafting condition 5 (requiring applicant to return with a landscaping plan for the corridor) addressed only concerns about mixing vehicle and bicycle/pedestrian traffic and about wildlife concerns. (See Draft transcript of DRB hearing, May 1, 2000, pages 26-30 and 51-58.)

Finding 22. Wildlife habitat and distinctive resource areas are protected by WC Section 4.161, which prohibits development in areas designated as wetlands or primary open space in the comprehensive plan. The 60-foot corridor is not

designated as primary open space and is not subject to such restrictions. No other Code standard or site design review purpose (WC Section 4.400) authorizes the DRB to impose restrictions outside of primary open space areas for the protection of wildlife corridors.

Finding 23. Furthermore, the evidence in the record demonstrates that the 60-foot corridor is not the preferred wildlife corridor in the area. The wildlife inventory and habitat assessment prepared by Applicant concluded that the primary wildlife corridor on this site is the Arrowhead Creek ravine along the east property boundary. (Draft Minutes 4/24/2000, page 82, 5/1/2000, pages 26-30.) That area is protected by the comprehensive plan as Primary Open Space (00DB18, Findings 25-35). Becky Crockett testified for Applicant that the wildlife assessment was conducted over an extended period, and that her experience in visiting the site over the last five years since that assessment was conducted confirms its conclusion that Arrowhead Creek is the primary wildlife corridor on this property. She also testified that certain wildlife, such as deer have remained present on the site despite its past as a cultivated agricultural field and despite continuing residential development to the west. Her conclusion was that the ravine on the west is not a major habitat for wildlife, and that deer would continue to use the 60-foot corridor after construction of the access road to cross between the north and south parts of this property. (Draft minutes 5/1/2000, page 27)

Finding 24. The portion of the ravine on the west property boundary that is designated primary open space (the northernmost point of which is approximately 300 feet south of the "throat") is not disturbed by the proposed development plans. Sheets L-11 and L-12 show that the continuation of that ravine is outside the area to be graded during construction, and that the only disturbance of that area will be the planting of trees along the western property boundary, which will provide additional cover for wildlife.

FINDING 25. There is no evidence in the record supporting appellant's claim that the alignment and landscaping of the access road through the 60-foot corridor will impact adjacent residents and neighborhoods, or that potential changes to the alignment or landscaping may create additional impacts on those residents. Under the Wilsonville Code, protection for wildlife habitat is provided only for lands designated as primary open space. The 60-foot corridor does not have that designation. By approving the site development review application, the DRB has approved the construction of an access road and pathway through that corridor. The condition directing applicant to return with a landscaping plan for that corridor to address wildlife concerns and concerns about mixing vehicle traffic with bicycle/pedestrian permits the DRB to allow modifications to the approved design if improvements can be identified. DRB does not have authority to impose conditions for the protection of wildlife corridors outside of primary open space corridors. In addition, the evidence submitted by Applicant that this is not a

primary wildlife corridor is supported by wildlife inventories conducted over an extended period, overcoming unsubstantiated assertions of opinion that the corridor has value as a passage for wildlife.

**1. Appeal of Lonnie Gieber and Morey's Landing Homeowners Association
(Findings 26 – 29)**

Appellant Lonnie Gieber) claims that DRB erred in not requiring Applicant to provide 24-hour on-site security. "Morey's Landing Homeowner's Association requires 24-hour, on-site security."

Finding 26. DRB gave proper consideration to the security of the proposed development and the surrounding properties in reaching its decision. The decision of the DRB includes condition 32, recommending that the site be provided with 24-hour on-site security. (Draft Minutes 5/1/2000, page 51) The Board could do no more than offer that as a recommendation because the Code does not establish the provision of on-site security as an approval criterion. Under the Wilsonville Code, security and public safety are addressed in site design review as design issues, rather than operations issues. WC Section 4.165 requires all developments to be designed to deter crime and insure public safety, requiring that "areas vulnerable to crime shall be designed to allow surveillance. Parking and loading areas shall be designed for easy police patrol. Exterior lighting shall be designed and oriented to discourage crime."

Finding 27. The application documents and site plan show how features of the proposed design contribute to deterring crime and insuring public safety. The water treatment plant complex is clustered at the east boundary of the site, protected by a security fence and a tall wall. Within the treatment plant complex, lighting will be provided to allow intruders to be seen. The industrial property to the east is protected against inappropriate entry by a high existing berm. Properties to the west are protected by a wide open buffer area, planted as a meadow so that visibility for residents and police patrolling the site extends down the length and width of the area between Morey's Landing and the water treatment plant. Paths are included in the site design to direct visitors toward desired features and away from the adjacent residences. The meadow area will not be illuminated at night, so that the site does not attract night-time use. (See generally, Application pages 47 and 48, Exhibit D of OODB18.)

Finding 28. The application also mentions operational measures that will be taken to improve the security of the area. The application states that, like all city parks, the proposed park will be closed from dusk to dawn, and that the main access road will be gated and will be closed during those hours. (Application Addendum 4/11/2000, page 1.)

FINDING 29. The proposed site development plan is designed to deter crime and to protect public safety. The treatment plant complex is protected by security fences and a wall, and by security lighting within that perimeter. The berm on the east property boundary provides protection against entry for the adjacent property. The park area is an open landscape that will allow for maximum visibility for residents and for police patrolling the site, with pathways directing visitors away from boundaries. The park will be closed at night, and unauthorized use will be discouraged by the use of gates on the access road and by not illuminating the park area at night.

***Additional Findings for appeals of Scott and Krueger
(Findings 30 – 34):***

Finding 30. The Wilsonville zoning code does not provide decision criteria that regulate water capacity of a water treatment plant. Nothing in the zoning criteria requires that all future phases of a development be reviewed in detail with the initial application. The Code also does not prohibit “over-sizing” some elements for future benefit. The record indicates that water beyond the initial 70 mgd may be withdrawn from the river at this location and transmitted to an off-site location for treatment. Hence, it may be necessary to pump up to 120 mgd from the river, with only 70 mgd treated at this site. The applicant has met the Site and Design Review and Conditional Use criteria for approval. The proposed water intake facility is also under the Army Corps of Engineers authority. The applicant has applied for the necessary Army Corps permit.

Finding 31. The proposed intake facility is designed for 120 mgd. The proposed water treatment plant is designed for 70 mgd, so the intake is the higher capacity. It is the City’s decision to spend the money at this time for the 120 mgd intake facility. Thus, more capacity will be available for treatment at another location. City Engineer, Michael Stone testified that the Tualatin Valley Water District (TVWD) has a 120 mgd right to the Willamette River. (00DB18, Finding 2 and page 6 of Application.)

TVWD could build a separate WTP to treat 50 mgd off-site. It is more of a public benefit to construct the 120 mgd water intake facility now then drill into the bank again and construct another inlet in the future. Thus the DRB approved the 70 mgd treatment capacity and the 120 mgd intake capacity and approved Phase I site development. The DRB modified the staff recommended Condition of Approval No.1 as stated below:

1. This action approves a Conditional Use Permit and Site and Design Plans, which are dated March 30, 2000 with amendments, and the associated submittal documents, for the initial phase of the Water Treatment Plant, passive recreation/water park, access roadway/bridge,

and the public information center. The City shall develop the site, building, parking and drives in substantial compliance with the approved DRB plans. Minor site development revisions can be reviewed by the Planning Director under a Class I administrative review. Subsequent revisions shall be provided to the Development Review Boards as informational items.

On the basis of Condition No. 1, the City is required to return to notify the DRB when an application has been filed for site and design review for future phasing of the WTP.

Finding 32. The architectural and landscape drawings that were submitted show the entire project site for a 70 mgd water treatment facility, a clear well, a 120 mgd intake facility, access road and bridge, and for a passive recreation park. The project will be phased. The site plan of record shows that the project site can fully support the WTP to treat the water capacity identified above.

Finding 33. The DRB did adhere to its own standards of review as is required under WC Section 4.440 in regards to Site and Design Review. The adopted DRB findings 59 through 79 (Exhibit 'A') fully demonstrate that the DRB did consider architectural and landscape issues. The DRB approved complete sets of architectural and landscape drawings as follows:

Exhibit D

Sheet L1: Site construction Plan 1
Sheet L2: Site construction Plan 2
Sheet L3: Grading and erosion plan 1
Sheet L4: Grading and erosion plan 2
Sheet L11: Landscape plan 1
Sheet L12: Landscape plan 2
Sheet L13: Enlarged landscape plan 1
Sheet L15: enlarged landscape plan 3
Sheet 24: Water equalization filters
Sheet 25: North, south and west WTP building elevations
Sheet 27: West building elevation
Sheet 29: West building elevation
Sheet 30: West building elevation
Sheet 35: Administration building plan
Sheet 36: Administrative building elevations

The following Exhibits showing full architectural and landscape drawings were also entered into the public record by the Development Review Board:

- D. Applicant's submittal documents, project narrative, Applicant's display boards entered into the record at the April 24, 2000 hearing:
 - D. (1) Large aerial photo of Water Treatment Plant Site Plan
 - D. (2) Colored site plan of Water Treatment Plant showing various phases of construction
 - D. (3) West, North, East, and South colored building elevations, colored to show exterior material
 - D. (4) Panoramic computer generated photograph of a segment of the west elevation of the wall
 - D. (5) Computer generated perspective drawing of proposed bridge over Arrow Creek
 - D. (6) Colored perspective rendering showing view of new plantings from entry drive
 - D. (7) Colored perspective rendering showing view of Water Treatment Plant and passive recreation area from parking lot
 - D. (8) Colored perspective rendering showing view of water feature from Administration Building
 - D. (9) Colored perspective rendering showing view of Water Treatment Plant from pedestrian bridge
 - D. (10) Nine colored photographs showing examples of ponds and open fields and vegetative ground covers
- H. Arborist report. In the project narrative.
- I. *Recommended levels of illumination (Table)*
- J. *Aerial photograph*
- K. *Twelve photos*
- L. Color and materials board for exterior building materials.

