

Date: July 15, 2024

From: Dana S. Gurnee
834 Deady St. / Port Orford, OR 97465 / 541-253-1334
danascott000@gmail.com

To: Joseph Harrison
Planning Technician for the City of Port Orford
Hand-delivered to City Hall on 7-15-2024
Emailed to: jharrison@portorford.org

Re: Elk River Property Development's appeal of Port Orford Planning Commission's denial of ERPD's application for extensions of CUPs 16-02 and 16-03

Please provide this testimony to the Port Orford City Council in its packet for its hearing on July 18, 2024. I have standing to participate in this hearing on account of my giving testimony in the June 10, 2024, POPC hearing that resulted in the decision to deny the application.

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I ask the Port Orford City Council (POCC) to affirm the decision of the Port Orford Planning Commission (POPC) to deny the application for extensions of CUPs 16-02 and 16-03.

Here is my reasoning:

I still do not see evidence of the "substantial construction" that is needed, under municipal code, for these CUP extensions. This defect is particularly notable today, on account of it now being clear that the **city** will be the buyer, the owner, and the operator of a pipeline, **not** this applicant. Therefore, I contend that **new** facts must be asserted for a **new** application, maybe including a **final choice on which route the city has chosen** for a pipeline that the city will own. Thus, extensions must be denied because the project has failed to comply with city code regarding extensions.

It has been eight years since the CUPs were first granted. The city has been very tolerant and generous in its dealings with ERPD, but never, in my opinion, has ERPD given the city evidence of "substantial construction." Today the matter is more amusing, because of the fact – to repeat myself – that the extensions are requested by an entity that will not have an ongoing responsibility to operate the thing it seeks to build. What kind of obligations are ahead **for the city** if it approves these extensions? Will the city have liabilities if its execution of a pipeline disappoints ERPD? Has nothing changed over these years, especially with another owner?

I contend that permits for an effluent pipeline should be obtained by the actual entity that will own and operate the pipeline – in this case, the City of Port Orford. Certainly, the city could take advantage of ERPD's previous work, when it is relevant to the city's interests. Perhaps the city can decide on the actual pipeline route, and winnow down the CUPs from two to one.

Thank you for considering my comments.

Dana S. Gurnee

Permits for proposed pipeline to proposed golf course -



From marjory hayes <midgehayes710@gmail.com>

To <jharrison@portorford.org>

Date 2024-07-16 08:27

I wish to be counted as one of the Port Orford residents who is emphatically opposed to the proposed golf course, to the proposed pipeline.

Thank you.

My name is Marjory Hayes. I live at 710 Deady Street. I am a 32-year resident of Port Orford.

Penny Suess
834 Deady Street
Port Orford, Oregon 97465
penny@net-gain.us

July 16, 2024

Port Orford City Council
City of Port Orford, Oregon
via email to Joseph Harrison, Planning Technician jharrison@portorford.org

Regarding the July 18 Public Hearing of an Appeal of the Planning Commission Decision to Deny Any Extension for Conditional Use Permits 16-02 and 16-03

Mr. Mayor and Councilors:

I urge the Council to affirm the decision of the Planning Commission to deny extending CUPs 16-02 and 16-03 for an additional year, from April 20, 2024 to April 20, 2025. To allow a new extension after the previous extension had expired would violate Port Orford Municipal Code.

On June 10, the Planning Commission unanimously denied applicant Elk River Property Development a sixth extension of its effluent pipeline CUPs. A memo to the applicant from the city planner dated June 18 gave this reason: "Planning members expressed concern that they were not presented with documentation that showed progress toward completing the conditions necessary for the application to reach substantial construction."

That concern is commendable, but as a basis for denying the extension it was beside the point. The extension had already expired, and the decision to hear a too-late application was unnecessary and superfluous.

The plain facts are these:

1. The previous extension expired on April 20, 2024.
2. The applicant did not obtain another one-year extension from the Planning Commission before that date.
3. Therefore, according to the code, the CUPs have expired.

Port Orford Municipal Code states:

17.32.060 Time limit on a permit for conditional use. Authorization of a conditional use shall be void after one year or such lesser time as the authorization may specify unless substantial construction has taken place. However, the Planning Commission may extend authorization for an additional period not to exceed one year, upon written application to the Planning Commission.

If the applicant was attempting to prove substantial construction and thus escape voiding their permits after the fact of expiration, their efforts failed to convince the Planning Commission. And they should fail to convince the City Council.

Also, there is some question whether the applicant ever actually applied for an extension at all. The letter from their attorney is confusing. Absent a clear request, in a timely manner, was it appropriate for Planning to consider the question in the first place? No justification for their decision to do so has been given. Were there other communications between the applicant and the city?

The facts are clear, the law is clear. You must disregard the confusion and side issues, and deny the extension.

Sincerely,

/s/ Penny Suess