

CITY OF PORT ORFORD

City Council Decision, Order and Findings Extension of CUP 16-02 and 16-03

Findings:

1. On January 10, 2023, the Port Orford Planning Commission approved a one-year extension of two CUPs authorizing pipelines to transport recycled water from the city's wastewater treatment plant to a planned golf course. The golf course was approved by the County; LUBA has found that the right to complete the golf course has vested.
2. The original approvals were in 2017, and previous similar one-year extensions have been approved by the City in successive years. The third approval, filed in 2020, was appealed to the Land Use Board of Appeals, which affirmed the extension decision and, more importantly, confirmed that under the city code these CUPs may be extended one year at time without limitation on the number of extensions. See *Suess v. City of Port Orford*, ___ Or LUBA ___ (No. 2020-076, Jan. 22, 2021).
3. The extension approved by the Planning Commission on January 10, 2023, has been appealed by Penny Suess to the City Council.
4. An appeal hearing before the City Council was properly noticed, assuming it is a land use decision of the City.
5. The appellant did not explain the basis for the appeal in connection with filing the appeal.
6. Under the code provisions that apply to this extension, the issue of whether to grant any particular one-year extension is completely within the discretion of the City. As explained in the LUBA decision, the code includes standards for determining when a project has started and thus no further extensions are needed. However, it does not state mandatory standards for an extension of time to start a project.
7. Construction has not started on the pipeline project as of this date. Therefore, another one-year extension is needed in order to keep the original CUP approvals active.
8. Based on developments to date, the City and the applicant expect that when the applicant's golf course north of the City is constructed, it will use the city's treated effluent for irrigation, and the irrigation water will be conveyed from the city treatment facility to the golf course via the pipeline approved by the City in these CUPs. The County has also approved a pipeline location on county land.
9. The original CUP approval at issue here includes Condition N, which requires DEQ permitting prior to the start of construction. Condition N says: "No work may commence in any way on any of the pipeline and pump station until all local, County and State permits are in hand."

10. DEQ approval is still needed. The applicant has an active application before the DEQ, as was confirmed with the DEQ by planning commission member Thelen. The DEQ is working with the applicant to finalize the exact footprint of the golf course lagoon size and location as well as the equipment package to be used to both deliver the effluent water to the lagoon and the equipment package to distribute that water. Once those plans are finalized the DEQ can conduct its health and safety review.

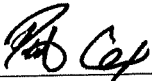
Conclusion and Order:

Based on all of the above, the City Council concludes that another one-year extension of the CUP is warranted and is in the interest of the City.

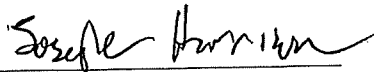
The appeal is denied; the decision of the Planning Commission is affirmed.

The starting date for the Permit extension is the date of the City County hearing and oral approval – April 20, 2023.

Signed this 8th day of March, 2024.



Pat Cox, Mayor
City of Port Orford, Curry County



Joseph Harrison, City Recorder
City of Port Orford, Curry County

NOTICE

This is notice of the final decision of the City in this matter. Any party seeking further review must file an appeal directly with the Oregon Land Use Board of Appeals (LUBA) within the timelines set forth in state law. See LUBA's website for more information.