Finding 34. Furthermore, the applicant testified at the two DRB public hearings that the proposed westerly wall that faces the residential neighborhoods will be built in the first phase of construction and that subsequent plant expansion would occur behind the wall. The wall will fully screen the plant operations from the adjacent residential neighborhoods including Morey's Landing and Oak Leaf Mobile Home Park. (See Draft transcript of DRB hearing, April 24, 2000, pages 11 and 27-29 of 85, and May 1, 2000, page 42 of 89.)

***Findings for appeal of Gieber
(Findings 35 – 41)***

Finding 35. The applicant testified that the primary access that will serve the WTP and the passive recreation park is Industrial Way via the proposed new public road through the subject property. In the event that Brockway Street becomes a second access to the WTP and to the passive recreation park then Brockway, Orchard Drive and Parkview Drive, which are within the Morey's Landing subdivision, and Willamette Way East in the Fox Chase subdivision will most likely be impacted by traffic. Brockway, Orchard Drive, Parkview Drive and Willamette Way East are classified as "Local Residential" public streets (Section 'B') in the transportation Master Plan. Local residential streets are designed to have 32' pavement width within 50' right-of-way. The design capacity for vehicles per day is 1,200. Brockway, Orchard Drive and Parkview Drive have 36' pavement width within 50' right-of-way. Though the WTP may have traffic impact on these streets, the traffic study indicates that the traffic impact would be very minimal. April 3, 2000 Application attachment, Traffic Impact Report March 28, 2000. The Industrial Way route will still be the primary access, unless an alternative route is approved through a subsequent public hearing process. The DKS traffic study indicates that the WTP "at maximum, is expected to have 10 employees. The number of employees will remain constant regardless of the expansion of the water treatment capacity." Traffic Impact Report, p. 1. The DKS report further indicates that "no traffic is expected to be generated by the WTP or the park during the PM peak hour." DKS Traffic Impact Report, p. 3. Therefore, Brockway, Orchard Drive, Parkview Drive and Willamette Way East can easily accommodate low traffic volumes that would be generated by the WTP and the park. The DKS Report assumed that Brockway would be limited. If that changes in the future, it will be based on further consideration of the possible traffic impacts.

Finding 36. Brockway, Orchard Drive, Parkview Drive and Willamette Way East have 25 mph speed limit. The Sheriff Department conducts regular patrols and enforces traffic safety. Safety concerns within the Morey's Landing subdivision would need to be considered if Brockway is selected to provide general access to the site in the future.

Finding 37. As stated this question or request is not an appeal. Emergency vehicle access is as defined in common usage. Emergency is defined in the American Heritage Dictionary as: "an unexpected situation or sudden occurrence of a serious and urgent nature that demands immediate action." In a book on planning terms and definitions, emergency vehicle is "Any vehicle legitimately participating in an

emergency response to include, but not necessarily limited to crash/fire/rescue vehicles, authorized police vehicles, medical services vehicles, or tenant operated vehicles.” A second emergency access is often a requirement by the Fire Marshal. It provides a relief route for police cars, fire trucks and ambulances in case the primary entrance is blocked.

Finding 38. The DRB did not find it necessary to “require” 24-hour security but only to “recommend” it. How the Morey’s Landing subdivision could enforce a 24-hour security requirement is problematic unless they have a security patrol of their own. The DRB does not have authority to place conditions for the hiring of new City employees to require 24-hour security.

Finding 39. The stated preference of the residents of Morey’s Landing does not constitute an appeal of this condition.

Finding 40. PF 18 (Questions/Concerns)

The City’s traffic consultant, DKS Associates, conducted a traffic study for the project. Traffic Impact Report, March 28, 2000. The traffic study reviewed the location, design, size and uses of the proposed WTP and recreation park. Traffic anticipated by the development was reviewed at the most probable used intersection, which is SW Boones Ferry Road and Wilsonville Road. DKS determined that zero (0) PM peak hour trips would be generated from the project and it can be accommodated safely and without congestion in excess of level of service ‘D’ defined in the highway capacity manual published by the National Highway Research Board on existing or immediately planned arterial or collector streets and, in this case, avoid traversing local streets such as Brockway. Traffic Impact Report, p. 3.

Finding 41. In response to the question whether a study of access through Morey's Landing neighborhood was conducted, general traffic access through Morey’s Landing was not proposed or studied. Bicycle and pedestrian access was anticipated. As stated above, if the proposal changes then a consideration of traffic impacts on Morey’s Landing is needed.

From appeal of Scott:

1. The road that will access the water treatment plant will pass through the 60-foot corridor that connects the north and south portions of the property. The DRB has left the plan for the alignment of this road with the pedestrian/bicycle pathway and landscaping to be

reviewed at a later date. The design of this throat area will greatly impact the residents for Morey's Landing at Brockway Drive, Oaks Park and the wildlife corridor from north to south.

2. The applicant indicates that the proposed access road to the water treatment plant will be by way of Industrial Way. However, other parties have indicated that the applicant does not have the right of way to access the site by using Industrial Way. I do not believe the DRB would approve a conditional use permit for any other applicant if they could not confirm an access road to the site. It is only fair that this issue be fully resolved before approving the conditional use permit.

The DRB is allowing for possible expansion of the treatment plant beyond 70 MGD by approving the design water intake of 120 MGD and indicating that any plans for expansion would be reviewed by the DRB at that time. Since the applicant is planning for expansion by constructing a water intake for 120 MGD, the plans for a 120 MGD plant should be reviewed at this time to determine if the site can support a 120 MGD plant. Otherwise, the intake should be limited to 70 MGD."

~~FINDING 42.~~ The applicant has not obtained approval from Bonneville Power Authority to build a 109-foot bridge in the BPA easement under high voltage power lines. This bridge is being constructed in a wetland area and also in a Zone 4 geologic hazard area which is the highest designation for earthquakes in Oregon. The applicant also plans to build a 60 foot water pipe under this wetland area in this Zone 4 hazard area. They have not indicated that the construction would meet Zone 4 specifications.

***Findings for appeal of Scott
(Findings 43 – 50)***

1. **Finding 43.** Issue of obtaining BPA approval. The applicant has prepared a draft application to BPA for approval according to Joan Kelsey, Assistant City Attorney, testimony as follows:

"In terms of the BPA easement, normally the land use process requires the city to issue a permit to a development application. At that point, the applicant takes the city approval for the project to BPA to get their approval. This is a normal process the city does. We would expect to go through that and, in fact, a draft application is already prepared to send to BPA. But it wouldn't go forward until the land use process had been completed." May 1 Minutes, p. 21.

Finding 44. DRB Chairman Warren stated, “BPA wouldn’t review an application for a non-approved project.” May 1 Minutes, p. 21.

2. **Finding 45.** Issue regarding hazard. A memo to DRB from Robert G. Hoffman AICP for Michael Stone, City Engineer, states:

“Construction related to Seismic Zone”

Applicant’s expert’s testimony regarding construction standard for water plant was that the city would follow all city, state and federal laws. Reference was made to this being an “essential building” and that the value engineering consultant had advised that if the city were to apply a higher standard than required, there would be some advantage, even though somewhat more costly. The construction engineers have concluded that construction to Seismic IV standard would be substantially more costly than the required Seismic III level would be. The advantage is no longer cost effective so we are no longer proposing to use the Seismic Zone IV, but rather the current requirements for Seismic Zone III plus those for an “essential facility”. We were able to confirm the Chairman’s understanding that the new code will not move the Willamette Valley, which includes this site, beyond Seismic Zone III. See attached memorandum entitled “Clarification of Seismic Design Criteria: and facsimile including article entitled, “How New Seismic Information Affects Building Codes”. Exhibit CC, Memorandum dated April 28, 2000.

Documentation for this statement was supplied as attachments to the Application,

Exhibit CC(1) Memorandum dated April 28, 2000 from Joe Glicker to Eldon Johansen referencing, “Clarification of Seismic Design Criteria

Exhibit CC(2) Facsimile including article entitled, “How New Seismic Information Affects Building Codes”.

Finding 46. Appellant Dolores Scott refers to “Zone 4 geologic hazard area” but does not give the source for the reference. As part of his testimony on April 24, Dr. Scott submitted a map from Metro entitled “Guide to Natural Hazards”. As part of the legend of that map the colors on the map are indicated to show “Relative Earthquake Hazard” with the colors showing four gradations from Lower to Higher. The geographic areas between Wilsonville Road and the Willamette River are primarily in the third highest category with portions of the very edge of the river in the

highest fourth category. The map could have been misread to locate the subject site in the highest category or fourth category. No area was indicated as “flood plain” or “landslide Province.” A note on the map states that “Key Facilities” are defined to include “critical functions” such as hospitals, communications facilities, public safety, water facilities or schools. (emphasis added) The note concludes that “Owners of key facilities may consider natural hazards when selecting locations for building new structures”. The Council may note that almost all of Wilsonville’s land within one mile of the river is located in the two highest color categories on the legend. This is so for much of the region’s area near the river. The map does not give any guidance regarding construction.

