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BEFORE THE HEARING EXAMINER FOR THE CITY OF LAKEWOOD

RE: Lakewood Water District
Conditional Use
LU19-00025

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) FINDINGS OF FACT, CONCLUSIONS OF
) LAW AND FINAL DECISION
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Summary

The Applicant has applied for a conditional use permit to relocate and replace their existing water reservoir and booster pump station (BPS) to an abutting lot located at 6426 127th St. SW. The proposal is approved subject to conditions.

Testimony

Ramon Rodriguez, City of Lakewood associate planner, summarized the staff report. Mr. Rodriguez noted that the original reservoir proposal was 85 feet high and 65 foot diameter, but as revised in Ex. 17 the tank is now proposed to be 93.5 feet high and 66 foot diameter.

Dave Matz, RH2 Engineering for the Applicant, thanked staff for the straightforward and expeditious review. He produced an exhibit, Ex. 18, that showed the location of homes in relation to the reservoir. In response to examiner questions, Mr. Matz noted that because of the slopes that the tank would be visible from the roads but he wasn't sure if it would be visible to neighboring homes. Some, but not all, trees are taller than the tank. The existing tank will be decommissioned at a later

1 date but he didn't know precisely when. The existing tank will need to be removed in order to
2 develop the underlying lot with a single-family home. The only noise associated with the proposal
3 will be operation of the emergency generator, which may be operated monthly just to ensure that it's
4 in working condition. Staff will visit the site once or twice per week. The generator will only be
5 used during power outages for the pump station. There will be security lighting that's usually only
6 activated by motion. There was a neighborhood meeting for the project, which is probably why no
7 one was attending the public hearing.

8 **Exhibits**

9 Exhibits 1-16 as identified at page 9 of the April 18, 2019 staff report were admitted into the record
10 during the April 18, 2019 hearing. Ex. 17 was admitted during the hearing as a revised reservoir
11 design, amending Ex. 3. Ex. 18 was admitted during the hearing as an aerial map with an overlay
12 depicting the location of adjacent homes.

13 **FINDINGS OF FACT**

14 **Procedural:**

- 15 1. Applicant. Lakewood Water District.
- 16 2. Hearing. A hearing was held on the subject application on April 18, 2019 in the Lakewood
17 City Hall Council Chambers.

18 **Substantive:**

- 19 3. Project Description. The Applicant has applied for a conditional use permit to relocate and
20 replace their existing water reservoir and booster pump station (BPS) to an abutting lot located at
21 6426 127th St. SW

22 The existing reservoir was constructed in 1953 and the BPS in the 1970's. According to the
23 Applicant both facilities have reached the end of their life cycle and need to be replaced. The
24 Applicant has referenced that the existing reservoir does not meet current seismic standards. The
25 Applicant explored options to construct a new reservoir and BPS on the existing site; however, the
26 lot size does not have the capacity to support the required development improvements. A BLA
application, LU1900027 is proposing to reconfigure the lot upon which the facility is currently
located along with two adjoining lots as shown in Ex 3 to create a new project site 1.1 acres in size.
The Applicant is proposing to relocate and replace their existing water reservoir and BPS to the new
project site. Access will be provided off 127th Street SW via a 35' wide newly created flag lot. That
point of access will be shared with the east abutting residences located at 6418 127th Street SW.

4. Surrounding Area. The project site is surrounded by single-family development.

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2 5. Adverse Impacts. There are no significant adverse impacts associated with the project.
3 Pertinent impacts are addressed as follows:

4 A. Critical Areas. There are no critical areas located at the project site, except for steep 40%
5 slopes located along the southern boundary. According to a geotechnical report, risks from
6 landslides are low as the proposed developed portion of the project site is on a gentle slope and
7 underlain by glacial till. The geotechnical report also concludes that risks from liquefaction are
8 low. However, the subgrade could become soft and unsuitable for placement of structural fill if
9 the surface is disturbed during construction or if excessive water from precipitation or
10 groundwater seepage is uncontrolled, which could erode exposed excavated surfaces. The
11 recommendations of the geotechnical report are made conditions of approval to mitigate these
12 potential adverse impacts.

13 B. Traffic. The proposed land use will generate a net zero increase in vehicular trips as the use
14 will be identical to what is existing on the north abutting lot. It is anticipated that two (2)
15 average weekly traffic trips will occur to maintain the facilities. There will be a modest increase
16 in traffic during construction due to material deliveries and construction workers. No trip
17 generation analysis is required due to the zero increase of new additional daily trips created by
18 the proposal.

