

## Carol Renaud

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**From:** Rob Skinner <robertskinner6178@msn.com>  
**Sent:** Thursday, August 3, 2023 10:06 PM  
**To:** Board of County Commissioners  
**Cc:** CPO3leadership@gmail.com; Media - Cedar Mill News; bonnyslopemayor  
**Subject:** [EXTERNAL] LUT Delay results in another Mandamus petition- Casefile L2300011-FP

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Commissioners,

I am writing on behalf of the CPO 3 Executive Committee and our constituents. A situation has occurred for the SECOND time in a year, where an application for a controversial development in a Washington County neighborhood was not acted upon in a timely fashion by the Land Use and Transportation Department, resulting in a Writ of Mandamus action which will, ultimately, negate the appeal put forth by the citizens of CPO 3.

Briefly, the Portland Golf Club (PGC) wishes to dredge a large irrigation pond in the midst of their private course, and dump the tailings on to a designated wetlands adjacent to the Fanno Creek Nature Trail and in close proximity to Fanno Creek itself. These types of ponds are notorious for containing fertilizers, pesticides, metals and other toxins. In addition to damaging the wetlands, there is a risk of contaminating nearby Fanno Creek, which ultimately feeds in to the Tualatin River. There are alternatives available to the PGC for dealing with the silt in their pond that do not involve destroying the wetlands or compromising the nearby properties adjacent to the trail.

There has been much public objection to the proposed project, and again, the County LUT did not definitively act on the application within the 120 day limit for Type II development applications as required by ORS 215.429. (It was conditionally approved by the County on day 123 of the process). PGC has petitioned for a Writ of Mandamus and this has essentially ended any process for the affected residents to appeal the County's decision.

This fact is well known to the County as a similar incident occurred in 2022, where Biggi Investment wished to proceed with a controversial development within CPO 1. The application was not acted upon completely by the 120-day deadline. An appeal had been filed by CPO 1, but the petition for the Writ of Mandamus brought forth by Biggi was upheld by the Circuit Court and the appeal process eliminated, as this too needed to fall within the 120 day limit. Although we would hope this is only an "unintended" consequence of ORS 215.429 (1), this lack of timely action by the County gives the developer a green light to circumvent any valid appeal brought by concerned citizens. One might also infer that this has become a path of lesser resistance for the County to take when it comes to dealing with the appeal process.

Washington County LUT has indicated that the delay was in part due to the large number of objections received by them from concerned citizens, and this took time to address. They also complained that the Golf Club wouldn't allow them to extend the deadline for the application process. The fact that there *were* so many concerns raised should have been reason enough to put

the brakes on the project for the time being, and why would the County expect the applicant to allow an extension when the system encourages them to *not* do so?

We fully understand that staffing in the LUT Division has been underfunded relative to the increase in workload, and relative to other county departments, and we sympathize with that. We do, however, as taxpayers and residents of Washington County, expect a minimum level of effort to be made by our County Staff to meet deadlines. There were many other ways to handle this recent application which could have avoided an outcome that negates the rights of the residents.

This however, is not an isolated incident. We are now seeing a pattern where there are no consequences to the County project managers for delaying the application process and a green light is given to wealthy developers to skirt any appeal.

We will also be taking this matter up with our Committee for Community involvement.

The Board, as our elected officials, has the obligation to oversee the workings of the County Divisions. We request the Board of Commissioners act to facilitate timely action on these applications in order to prevent similar outcomes, and that you also reach out to our State Legislature to amend the unintended consequences of this statute.

Sincerely,

Rob Skinner, MD  
CPO 3 Chairperson

Cc Virginia Bruce, CPO 1 Chairperson  
Bruce Bartlett, CCI Chairperson  
CPO 3 Leadership

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