However, the City has submitted a geotechnical study done on the site, which tested various portions of the site and found no unusual features or unsafe construction conditions. Geotech Report, March 6, 2000. The report throughout recommended steps to be taken to minimize any possible risks. The City intends to follow these recommendations.

Finding 47. On May 1, the City submitted testimony and evidence that the site (Exhibit MM), including most of the Willamette Valley, is in Seismic Zone 3, which is not expected to change, for building code purposes. Minutes May 1, p. 20; Supplemental Exhibit CC. There was testimony that the treatment plant will be built not only to Seismic Zone 3 standards, but to a higher level, an “essential” facility standard, to ensure its survival in a catastrophic event. It will not be built to Seismic 4 standards since that is not required within the Willamette Valley, but along the Oregon Coastline. The bridge is not in a Seismic Zone 4; it is also in a Seismic 3. It will not be built in wetlands, but will bridge the wetlands and the footings will be more than 25 ft beyond (or outside of) the wetlands boundary. The map submitted by Dr. Scott is not a building construction seismic zone standard map, but a map to indicate where special care needs to be taken. Testimony shows that the design of the treatment plant and bridge will take such care.

3. **Finding 48.** Issue regarding design of throat area. There is no reliable testimony in the record that the “throat” area of the site is a wildlife corridor although questions were asked about that possibility. There was no testimony that the “throat” is a major wildlife corridor for large mammals, although there was speculation that it might receive some use. (Draft Minutes of May 1, pages 26-28) Except within wetlands or stream corridor, wildlife protection is not an approval criterion in the Wilsonville Code. The “throat” area is not designated as a Primary or Secondary Open Space area but does adjoin the Secondary Open Space corridor that contains BPA electrical transmission lines. The Comprehensive Plan has

some general language regarding preservation of “natural corridors” but does not give any guidance when there is conflict with the public access objectives, which are stated in the same section. Comprehensive Plan, Environmental Resources and Community Design. The direction from DRB is stated in Condition #5 as follows, “The applicant shall return with a landscaping plan for the roadway/pathway area for the approximately 60-ft wide corridor that joins the north and south properties.” to approve a 24-ft roadway, 14-ft bike/pedestrian path and the approximately 22 ft remainder to allocate between a divider strip and landscape margin on the western edge of the 60-foot wide area. (See Draft transcript of DRB hearing, May 1, 2000, pages 51 and 58 of 89.) The project proposes landscaping in the margin area to allow for any wildlife that may be present and to protect the adjacent neighbors. The specific details of the landscaping in that area are to be brought back to DRB prior to occupancy. The DRB concluded that this would provide adequate wildlife protection.

4. **Finding 49.** Testimony by C. J. Sylvester on April 24 and Joan Kelsey on May 1 regarding the City’s rights of access to Industrial Way was sufficient for DRB to find that adequate access was available. (See Draft transcript of DRB hearing, April 24 and May 1.) No other evidence was provided to DRB, except oral statements by Wilsonville Concrete representative George Adams, who acknowledged the City’s rights of access to service the proposed treatment plant.

5. **Finding 50.** Capacity of the WTP is not an approval criterion. The action approving the treatment plant itself approved a facility described as having 70 mgd capacity. Only the water intake element was described as having 120 mgd. At the April 24 public hearing, there was a discussion (pages 46-47) regarding capacity, as follows: (Draft transcript)

Lake (DRB Chair Panel A)	Several of the letters that we were provided earlier in the evening have comments about the capacity of the plant – the ultimate capacity of the plant, suggesting that it may go as high as 120 million gallons per day. Do you have any comment on the ultimate capacity of this?
Glicker (for the applicant)	The wetwell, the intake, is designed to accommodate 120 million gallons a day. The screens are designed at 70, the raw water pipeline at 70. As we said, the layout that you see here accommodates 70. The other 50 – the difference between the 120 and the 70, represents the water right potential for the partners, Tualatin Valley Water District and the City of Wilsonville, if you combine their water rights together, 120 is their ultimate water right capacity. That other 50 would have to go someplace else and where that someplace else would be, whether that’s on the northern part of the property or some other property, is a feature that is out beyond 50 years from now.
Lake	I have a question to staff. By granting this conditional use permit are we in essence

	granting a limit, an upward limit on the size of this particular plant?
Kohlhoff (City Attorney)	My understanding is that the permits have to be issued by the federal agencies and the request is exactly what this is that you see and so your limit tonight would be an approval of 70, but you are approving the intake pipe at 120.
Lake	Any expansion beyond the 70 conceivably would mean you have to come back to somebody?
Kohlhoff	Correct.
Lake	Probably not us.
Warren (DRB Chair, Panel B)	So we are basically approving also future construction, in addition to what they are showing there to be - what is currently proposed.
Kohlhoff	You are approving a conditional use up to 70 million gallons; I think there are some design criteria that you would probably have to take a look at, perhaps. You certainly would, going beyond 70 million; they'd have to come back to you beyond 70.
Lake	I'd suggest that we probably should condition this so that those expansions have to come back here, the expansions of the building.
Kohlhoff	I think – it depends upon what level you are doing that at. Every five million gallons that it is expanded, I am not sure that you want to go through that.
Warren	Yes, monthly.
Kohlhoff	Monthly
Warren	Well, is basically the future expansion planned to have the same architectural details and no greater height from what you are showing now?
Unidentified	Yes.
Warren	Up to the 70 million gallons per day.

APPEAL OF JOE BERNERT TOWING COMPANY

(a) The approval was granted without proper consideration of public safety matters relating to the intended construction and use of Industrial Way as the public access to a public park and recreation area proposed in conjunction with the water treatment plant. The Development Review Boards' failure to consider public

safety issues with respect to the long-standing, continuous use of Industrial Way for private, heavy industrial purposes violates City Code provisions requiring that new development “ensure public safety” and further fails to ensure that the proposed improvements are “properly related to surrounding sites.” The Appellant owns Industrial Way and the surrounding property; its long-standing business operations will be adversely affected by a public street which will introduce conflicting bicycle and pedestrian movements and conflicts between heavy truck traffic from the Appellant’s operations and passenger vehicle traffic.

The Appellant requests a limited de novo review relating to issues concerning the improvement and use of Industrial Way as the principal access for the uses proposed in the approval.

**Findings in response to Appeal by Joe Bernert Towing Company
Appellant’s Paragraph:**

1. Finding 51. Issues of access over Industrial Way

(a) Condition #5 of the DRB decision explicitly requires that applicant return to DRB to present revised alignments, in particular, in relationship to bicycles and pedestrians. The applicant at the April 24 and May 1 public hearings presented testimony and documents proving to the DRB’s satisfaction that the applicant has access rights to Industrial Way without limitation as to type of vehicle. Testimony of C. J. Sylvester (Draft transcript of April 24, 2000, page 83):

“As previously indicated, it is the city’s intent, as applicant, to return to the DRB with a subsequent application and hearing regarding offsite access to Wilsonville Road. Having said that, I would like to note the following as regard to vehicular, as well as bicycle and pedestrian access for the record. In December 1997, the city entered into an option agreement to purchase the property currently under review this evening. The language in the option agreement clearly shows intent to use Industrial Way for access and utility purposes as a condition of purchase. The city has a policy of title insurance from Chicago Title. The title insurance clearly describes a road and utility easement, 60 feet in width over Industrial Way. In fact, easement language grants the right to dedicate the easement to the public or to the City of Wilsonville, which in fact was accomplished by this sale of the property.”

Ms. Sylvester's testimony continued: "The proposed site plan as submitted is consistent also with the adopted Parks and Recreation Master Plan. That plan identifies an east/west off-street bike/pedestrian path that follows the BPA easement as built in Morey's Landing and shown in our submittal. This path is identified as Plan Project #20. The plan further identifies a north/south connection to Wilsonville Road, east of the city's water treatment site, identified as Plan Project #26. There are safety issues that might be addressed with any bicycle/pedestrian alignment. The City Engineering feels strongly that this access must terminate at a signalized intersection so that its users have safe options for directional travel. The existing paving along the 20-foot alignment, as Mike Stone previously testified, does not fall wholly within city property. Only a portion of the paving is on the city owned parcel at the critical crossing of the Arrowhead Creek ravine. Enhancing this ravine crossing to accommodate public access has both environmental and cost implications that must be considered."

Finding 52. The City purchased an easement allowing access to the subject property by way of Industrial Way. Assistant City Attorney, Joan Kelsey, also testified on May 1 (Draft transcript of May 1, 2000, page 22):

"...I also wanted to clarify in terms of access, obviously this is a complex issue and the applicant intends to come back with a thorough access plan. However, I would like to give you another resolution that you can take judicial notice of, it's Resolution 1632; (Exhibit NN) that's the City of Wilsonville resolution accepting the deeds to this property, I believe it calls out the legal description for the access."