19 C. Hazardous Conditions. No hazardous conditions are associated with the proposed use or
20 development. The proposal will improve upon existing hazardous conditions by upgrading the
21 facility to current seismic development standards. According to the application materials
22 submitted by the Applicant, the existing reservoir structure and BPS do not meet seismic
23 standards and should be redeveloped. The proposed facilities will be designed to current seismic
24 safety standards. The proposed facilities will not introduce any hazardous conditions at the site
25 that cannot be mitigated. Access, tree preservation, landscape buffers, setbacks, impervious and
26 building coverages, and construction methods will all adhere to City of Lakewood standards and
requirements.

D. Compatibility. The proposal will not create any significant noise, aesthetic or other adverse
impacts that would affect surrounding properties. The project site and vicinity are heavily
vegetated with trees and shrubs and will also include landscape buffers such that only portions
of the reservoir tanks will be visible from adjoining residential uses. A perimeter landscape
enhancement area will be provided along the north and west boundaries of the new project site
to create a landscape buffer to abutting residential uses. The proposal's lighting will be limited
to motion sensitive security lighting and will only involve a small amount of noise from
intermittent use and testing of an emergency generator that is used for power outages. Finally,
once the new water reservoir is completed and operational the existing water tower will be
removed, thus making only a minor net change in aesthetics. As shown in Ex. 18, the new
location of the water tower will separate it further from most existing homes, although it will be
a little closer to one home to the south.

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2 E. Adequacy of Utilities. The proposal will be served by adequate utilities. The proposed
3 facilities will provide additional water storage for the surrounding area. Staff have determined
4 that the proposed facilities will not overburden or adversely affect the sewer, storm drainage,
5 schools, electrical, police, or fire protection services. Power services from Lakeview Power will
6 be provided to the site from Glenwood Avenue SW through existing utility easements. Storm
7 drainage will include on-site retention with overflow to Glenwood Avenue SW in accordance
8 with City standards. There will be no sewer service for the project site. Storm drainage will be
9 reviewed by the City's Public Works Department and will be consistent with current State and
10 City standards.

11 F. Tree Retention. The proposal provides for adequate retention of trees. The proposed new
12 project site is an undeveloped vacant parcel with a significant amount of trees and vegetation.
13 The Applicant is proposing to retain approximately 63 percent of the existing significant interior
14 trees on the subject site to accommodate development. Pursuant to LMC 18A.50.320.B.2.b fifty
15 (50) percent of the significant interior trees must be retained without requiring tree replacement
16 mitigation. Thirteen (13) significant perimeter trees will be removed to allow development of
17 the access road.

18 **Conclusions of Law**

19 1. Authority. LMC 18A.2.502 Table 3 classifies conditional use permits as a Process III
20 application subject to hearing examiner review.

21 2. Zoning Designations. Residential 3 (R3) Zoning District.

22 3. Review Criteria. As authorized by LMC 18A.30.150A11, water supply facilities are
23 authorized in the R3 zone as a conditional use. LMC 18A.10.150 governs the criteria for conditional
24 use permit review. Applicable conditional use criteria are quoted below in italics and applied through
25 corresponding conclusions of law.

26 **LMC 18A.10.150(A):** *The size and physical characteristics of the site are appropriate for the
proposed use including all facilities and amenities that are required by this title or desired by the
Applicant.*

4. The criterion is met. There are no critical areas on site and its large size and heavy vegetation
(serving as buffering) is ideally suited for a water reservoir. As concluded in the geotechnical report,
the site has some minor geotechnical issues, but these issues can be addressed by adherence to the
recommendations of the report.

LMC 18A.10.150(B): *The proposed use will not be detrimental to the public health, safety, and
general welfare of the community and will not introduce hazardous conditions at the site that cannot
be mitigated to protect adjacent properties and the vicinity.*

1 5. The criterion is met. As determined in Finding of Fact No. 5, no significant adverse impacts
2 will be created by the proposal, which includes any hazardous conditions. Since the proposal creates
3 no significant adverse impacts, it will not be detrimental to public health, safety and welfare.

