Bateman Seidel

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April 17, 2025

Via email: Maitreyee_Sinha@washingtoncountyor.gov

Hearings Officer David Doughman
c/o Maitreyee Sinha
Washington County Department of Land Use and Transportation
Planning and Development Services
155 N First Avenue, Suite 350, MS13
Hillsboro, Oregon 97124

Re: County File No. L24003303-S

Dear Hearings Officer Doughman:

Please accept this letter as the county's response to the Applicant's Motion to Reopen the Record to Respond to a Late Staff Report submitted on April 15, 2025 (Motion). The hearings officer has requested that responses to the Motion be submitted no later than 12:00 p.m. on April 17, 2025. This letter is submitted in compliance with that deadline.

The Motion seeks to reopen the record to allow the Applicant to respond to Exhibit OR-2C, which was submitted by the county engineer during the Second Open Record Period. Exhibit OR-2C is the county engineer's response to Applicant's OR-1H, Exhibit 5 dated March 26, 2025 submitted during the First Open Record Period by the Applicant's engineer, AKS Engineering. In it, AKS Engineering took the position that a single stormwater detention facility is sufficient to satisfy CDC 410 and WCC 14.12.310. Exhibit OR-1H, Exhibit 5 at 1-3.

Applicant first argues that Exhibit OR-2C is a "late staff report" in violation of ORS 197.797(4)(b), which provides that "[a]ny staff report used at the hearing shall be available at least seven days prior to the hearing." The county strongly

disagrees with Applicant's characterization of Exhibit OR-2C as a "late staff report." Nothing in Exhibit OR-2C supports the Applicant's assertion. The subject line of Exhibit OR-2C, "Staff Comments on Onsite Stormwater Management in Response to Applicant Submittal during Open Record-1 for the 30-Lot Subdivision (Laurelwood Estates) in the AF-5 District" indicates that it is county *engineering* staff's specific response to OR-1H Exhibit 5, and the first sentence of that exhibit as well as its content confirm its responsive nature ("[t]he applicant has submitted comments during the Open Record period stating that the development will comply with a single stormwater detention facility (Applicant's Exhibit 5 of OR-1H)." There is no violation of ORS 197.797(4)(b).

Applicant also argues that Exhibit OR-2C is "new evidence" that is not limited to responding to Applicant's evidence submitted during the First Open Record Period, which is not allowed under ORS 197.797(6)(c). The county disagrees that Exhibit OR-2C includes new evidence, because any evidence included in Exhibit OR-2C was previously already included in the record. *See* Exhibit OR-1A at 16 ("Following the hearing on March 13, 2025 and due to ongoing concerns regarding the adequacy of the onsite stormwater management system as proposed by the applicant, the County's Grading Engineer reviewed and revised the grading and drainage requirements to require, among other items, a minimum of two stormwater management facilities on the site;" Exhibit OR 1-B at 2 ("Building Services required at least two sub-regional stormwater facilities instead of one regional stormwater management facility to manage the development increase runoff on-site"); and Applicant's OR-1H, Exhibit 5 at 1-2 ("[w]e do not recommend that a regional stormwater facility be used due to a variety of constraints.") Exhibit OR-2C merely reiterates and references evidence already previously included in the record.

However, in the interest of reaching a decision on the application, the county requests that the Hearings Officer reject Exhibit OR-2C rather than reopen the record to allow the Applicant to respond to it. The county believes that the record

contains abundant evidence to support a conclusion that a minimum of two stormwater management facilities on the site are required to satisfy CDC 410.

Very truly yours,

/s/

Melissa Ryan

cc: Carol Johnson, PDS Manager