From Bernert appeal:

(b) The proposed access for the facilities described in the approval is by a private, gated right-of-way. There is no public access allowed, nor has public access ever been allowed through Industrial Way. As such, the proposed public construction and use of Industrial Way is not a continuation of a principal street, nor is Industrial Way a designated public right-of-way on the City's Transportation Plan.

(c) The proposed improvement and use of Industrial Way conflicts with the allowed industrial use on Appellant's property. It is inconsistent with the purposes of the RA-1 zone in that the proposed use introduces a permanent, publicly accessible park and recreation area in a zone which is planned to accommodate large-lot residential development or industrial use and more intensive residential development. The improvement and use of Industrial Way as proposed

in the approval creates transportation conflicts between the Appellant's vested heavy industrial use right and the proposed passenger vehicle, pedestrian and bicycle access described in the approval.

***Findings for Bernert appeal
(Findings 53-55):***

Finding 53. The issue raised in paragraph 3(c) is a new issue not raised in the April 24 or May 1 public hearings or in writing in the record. As such, it is not appropriate for review on the record of the prior hearing. However, the applicant has shown on pages 12-14 of the application narrative that the proposed uses are permitted in RA-1 zoning. Also Finding 15 of the DRB decision states as follows:

“15. The entire property is currently zoned Residential Agricultural 1-acre (RA-1). Under Subsection 4.120(4)(a) public utilities and government buildings, and public information centers are allowed as a conditional use within the RA-1 zone. The proposed Water Treatment Plant is a public utility or facility, and public information center, which meets Subsection 4.120(4)(a). The proposed passive recreation is an outright permitted use under Subsection 4.120(2)(5)(a).”

Finding 54. The Conditional Use application for a Water Treatment Plant was specifically approved by DRB (see Condition #1 of 00DB18).

Finding 55. In response to the issue of transportation conflicts, commercial, industrial, public traffic, pedestrians and bicycles are safely provided for together on many streets in Wilsonville. In fact, Wilsonville Road adjacent to this area safely carries all types of traffic. Much of the zoning adjacent to Wilsonville Road is RA-1. The applicant has testified of their intention to bring back to DRB in a separate action design details regarding off-site and impacts to ensure safety. (See Testimony of C. J. Sylvester, Draft transcript of DRB hearing, April 24, 2000, pages 83 of 85.)

Appeal by Kathy Krueger:

1. *“I am appealing the recommendation of the Design Review Board to grant a conditional use permit to the applicant of the water treatment plant for an intake structure sized for 120 mgd, buildings and all structures associated with water treatment at 70 mgd, and clear wells to match the 70 mgd. The applicant obviously intends to build out the plant at sometime to 120 mgd, therefore it should show evidence in its findings that the site can support that size of a plant, that visual impacts to the neighbors have been minimized, and*

that negative impacts to the surrounding environment has been minimized. The applicant did not show any evidence to support granting a permit with the intent to build out at 120 mgd."

**Staff findings for Krueger appeal
(Findings 56 – 60):**

Finding 56. The Wilsonville zoning code does not provide decision criteria that regulates water capacity of a water treatment plant. Nothing in the zoning criteria requires that all future phases of a proposed development be reviewed in detail with the initial application. The code also does not prohibit "over-sizing" some elements for future benefit. The record indicates that water beyond the initial 70 mgd may be withdrawn from the river and transmitted to an off-site location for treatment. Hence, at some future date it may be necessary to pump 120 mgd from the river at this location, with only 70 mgd of the total treated on-site. The applicant has met the Site and Design Review and Conditional Use criteria for approval. The proposed water intake facility is also under the authority of Army Corps of Engineers. The applicant has applied for the necessary federal and state permits.

Finding 57. The proposed intake facility is designed for 120 mgd. The proposed water treatment plant is designed for 70 mgd, so the intake is the higher capacity. It is the City's decision to spend the money at this time for the 120 mgd intake facility. This gives the City more capacity if the City needs it but it doesn't mean that the City will treat 120 mgd at the site. City Engineer, Michael Stone testified that the Tualatin Valley Water District (TVWD) has a 120 mgd right to the Willamette River. (See page 6 of Application.) TVWD could build a separate WTP to treat 50 mgd off-site. It is more of a public benefit to construct the 120 mgd water intake facility now then drill into the bank again and construct another inlet in the future. Thus the DRB approved the 70 mgd treatment capacity and the 120 mgd intake capacity and approved Phase I site development. The DRB modified the staff recommended Condition of Approval No.1 as stated below:

"This action approves a Conditional Use Permit and Site and Design Plans, which are dated March 30, 2000 with amendments, and the associated submittal documents, for the initial phase of the Water Treatment Plant, passive recreation/water park, access roadway/bridge, and the public information center. The City shall develop the site, building, parking and drives in substantial compliance with the approved DRB plans. Minor site development revisions can be reviewed by the Planning Director under a Class I administrative

review. Subsequent revisions shall be provided to the Development Review Boards as informational items.”

On the basis of Condition No. 1, the City is required to return to the DRB as information item for Site and Design review for future phasing of the WTP.

Finding 58. The architectural and landscape drawings that were submitted show the entire project site for a 70 mgd (million gallons per day) water treatment facility, a clear well, a 120 mgd intake facility, access road and bridge, and for a passive recreation park. The project will be phased. The site plan of record shows that the project site can fully support the WTP to treat the water capacity identified above.

2.

“I will submit a memorandum by Monday, May 29, 2000 showing that the DRB did not adhere to its own standards of review as is required under Section 4.440 in regards to the plans, drawings, and sketches the applicant submitted. I am requesting that the council deny approval of this application as it is written because of lack of substantial evidence and analysis to support a treatment plant of 120 mgd. The public deserves the opportunity to review site plans, and analyze the applicant's findings as they pertain to a plant built out at its capacity. The DRB should have requested the applicant to submit such data and findings for review before granting approval.

Summary: This applicant should be held to the same standards as any applicant for a development in this city. The DRB has requested developers to submit all plans for all phases of their development prior to granting initial permits to build. The same standard should apply to this applicant. The DRB should review the.”

Staff findings:

Finding 59. The DRB adhered to its own standards of review as is required under Section 4.440 in regards to Site and Design Review. The Development Review Board (DRB) in findings 59 through 79 of their approval (Exhibit ‘A’) fully demonstrated that they considered architectural and landscape issues. The DRB approved complete sets of architectural and landscape drawings, showing:

Exhibit D

Sheet L1: Site construction Plan 1
Sheet L2: Site construction Plan 2
Sheet L3: Grading and erosion plan 1
Sheet L4: Grading and erosion plan 2
Sheet L11: Landscape plan 1
Sheet L12: Landscape plan 2
Sheet L13: Enlarged landscape plan 1
Sheet L15: enlarged landscape plan 3
Sheet 24: Water equalization filters
Sheet 25: North, south and west WTP building elevations
Sheet 27: West building elevation
Sheet 29: West building elevation
Sheet 30: West building elevation
Sheet 35: Administration building plan
Sheet 36: Administrative building elevations

The following Exhibits showing full architectural and landscape drawings were also entered into the public record by the Development Review Board:

- Exhibit D. Applicant's submittal documents, project narrative, Applicant's display boards entered into the record at the April 24, 2000 hearing:
- D. (1) Large aerial photo of Water Treatment Plant Site Plan
 - D. (2) Colored site plan of Water Treatment Plant showing various phases of construction
 - D. (3) West, North, East, and South colored building elevations, colored to show exterior material
 - D. (4) Panoramic computer generated photograph of a segment of the west elevation of the wall
 - D. (5) Computer generated perspective drawing of proposed bridge over Arrow Creek
 - D. (6) Colored perspective rendering showing view of new plantings from entry drive
 - D. (7) Colored perspective rendering showing view of Water Treatment Plant and passive recreation area from parking lot
 - D. (8) Colored perspective rendering showing view of water feature from Administration Building
 - D. (9) Colored perspective rendering showing view of Water Treatment Plant from pedestrian bridge
 - D. (10) Nine colored photographs showing examples of ponds and open fields and vegetative ground covers
- H.** Arborist report. In the project narrative.
I. *Recommended levels of illumination (Table)*
J. *Aerial photograph*

- K. Twelve photos**
- L. Color and materials board for exterior building materials.**

Exhibit I. Arborist report. In the project narrative.

Exhibit K. Color and materials board for exterior building materials.

Finding 60. Furthermore, the applicant has testified at the two DRB public meetings that the proposed westerly wall that faces the residential neighborhoods will be built in the first phase of construction and that subsequent plant expansion would occur behind the wall. The wall will fully screen the plant operations from the adjacent residential neighborhoods including Morey's Landing and Oak Leaf Mobile Home Park. (See Draft transcript of DRB hearing, April 24, 2000, pages 11 and 27-29 of 85, and May 1, 2000, page 42 of 89.)

Appeal of Lonnie Gieber, Morey's Landing Homeowners' Association:

1. Brockway Drive

Condition #25: The City shall restrict public vehicle access to the Water Treatment Plant from Brockway Drive except for emergency vehicle access until such time as the applicant returns for approval of the road alignment and the property access plan. Brockway Drive shall not be used for daily construction access other than for certain pieces of construction equipment that has no other reasonable access to the project site. 24-hour notice shall be provided to those living on Orchard Way and Brockway Drive prior to delivery of the construction equipment."

**Staff findings for appeal of Gieber
(Findings 61 – 69):**

Finding 61. As stated, the question raised does not constitute an appeal.