4 **LMC 18A.10.150(C):** *The proposed use will not be injurious to, or adversely affect the uses,*
5 *property, or improvements adjacent to, or in the vicinity of, the site upon which the proposed use is to*
6 *be located. The proposed use will be compatible with adjacent land uses and consistent with the*
7 *character of the surrounding area.*

8 6. The criterion is met. As determined in Finding of Fact No. 5, no significant adverse impacts
9 will be created by the proposal and the proposal is compatible with surrounding uses. Consequently,
10 it will not be injurious or adversely affect surrounding uses.

11 **LMC 18A.10.150(D):** *The proposed use will be supported by adequate water, sewer, storm*
12 *drainage, schools, electrical, police, and fire protection facilities and services. The use will not*
13 *overburden or adversely affect said public facilities and services.*

14 7. The criterion is met. As determined in Finding of Fact No. 5(E), the proposal is served by
15 adequate public facilities and services.

16 **LMC 18A.10.150(E):** *The traffic generated by the proposed use will not unduly burden the traffic*
17 *circulation system in the vicinity.*

18 8. The criterion is met. As determined in Finding of Fact No. 5(B), no significant traffic will be
19 generated by the proposal.

20 **LMC 18A.10.150(F):** *An adequate site layout is proposed for on-site circulation and*
21 *transportation activities, considering the potential impacts of the proposed use on traffic flow and*
22 *control, emergency vehicle movements and safety associated with the suitability of access points, on-*
23 *site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks,*
24 *bike paths, or other transportation facilities required by this title or desired by the Applicant. All*
25 *conditions necessary to lessen any impacts of the proposed use have been included in the project*
26 *design or will be required as conditions of approval pursuant to LMC 18A.10.160, Action of Hearing*
Examiner. Buffering devices such as fencing, landscaping or topographic characteristics may be
required to adequately protect adjacent properties from adverse effects of the proposed use,
including adverse visual or auditory effects.

9. The criterion is met. On-site circulation will be provided with a City standard drive approach,
access driveway, access around the proposed reservoir, and parking in front of the BPS. Landscaping
buffers, tree preservation, and architectural features shall be provided in accordance with City
standards.

1 **LMC 18A.10.150(G):** *The proposed use will cause no unreasonably adverse effects to wetlands,*
2 *shorelands, wildlife habitat, and other sensitive areas.*

3 10. The criterion is met. As determined in Finding of Fact No. 5(A), the proposal will not
4 adversely affect critical areas.

5 **LMC 18A.10.150(H):** *That the granting of the proposed conditional use is consistent and*
6 *compatible with the intent of the goals, objectives and policies of the comprehensive plan. For*
7 *essential public facilities, the Hearing Examiner shall balance the goals and policies of the*
comprehensive plan, the intent of this code, and the public need for the proposed facility.

8 11. The criterion is met for the reasons identified at page 6 of the staff report.

9 **LMC 18A.10.150(I):** *The proposed use complies with the appropriate development and*
10 *performance standards and all other applicable provisions of the City of Lakewood Land Use and*
Development Code.

11 12. The criterion is met. As conditioned, as outlined in the staff report, staff have reviewed the
12 proposal for consistency with the City's development standards and found the project to be
13 consistent. There is nothing in the record to reasonably suggest otherwise.


14 **DECISION**

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16 Conditional Use Permit Application No. LU19-00025 satisfies all conditional use criteria as
17 determined in the Conclusions of Law of this decision and is therefore approved subject to the
following conditions:

- 18 1. The proposed use shall remain in substantial conformance with the proposed site plan
19 (Exhibit 3). Minor modifications consistent with Lakewood's development standards may be
20 reviewed and approved by the Community and Economic Development Director. Major
modifications will require a new CUP.
- 21 2. The project shall be consistent with comments provided in the March 6, 2019 memorandum
22 from Lakewood Public Works Engineering Department, the February 28, 2019 comments
23 from State of Washington Department of Ecology and the recommendations of the
geotechnical report, Ex. 13.
- 24 3. BLA application number LU-19-00027 shall be approved and recorded as a condition of
25 approval of this CUP.

26 DATED this 4th day of May, 2019.

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Phil A. Olbrechts

Hearing Examiner for Lakewood

Appeal Right and Valuation Notices

LMC 18A.02.502 Table 3 provides that the final decision of the Hearing Examiner is subject to appeal to superior court. Appeals of final land use decisions to superior court are governed by the Land Use Petition Act (“LUPA”), Chapter 36.70C RCW. LUPA imposes short appeal deadlines with strict service requirements. Persons wishing to file LUPA appeals should consult with an attorney to ensure that LUPA appeal requirements are correctly followed.

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