Finding 62. The primary access that will serve the WTP and the passive recreation park is Industrial Way via the proposed new public road through the subject property. In the event that Brockway Street becomes a second access to the WTP and to the passive recreation park then Brockway, Orchard Drive and Parkview Drive, which are within the Morey's Landing subdivision, and Willamette Way East in the Fox Chase subdivision will most likely be impacted by traffic. Brockway, Orchard Drive, Parkview Drive and Willamette Way East are classified as "Local Residential" public streets (Section 'B') in the Transportation Master Plan. Local residential streets are designed to have 32' pavement width within 50'

right-of-way. The design capacity for vehicles per day is 1,200. Brockway, Orchard Drive and Parkview Drive have 36' pavement width within 50' right-of-way. Though the WTP may have traffic impact on these streets, the Traffic Report indicates that it will be very minimal. The Industrial Way route will still be the primary access. The Traffic Report indicates that the WTP "at maximum, is expected to have 10 employees. The number of employees will remain constant regardless of the expansion of the water treatment capacity." Traffic Report, p. 1. The Traffic Report further indicates that "no traffic is expected to be generated by the WTP or the park during the PM peak hour." Traffic Report, p. 3. Therefore, Brockway, Orchard Drive, Parkview Drive and Willamette Way East can easily accommodate low traffic volumes that would be generated by the WTP and the park. The Traffic Report assumed that Brockway would be limited. If that changes in the future, it will be based on further consideration of the possible traffic impacts.

Finding 63. Brockway, Orchard Drive, Parkview Drive and Willamette Way East have 25 mph speed limit. The Sheriff Department conducts regular patrols and enforces traffic safety. Safety concerns within Morey's Landing subdivision would need to be considered if Brockway is selected to provide general site access in the future.

Finding 64. Emergency vehicle access is as defined in common usage. Emergency is defined in the American Heritage Dictionary as: "an unexpected situation or sudden occurrence of a serious and urgent nature that demands immediate action."

Access related concerns:

"1. Define access for purposes only of an emergency nature.

Emergency vehicle is also defined as "Any vehicle legitimately participating in an emergency response to include, but not necessarily limited to crash/fire/rescue vehicles, authorized police vehicles, medical services vehicles, or tenant operated vehicles." Cite title? A second emergency access is often a requirement by the Fire Marshal. It provides a relief route for police cars, fire trucks and ambulances in case the primary entrance is blocked.

2. Lack of sufficient traffic study regarding impacts on Morey's Landing subdivision of public access traffic to WTP.

Finding 65. The Transportation Master Plan and Zoning Code do not require such a study.

3. *Safety consideration of access through Morey's Landing neighborhood.*

3. *Security Concern*

Condition # 32: The Development Review Board recommends that the site shall be provided with 24-hour, on-site security.

"1. Morey's Landing Homeowner's Association requires 24-hour, on-site security. Such security is not an approval criterion..

Staff finding:

Finding 66. The DRB did not find it necessary to require 24-hour security but only to recommend it. The DRB cannot authorize the hiring of new City employees to supply 24- hour security.

Appellant:

Building Official Development Review #4: Gated secondary fire access road through Morey's Landing shall be maintained a minimum 20 feet of clear width as shown on plans, and provided with the Knox Lock for fire department use. (Only as may be in keeping with Condition of Approval #25).

1. *This is the preferred use of Brockway as promised by the City in numerous verbal and written representations."*

Staff finding in response to Gieber/Morey's appeal:

Finding 67. The stated preference of the residents of Morey's Landing is not taken as an appeal of this condition.

Appellant:

"PF18: At the request of Staff, DKS completed a traffic impact analysis date March 28, 2000. The project is hereby limited to no more than the following impacts.

<i>New PM peak hour trips</i>	<i>None</i>
<i>Trips through Wilsonville Road Interchange Area</i>	<i>None</i>

"1. Did the analysis take in consideration Park/WTP impact with access through Morey's Landing neighborhood? For obvious reasons a study needs to be completed."

~~Staff finding in response to Gieber appeal:~~

PF 18 (Questions/Concerns)

Finding 68. The City's traffic consultant, DKS Associates conducted a traffic study for the project. The traffic study reviewed the location, design, size and uses of the proposed WTP and recreation park. Traffic anticipated by the development was reviewed at the most probable used intersection, which is SW Boones Ferry Road and Wilsonville Road. DKS determined that zero (0) PM peak hour trips would be generated from the project and it can be accommodated safely and without congestion in excess of level of service 'D,' as defined in the highway capacity manual published by the National Highway Research Board on existing or immediately planned arterial or collector streets.

Finding 69. General traffic access through Morey's Landing was not proposed or studied. Bicycle and pedestrian access was anticipated. As stated above, if the proposal changes, then a consideration of traffic impacts on Morey's Landing is needed. (This concern does not appear to be an appeal.)

Appellant:

"The above concerns will be more fully delineated at the June 1st hearing. We will also provide the necessary written testimony for documentation."

*Sincerely,
Lonnie Gieber
For Morey's Landing Homeowner's Association.*

***Findings fo appeal of Fred Meyer, Tim Knapp, Jack Kohl
(findings 70 – 110):***

3. **Finding 70.** Map #1 of the Application clearly indicates the route of the proposed access for the project. (This map was also attached to the May 1 staff report). When reading Condition #5 in relation to Map #1, the intent is clear regarding the location of the access route. However, the staff is recommending that the City Council amend Condition #5 to match the

applicant's testimony, committing to return to the DRB for review of the selected off-site road alignment.

III.

"The findings and decision of the DRB fail to address the Wilsonville Transportation Master Plan even though it was identified as an approval criteria. See page 13 of the Staff Report. The findings and decision also failed to address Comprehensive Plan Policies relating to Public Utilities and Services/ Roads and Transportation Plan." (Policies 3-3 generally)."

Staff findings:

Paragraphs of Appeal:

Finding 71. On behalf of the applicant Robert G. Hoffman AICP, stated in a memo dated April 28, 2000, in response to a request for public involvement in route selection: "When any revised alignment is brought back to DRB, there will be a public process." DRB has required that this be accomplished prior to occupancy. Map #1 shows a few segments which are still being explored as alternatives. Most of the route alignment has been selected, however.

Finding 72. The Wilsonville Transportation Master Plan (TMP) is indicated as a document providing criteria for project approval. *See Notice (Exhibit PP, April 4, 2000) and Staff Report (Exhibit A, for DRB hearing of April 24, 2000).* Fig 20 of that document labeled Transportation Master Plan indicates in the vicinity of Industrial Way that there are three proposals for the transportation system.

- A. Wilsonville Road is indicated as an existing arterial.
- B. There is a proposed east-west collector from Brown Road/Wilsonville Road intersection.
- C. There is a southerly extension of Kinsman Road from Wilsonville Road to the east-west collector. The DRB had this map available to them.
- D.

Finding 73. In the applicant's memo of April 28, from Robert G. Hoffman AICP for Michael A. Stone (*Exhibit CC*), the applicant stated regarding circulation/connectivity that "Access proposed does not prevent ultimate plan." (Exhibits BBd and 13e from *Hoffman* the memo) ~~correct cite?~~

Finding 74. Findings 42 and 43 of the DRB decision dated May 1, pages 31-32 regarding access, state as follows:

Furthermore, Section 4.167 WC Street improvement standards requires:

“(1) Except as specifically approved by the Planning Commission, all street and access improvements shall conform to the Street System Master Plan, together with the following standards:

(a) All street improvements shall conform to the Public Works Standards and shall provide for the continuation of principal streets through specific developments to adjoining properties or subdivisions.

(b) All streets shall be developed with curbs, utility strips and sidewalks on both sides; or a sidewalk on one side and a bike path on the other side.”

Access:

43. **Finding 75.** Regarding the above, The Master Street System and Function Classification Map in the City Plan identifies Wilsonville Road which is north of the subject property as minor arterial. The future right of way for Wilsonville Road widening should be 64 to 90 feet wide with 5-foot wide sidewalks built offset from the street and 5' wide shoulder-side bicycle lanes. Access to the site is currently at Brockway Drive in Morey's Landing subdivision. The City will not use Brockway Drive for access to the proposed WPT and passive recreation area except for emergency vehicle access. The Brockway Drive east entrance will be gated or with removable posts to restrict vehicular public access. It may become an accessible path/route for disabled people. The proposed primary access will be from Industrial Way. A new access roadway will be extended south that will cross a ravine to provide access to the WTP and the passive recreation area. The alignment shown on the site plan would be parallel to the BPA power easement between Tax Lots 1800 and 1900. The proposed roadway would cross the existing ravine. A 24-foot wide roadway with curb, gutter is proposed all of the way to the location, which would go into the treatment plant, which would then be 24 to 28-foot wide. This will be a publicly owned road with a 14' wide bicycle path offset 5'. The City is anticipating being able to close a gate and eliminate the access from dusk to dawn so it will not necessarily have public access at all times. Subsection 4.167(2)(b) allows access lanes at minimum 20' for two-way traffic. Code requires paving and that it meets the requirements of Tualatin Valley Fire and Rescue for emergency vehicle access. (Emphasis added.)

“The findings and decision of the DRB fail to sufficiently address issues raised both orally and in writing at the DRB hearing.”

“Appellant(s) respectfully request that the City Council reverse, remand, or modify the decision for consistency with the requirements of Wilsonville Comprehensive Plan and the Wilsonville Transportation Master Plan.”

Finding 76. The subject property is proposed to be served for access by way of Industrial Way and a new local access road. These are local access roads and are not indicated on the Transportation Master Plan (Fig 20). The appellant states that the findings and decision failed to address Comprehensive Plan policies relating to Public Utilities/Roads and Transportation Plan. Comprehensive Plan Policies 3.3 “generally”. The appellant is required to give enough specificity in their appeal for the City to be able to respond to the issue raised. The 3.3 Policies in the Comprehensive Plan are a series of 12 pages of policy statements from the original Comprehensive Plan document. Most of these pages were amended in drastic fashion by the July 12, 1991 Transportation Master Plan which has been referred to above. The policies regarding Pedestrians and Bicycles were amended by the Bicycle and Pedestrian master Plan in December of 1993. Sidewalks/Bikeways are discussed in DRB Decision Findings 44 and 45, Staff Report May 1, 2000, and on pages 25-26 of the application. The *appellant applicant* has not made clear which policies are not being met or are in conflict with the proposals. This appellant’s issue IV appears to be a broadside charge without substance. (Also see response to issue III, above).

Staff Finding 77. Appellant’s issue IV is so general that the City cannot respond. The appeal must be specific enough for the applicant to respond. All issues raised at public hearing or in written material have been responded to.

The Current Adopted (1991) Transportation Master Plan

Street Classification Standards Section:

Finding 78. This section proposes cross-sectional standards for City streets as shown on Fig 20 of the plan. The subject property is served by local streets for industrial, public utility and passive park use. This type of street is not indicated in the Street Classification Standards. The proposal is a two-lane 24 to 28-ft wide roadway with a 14-ft. combined pedestrian/bike facility parallel to it. This is not inconsistent with the Master Plan standards. DKS Engineering has studied the proposal and has found it appropriate.

Access Management Section:

This section specifies access management guidelines, which are summarized on Table 6. The subject property is proposed to be served by a "local street". 25-mph speed limit will be maintained. Access will be permitted to each lot with spacing of 300-500 ft. Average trip length will be about ¼ mile to Industrial Way or less to Brockway Drive. The land use will be industrial, public utility and passive park. While this type of street is not specifically listed on Table 6 it is similar to a residential local street. The proposal is not inconsistent with the *access management* guidelines.

Street Improvements Section: (incl. Fig 20)

This section of the plan describes modifications to the existing street system necessary to fulfill the Master Plan. The closest arterials are Wilsonville Road and Kinsman, which are proposed to be widened. The City has completed improvements to Kinsman Road and the portion of Wilsonville Road east of the railroad tracks. Widening of Wilsonville Road west of the railroad tracks is proposed to be completed during the next two years.

New collectors are proposed (south of Wilsonville Road) described as a "network of major collector streets south of Wilsonville Road and west of I-5.....and would provide improved circulation from Boones Ferry Road to Kinsman and Brown Road." The on-site road improvements are a great distance south of the roads, illustrating the described concept on Fig. 20 of the Plan. These improvements on the site would not prevent or directly affect the accomplishments of the new collector proposals. The new on-site access road is proposed to connect to Industrial Way, which accesses Wilsonville Road. Map 1 from the application and the DRB's April 24, 2000 staff report illustrates that it may be possible to redirect Industrial Way to an intersection with Wilsonville Road at Kinsman. If this becomes possible, this may fulfill part of the proposed collector system south of Wilsonville Road, as it would become an extension of Kinsman to the south as illustrated on Fig. 20. Thus, the road proposal is not in conflict with or inconsistent with this section.

Bikeway Plan Section:

This section of the plan including Map 21 has been replaced by the Bicycle and Pedestrian Master Plan adopted in 1994. The new plan is being implemented by the bikeway and pathways being proposed. This plan section is fulfilled by the proposal.

Public Transportation Section:

This section discusses proposals to improve and retain transit service. Fig. 22 proposes actual transit routes. None are in the general area south of Wilsonville Road and west of the railroad. However, the project for the treatment plant and passive park are designed to facilitate bus access to the site including bus parking and a turn around. The proposed project is not inconsistent with the transit proposals and provides for future bus access.

Rail Service and Air Service Sections:

Since the Plan (Transportation Master Plan) does not propose any facilities or local rail or air service in the vicinity of the proposed treatment plant, the project is not inconsistent with these sections.

Transportation Demand Management Section:

This section proposes that the City work with large employers to implement carpool and van pools and alternative work schedules. The City, through SMART, has such a program. The City Staff is a part of this program. The project is in compliance with this section.

Implementation Section:

This section is a set of priorities by Phases. All "immediate priority" projects have been implemented. Phase I (prior to 1995) projects have been implemented in terms of pattern, but certain "widenings" are still being programmed. None are in the vicinity of the treatment plant. Phase 2 (1995 to 2000) is still being programmed in some respects, but Wilsonville Road near this project area is scheduled to be widened in the next two years. The projects described as "With Adjacent Development/When Warranted" includes a project to "construct parallel collector streets south of Wilsonville Road from Boones Ferry to Kinsman Road." This project is not currently scheduled but the treatment plant project does not prevent or impede its accomplishment. Traffic signals are proposed at a number of locations. Only the Kinsman/Wilsonville Road location is nearby. It has been installed. Thus, the project plan is not inconsistent with this section.

Ben Altman's appeal regarding Transportation Plan Requirements:

Issue III raised by Mr. Altman:

"The findings and decision of the DRB fail to address the Wilsonville Transportation Master Plan even though it was identified as an approval criteria. See Page 13 of the Staff Report. The findings and decision also failed to address Comprehensive Plan Policies relating to Public Utilities and Services/Roads and Transportation Plan. (Policies 3.3 generally.)"

Staff findings in response to Altman appeal:

ROADS AND TRANSPORTATION PLAN (From Comprehensive Plan)

Finding 79. Evaluation of proposed treatment plant

“Policy 3.3.1: a. The Street system Master Plan (Map 1) has been designed to meet projected year 2000 traffic volumes. It specifies the design standards for each arterial and major collector street. The conceptual location of proposed new major streets are also identified. However, actual alignments may vary from the conceptual alignments based on detailed engineering specifications and design considerations, provided that the intended function of the street is not altered. While local residential streets are considered a part of the Master Street System, they are not shown on the Master Plan. The alignment of local streets shall be evaluated on a project-by-project basis. Other streets now shown on the Plan may also be considered, if determined necessary for safe and convenient traffic circulation.”

Response:

Finding 80. The July, 1991, Transportation Master Plan replaces the original plan referred to here. It has 2010 as the end date of the planning period. The streets within the subject area are local streets, as is Industrial Way, the means of accessing the nearest arterial. Fig. 20 of the 1991 currently adopted Transportation Master Plan shows the plan system. The project's local street has been designed to function appropriately in relationship to the proposed arterial and collector system. This policy has been met.

b. “Figure I defines the Functional Street Classification System and specifies the physical design characteristics (right-of-way and pavement width, curbs, sidewalks, etc.) of the various street classifications. Table II and Figure II identifies specific proposed exceptions to the design standards.”

Response:

Finding 81. Fig. 20 from the 1991 Transportation Master Plan replaces Fig 1 “Master Street System and Functional Classification”, Table 11 and Fig 2 have been replaced but the proposals being described on these tables and figures are basically being followed. The project access proposal

being local streets does not conflict with or prevent implementation of the plan proposals. The policy is met.

c. "All streets shall be designed and developed in accordance with the Master Plan and street standards, except as the Planning Commission may approve specific modifications through the planned development process. Such modifications shall be made in consideration of existing traffic volumes and the cumulative traffic generation potential of the land uses being developed. At a minimum, all streets must be developed with sufficient pavement width to provide two lanes of traffic, unless designated for one-way traffic flow. However, adequate emergency vehicle access and circulation must be provided." (emphasis added)

Response:

Finding 82. The proposal is of local streets (Industrial Way plus the new street) which are at least two lanes wide and emergency vehicle access is provided for if needed, by way of Brockway. DKS has studied the proposal and has determined that it is workable. This policy is met.

d. "Map II identifies designated truck routes. These streets shall be developed to arterial street construction standards and should be posted as truck routes."

Response:

Finding 83. The Transportation Master Plan of 1991 did not adopt a new truck routes. Industrial Way has been developed as an access way for that function and it is being proposed to be used to access the treatment plant site. The pedestrian and bike traffic is proposed to be separated from the industrial traffic. This policy is met.

"Policy 3.3.2: a. All arterial and collector streets shall be dedicated public streets. To insure adequate protection of potential future right-of-way needs, minimum setbacks shall be established adjacent to arterial streets. In addition, to maintain efficient traffic flows, intersections with arterial streets shall be minimized, and property owners shall be encouraged to consolidate driveways."

Response:

Finding 84. The proposed route is a local street, not an arterial or collector. However, the portion on the subject site is proposed to be dedicated. Setbacks as required will be provided. The policy is being met.

b. "Through the Planned Development process, local streets may be approved as private streets, provided that adequate emergency access is available and that appropriate deed restrictions, homeowners' association requirements, etc. are established to insure proper maintenance."

Response:

Finding 85. The proposal is to dedicate the local street that is on the site, thus the policy does not apply because it is optional. Emergency access by a secondary route on Brockway is proposed.

"Policy 3.3.3: Minimum street service levels shall be established. Dedication of adequate right-of-way, as established by the Street System Master Plan, or as otherwise approved by the Planning Commission, shall be required prior to actual site development.

If the proposed development would cause an existing street to exceed the minimum service capacity, then appropriate improvements shall be made prior to occupancy of the completed development. Said improvements may be deferred if they are scheduled and funding is confirmed through the City's Capital improvements Plan for construction within two years of the date of occupancy, provided that such a postponement of improvements would not seriously endanger public health and safety. In such cases, interim improvements shall be required."

Response:

Finding 86. The City has adopted level of service "D" as its service standard. DKS has studied the proposal and determined that the standard will not be exceeded and it will be safe. The policy has been met.

"Policy 3.3.4: The City shall periodically review and update its street lighting standards adequate to insure public safety. Energy conservation shall also be considered in setting these standards."

Response:

Finding 87. The City has periodically reviewed its lighting standards. The proposal will utilize the latest standards. The new lighting standards are more energy efficient. The policy is met.

“Policy 3.3.5: a. The City shall assume the responsibility to plan, schedule and coordinate all street improvements through a Capital Improvements Plan. A priority will be given to eliminating existing deficiencies and in upgrading the structural quality of the existing arterial system.

The City shall also encourage the State (ODOT) and the Counties to acknowledge or adopt the City’s Street Standards to insure consistent application of street improvement requirements regardless of the jurisdictional control of the road in question.”

Response:

Finding 88. The City has a Capital Improvements Plan in place, which is updated annually. The plan includes upgrading of arterials including Wilsonville Road, the nearest arterial to the subject property. The State has acknowledged the City’s Comprehensive Plan and the City has an agreement in place with Clackamas County. The policy is met.

“b. Individual developments shall be responsible to provide all collector and local streets. Developers and property owners of developing property shall also collectively assume the responsibility of providing “extra capacity” to the existing street system. To insure development of an adequate street system, the City shall collect a Systems Development Fee as development occurs. Funds collected shall be allocated through the Capital Improvements Plan as needed to provide extra capacity service.”

Response:

Finding 89. The City is proposing to build and to dedicate the local roadway within the project area. The City collects Systems Development Charges (SDCs) and all development pays fees towards transportation improvements (including the subject project). The City will retain ownership to the Brown Road extension area that the City owns for eventual extension. The subject project is expected to pay over \$42,000 of SDC fees, almost \$16,000 of which is transportation related. The policy is met.

“c. Maintenance of the developed street system is a general public obligation. The City shall coordinate routine and necessary maintenance with the appropriate state or county agency.”

Response:

Finding 90. The City maintains all of its City owned street system including those within public facilities. The subject streets will be maintained. The City has in place a Road Utility Fee system for maintenance purposes. The policy is met.

“Policy 3.3.6: The City shall continue to work in concert with the State, MSD, Clackamas and Washington County and adjacent jurisdictions to develop and implement a regional Transportation Plan that is complementary to and supporting of the City’s Plan while addressing regional concerns. The City expects a reciprocal commitment from the other agencies.

This policy recognizes that there is a need for a collective and cooperative commitment from all affected agencies to solve existing and future transportation problems. The City will do its part to minimize transportation conflicts, but it must also have the support of county, regional, State and Federal agencies to effectively implement this Plan.”

Response:

Finding 91. The City serves on numerous County and Regional Transportation committees for coordination purposes. The policy is met.

“Policy 3.3.7: The City shall actively encourage the State to provide improvements to regional transportation facilities which, due to inadequate carrying capacities, frustrate implementation of the City’s Transportation Plan.”

Response:

Finding 92. The City is encouraging the State and Metro to solve regional transportation problems, which affect us. This has recently involved SMART/Tri Met, Boeckman Interchange, Prison/Day Road and similar issues. The policy is met.

“Policy 3.3.8: The City recognizes that extensive upgrading of mass transit service to Wilsonville is not likely in the near future, that regional priorities for transit improvements have been placed on the Banfield and Sunset corridors, to better serve existing high demand areas, and that the State Highway Department has expressed concern over maintaining reasonable service levels on the I-5 Freeway.

Therefore, the City shall:

a. Review all land use/development proposals with regard to transportation impacts. All development proposals shall be required to submit a transportation impact analysis.”

Response:

Finding 93. All projects are required to do transportation impact studies including the subject project. DKS did the study and found that there is no negative impact. The policy is met

b. “Seek to minimize traffic congestion at the Freeway interchange as well as on local arterial and collector streets.”

Response:

Finding 94. The DKS study analyzed these issues and concluded the project met the requirements. The policy is met.

c. “Seek to reduce the number and length of home-to-work trips.”

Response:

Finding 95. The City has Transportation Facility Strategies and Management Plans in place to deal with these needs. The policy is met.

d. “Seek a balanced mix of activities, which encourage consolidation of automobile oriented trips and encourage design and location of complementary activities that support public transit, ride-share programs, and use of other alternative modes of transportation.”

Response:

Finding 96. The City operates its own transit system. Transportation Demand Management implemented by SMART and the City Engineering Department is in place. The policy is met.

e. "Requires large developments and high employment and/or traffic generators to design for mass transit and to submit programs to the City indicating how they will reduce transportation impacts. All such proposals shall be subject to review by Tri-Met and ODOT. Maximum parking limits may also be imposed."

Response:

Finding 97. All large developments with employment are required to design for transit and reduce impacts and have ODOT review, including the subject project. The policy is met.

f. "Seek location of a permanent park and ride station as well as a commitment from Tri-Met to upgrade transit service to the greatest extent possible."

Response:

Finding 98. The City has park and ride locations and makes connections with Tri Met for its SMART bus system. The policy is met.

"Policy 3.3.9: The City recognizes the value of the Burlington Northern Railroad to industrial growth in Wilsonville, and will encourage the railroad and Public Utility Commission to maintain quality service and provide needed improvements, rail crossings and signalization, etc."

Response:

Finding 99. Since the railroad is located some distance to the east, this policy does not apply to the subject project, but the City is cooperating in a commuter rail study to make better use of the rail.

"Policy 3.3.10: The City should work in concert with the appropriate authorities to establish regulations for activities conducted on the Willamette River to insure protection of the public health, safety and general welfare. "

Response:

Finding 100. The subject project, a water treatment plant and passive park, does not use the river for transportation. However, the water intake will be below the water surface and application to the Army Corp of Engineers for permit to construct the intake has been made. The policy is met.

“Policy 3.3.11: a. The Pathway Master Plan (Map III) identifies the general alignment of primary routes for pedestrian, bicycle and equestrian travel. It has been designed to provide connections between residential neighborhoods and major commercial industrial, and recreational activity centers throughout the City. The system has been coordinated with pathways planned in adjacent jurisdictions to allow for regional travel.”

Response:

Finding 101. The 1993 Bicycle and Pedestrian Master Plan and Parks and 1994 Recreation Master Plan replaced the Comprehensive Plan (Map III). The subject project aids in implementation of the plans by its passive park and ped/bike path proposals. See Findings 41 and 43 of DRB Decision, May 1, 2000 Staff Report p. 30-31. Application April 3, 2000, pages 55-61. The policy is met.

Policy 3.3.11

b. “User safety and convenience and security for both path users and adjacent property owners shall be a primary consideration in determining the actual location and routing of pathways.”

Response:

Finding 102. The safety, convenience, and security of users and adjacent property owners have been a prime consideration of the proposed pathway system. See pages 55-61 of Application, DRB Condition #5 00DB18 Staff Report p. 2. Findings 41 and 43, May 1, 2000 Staff Report p. 30-31. The policy has been met.

Policy 3.3.11

c. “The City shall establish pathway construction standards to be incorporated into the Public Works Standards.”

Response:

Finding 103. Public Works Standards include sidewalk and bike lane requirements for streets. The Bike and Pedestrian Master Plan includes Bike and Pathway standards. The policy is met.

“Policy 3.3.12: a. All primary pathways shall be constructed in accordance with the Master Plan, with specific alignments to be approved by the Planning commission. All major street construction or improvements shall be coordinated with the Pathway Master Plan.”

Response:

Finding 104. The proposal has been coordinated with the Bike & Pedestrian Master Plan by designing a system which integrates the elements while creating needed safety and conveniences. All street construction provides for bikes and pedestrians. The policy is met.

b. “The City shall schedule and coordinate all pathway improvements. A priority will be given to completing specific links of the system, thereby avoiding dead-end pathways. When land is developed which includes a designated pathway, appropriate dedication of right-of-way or easements shall be required. In cases where the proposed development will substantially increase the need for the path, construction may also be required prior to occupancy.”

Response:

Finding 105. The proposal includes provisions for peds/bikes as proposed in the Bike/Pedestrian Master Plan proposed it. There is full ped/bike pathway access to the site and throughout the site. The land will be city owned and operated. The policy is met.

c. “The City shall encourage development of secondary pathways internal to individual developments. Secondary paths shall be designed and provided by private development as new construction occurs and shall be coordinated with the primary pathway system.”

Response:

Finding 106. Secondary paths are provided on the subject site to/and along the buildings and to/and along the river. The paths are connected to

the Citywide system, including the Morey's Landing pathway system. The policy is met.

“Policy 3.3.13: a. The street standards indicate that concrete sidewalks are to be developed on both sides of all streets. However, in most cases, a sidewalk will be provided on one side and a combination sidewalk/bike path on the other side. Typically this will allow for separation of travel modes, although some mixed mode travel is expected to occur.

All bike paths are to be developed with concrete or asphalt paving. Standard sidewalks will be concrete, while pedestrian/equestrian trails may have a gravel or sawdust surface.”

Response:

Finding 107. The project provides on-site bike paths and pedestrian paths. A 14-foot Bike/Pedestrian way is proposed from Industrial Way to the treatment plant. Hard surface will be used. The off-site proposal is to continue the path northward to Wilsonville Road. See Condition #5, 00DB18. The policy is met.

Policy 3.3.13:

b. “The primary bike path system is proposed to be developed with Class I bike paths only, unless physical barriers and interim phasing warrants Class II or III bike paths. Definitions of Class I, II, and III bike paths are as follows:

Class I bikeway – a bikeway completely separated from vehicular traffic and within an independent right-of-way or the right-of-way of another facility. Bikeways separated from vehicles, but shared by both bicycles and pedestrians are included in the classification.

Class II bikeway – any bikeway, which is part of the roadway or shoulder and delineated by pavement markings or barriers such as extruded curb or pavement bumper blocks. Vehicle parking, crossing or turning movements maybe permitted within the bikeway.

Class III bikeway – any bikeway sharing its traffic right-of-way with motor vehicles and designated by signing only.”

Response:

Finding 108. On site, the entire bike/pedestrian system is Class 1, separated, except for a short segment in the parking lot and near the bike parking where it is designed with the parking lot. The policy is met.

“Policy 3.3.14: The following major street system improvements are necessary to support certain levels of development anticipated in this Plan. The City may not be able to finance all of these improvements and some may be financed by entities other than the City.

Develop a partial interchange between I-5 to the north and Boeckman Road see Areas of Special Concern – Area II).

Widen the I-5 off-ramps at the intersections with the City arterial streets.

Develop Wilsonville Road as a two-lane arterial with continuous left turn lanes except in the vicinity of I-5 and the Civic Center, where it should be widened to four and five lanes.

Develop Elligsen Road as a two-lane arterial with left turn lanes at SW 65th Avenue and to a four-lane roadway with left turn lanes in the vicinity of Parkway Avenue.

Develop Boones Ferry Road as a two-lane arterial with a continuous left turn lane in the median area.

Develop Parkway Avenue as a two-lane arterial with a continuous left turn lane in the median area.

Develop Boeckman Road as a two-lane arterial with left turn lanes at major intersections.

Widen Eilers Road and Aurora-Boones Ferry Road south of the Willamette River to two lanes with left turn lanes except in the vicinity of I-5 where it should be five lanes.”

Response:

Finding 109. The City has made improvements to all of these roads since the Comprehensive Plan was adopted. The Wilsonville Road improvements from Boeckman Road to the railroad (some four + miles) was recently completed and the remaining two and one-half miles to the west is programmed for the next two years. The Policy is met.

“Policy 3.3.15: If adequate regional transportation services, including I-5 interchange modification or additions, and high capacity public transportation cannot be provided then the City shall reevaluate and reduce the level of development and/or timing of development anticipated by other elements of this Plan. Such reductions shall be consistent with the capacity of the transportation system at the time of re-evaluation.”

Response:

Finding 110. DKS has evaluated the subject proposal and has found that it does not adversely affect the broader transportation system. Application April 3, 2000 Traffic Impact Report dated March 28. The City continues to work with ODOT and Metro regarding relationships to I-5 and commuter rail and Tri Met. The Transportation Master Plan restudy which is currently underway has tested and evaluated nine separate City-wide systems, trying to discover the best local plan related to the Regional/State Plan. Certain alternatives look at land use change as an element. The City has adopted a Public Facility Transportation Strategy in Ordinance No. 463 to keep transportation capacity and traffic generation in balance. The policy is met.

CONCLUSIONS

The combined panels of the Development Review Board voted 8-1 to approve the proposed WTP development after conducting a public hearing on April 24 and May 1, 2000.

In the course of its deliberations, the DRB heard testimony and considered evidence relating to the issues raised in all five of the appeals. The DRB adopted findings of fact and established numerous conditions of approval for the development. In reviewing the DRB record, the following conclusions can be reached:

- The record does not support limiting the intake structure to less than the 120 mgd capacity that has been proposed.
- It is appropriate to approve the proposed development, subject to a condition requiring coordination with BPA for all lands controlled by BPA. Moreover, BPA will use this action by the City of Wilsonville in reviewing the portion of the development on BPA lands.
- Transportation issues, including conformance with the transportation sections of the Comprehensive Plan (and the Transportation Master Plan, the Bicycle and Pedestrian Master Plan, and the West Side Master Plan) have been adequately addressed in the proposed development. While final off-site access and circulation issues will be addressed in a subsequent application, requiring an additional public hearing process, there is evidence in the record that the city has at least three potential means of providing long-term site access. Supplemental findings in regards to project compliance with these plans have been provided.
- There is no evidence in the record supporting the appellant's claim that the WTP project will have an adverse traffic impact on residential streets. The traffic study concluded that the project will not cause the level of service at the intersections receiving the most probable use to fall below Level of Service 'D.' The Industrial Way route will be the primary access route to the project site for the Water Treatment Plant. The actual off-site road alignment will be determined through a subsequent public hearing process.
- The proposed development will adequately address fish and wildlife issues. It is noted that more than half of the total site will remain in open space or passive park use, even with the complete development of the WTP. Adequate provisions have been made in the design to accommodate wildlife on the site.
- The applicant has provided a complete Site and Design application in compliance with Wilsonville Code Section 4.400. In reaching the decision to approve the WTP

project; the DRB reviewed the Site and Design Plans consistent with the criteria in Section 4.400.

- The DRB adequately addressed seismic safety concerns by including Conditions of Approval 5 and 6 of the Building Division's report, requiring the facility to be designed to the specifications of the Uniform Building Code (UBC). The Water Treatment Plant, including all control buildings essential to the operation of the plant, is being designed to the Seismic Zone 3 "essential facility" standards. There is no evidence in the record supporting the appellant's claim that the Zone 3 essential facility standards are not adequate.
- There is no evidence in the record supporting the appellant's claim that a 60' wide corridor located at the north end of the project site on Tax Lot 1900 the north end is the preferred wildlife corridor in the area. The 60-foot corridor is not designated for protection as Primary Open Space.
- There is no evidence in the record supporting the appellant's claim that the alignment and landscaping of the proposed access road through the 60' corridor will adversely impact the adjacent residential neighborhood.
- In Condition of Approval No. 32, the DRB gave proper consideration to recommend 24-hour on-site security. The project is designed to deter crime and to protect public safety.
- Appellant Joe Bernert Towing Company erred in item 3(c) of his appeal stating that the use of Industrial Way on the appellant's property "*is inconsistent with the purposes of the RA-1 zone in that the proposed use introduces a permanent, publicly accessible park and recreation area in a zone which is planned to accommodate large-lot residential development or industrial use and more intensive residential development.*" This issue is not appropriate for consideration in this review on the record because the matter was not raised at the DRB hearing. However, if reviewed, it would be noted that the long-range use for the WTP project site shown on the Comprehensive Plan Map is "Industrial," not "Residential." The proposed WTP and recreation park are allowed in the RA-1 zone as conditional uses. The development of a public street is consistent with all the zones within the City.
- The appeal of Kathy Krueger is not substantiated by the whole record and should be denied.
- The appeal of Geiber/Morey's Landing Homeowners' Association raises issues and concerns that are not supported by the whole record and should be denied. Speculation about conclusions of a possible future traffic study, and homeowners "requirements" and preferences are not valid appeal issues.

To satisfy the appeal request regarding DRB Condition #25, "emergency vehicle" may be defined as follows:

"Emergency vehicle. Any vehicle legitimately participating in an emergency response to include, but not necessarily limited to crash/fire/rescue vehicles..."

Source: A Glossary of Zoning, Development, and Planning Terms, Dolreich and Davidson, Planning Advisory Service, Dec. 99, Rpt #491/492.

- Appeal of Tim Knapp, Fred Meyer, and Jack Kohl

Based on the findings provided in the record and herein, the staff supports Mr. Altman's conclusion that Condition #5 is ambiguous and should be clarified. The staff is recommending that the City Council modify DRB Condition #5 to clarify that the applicant will return to the DRB for a subsequent public hearing process on the selected road alignment to provide access to the site. The Transportation Master Plan and Comprehensive Plan Policies 3.3 should be addressed in City Council findings. The issue raised in paragraph IV of Mr. Altman's appeal lacks sufficient specificity to provide for a response and should be denied.

Mr. Altman's issue III regarding failure to address the Wilsonville Transportation Master Plan and Comprehensive Plan Policies 3.3 generally is found to be a valid issue. The City Council should adopt supplemental findings regarding the Transportation Master Plan and Policies 3.3. as found herein.

- The appeal of Dolores Scott is not substantiated in the whole DRB record and should be denied.
- The appeal of Joe Bernert Towing Company is not substantiated by the whole record of 00DB18 and should be denied. Issue 3(c) regarding the RA-1 zoning is a new issue not raised before he DRB and should be denied also for that reason.