

WALDPOR CITY COUNCIL
MAY 28, 2020
SPECIAL MEETING NOTICE AND AGENDA

The Waldport City Council will meet at 2:00 p.m. on Thursday, May 28, 2020 in the City Council Meeting Room, 125 Alsea Highway to take up the following agenda:

1. CALL TO ORDER & ROLL CALL
2. DISCUSSION/ACTION ITEMS:
 - A) *Deliberation & Findings on Remand Appeal - Tidewater Development LLC*
 - B) *Meter Project Discussion **
 - C) *Letter of Resignation and Announcement of Council Vacancy*
 - D) *Wednesday Market Proposal*
 - E) *Assignment of Representatives - COG & EDALC **
 - F) *COVID Funding Discussion **
 - G) *Other Issues*
3. PUBLIC COMMENTS
4. COUNCIL COMMENTS
5. ADJOURNMENT

The City Council Meeting Room is accessible to all individuals. Note that due to Covid-19 distancing requirements it will be necessary to call (541)563-3561 if you plan on attending, as seating availability may be limited. The meeting will be live-streamed on YouTube at the following address: <https://www.youtube.com/channel/UCdTGcMsHi3IzJThuNeLoLSg> . Comments from the viewing audience will be read to the Council under Agenda Item #3 above. Comments may also be mailed to PO Box 1120, Waldport, OR 97394, or emailed to reda.eckerman@waldport.org prior to the meeting.

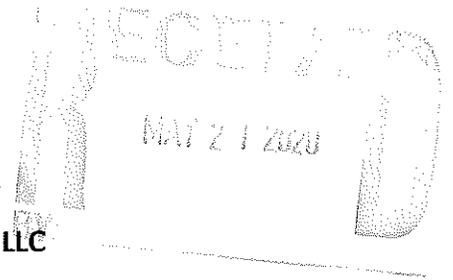
* Denotes no material in packet

Notice given this 22nd day of May, 2020

Reda Q. Eckerman, City Recorder

VISTA VIEW SUPPLEMENTAL SUBMITTAL
ON BEHALF OF TIDEWATER DEVELOPMENT LLC

Case File #1-PD-PC-17



This supplemental submittal is made on behalf of the applicant, Tidewater Development LLC. It is to respond to points raised by the opponents and to supplement and reinforce the previous information provided by the applicant. Also submitted with document is a letter from Brandt Thissell, an Oregon licensed professional engineer who is the engineer for Tidewater Development LLC.

The opponent first raises procedural concerns about how the City has processed the remand from LUBA. The opponent insists that this matter be continued for an indefinite amount of time "until after Covid 19 restrictions are lifted to permit public participation in a manner that past hearings have occurred and not by remote access...".

One difficulty with the opponent's position is that we simply don't know when things will return to normal, if ever. Much of the discussion surrounding resumption of activity is that there will be a new normal and we don't know what that new normal will be. The City was not required to follow the procedure it followed after the first remand from LUBA. In referring the matter to the planning commission after the first remand, the City went above and beyond what was required after a remand. The issue is whether the City followed a reasonable procedure that allowed all interested parties to participate and provide testimony. The City is clearly providing such a procedure. The City gave adequate notice of the hearing. It allowed a representative of opponents and the applicant to be present in person and gave the opponent adequate time to present her case. In addition, the City accepted written testimony including emails to be presented as evidence and that information was introduced into the record. There was no prohibition on opponents submitting information. The City did receive information into the record for its consideration. The City Council meeting was live streamed and it was possible to watch the presentation of the representatives and to see the questions posed by the council. The City Council then left the record open for a week for any interested party to provide additional evidence. The City Council was then going to set a date for deliberation so it had an opportunity to review all the relevant information that was provided.

I understand that the City has received some complaints concerning the live streaming indicating it was difficult to follow. I want to state for the record that I was unable to attend the hearing in person and watched the live stream in real time. I was able to hear, see and understand what was occurring. And, because of the procedure the City has implemented I am able to submit this supplemental information to address comments made by the opponent at the hearing.

It should also be noted that State Agencies have altered their methods of holding hearings. LUBA is now only holding phone hearings. On May 19 the Oregon Office of Administrative Hearings sent out a memorandum by email advising that most hearings will be held by telephone.

This matter did not need to be referred back to the planning commission. The planning commission heard this matter on two separate occasions and approved both times. It is clear they supported the project and believed that all the necessary city criteria had been addressed. Additionally, it is the City Council that interprets the criteria in the ordinance. Land use cases are replete with references that state that if the interpretation of the local governing body (here the City Council) is reasonable then that interpretation is to prevail. Such deference is generally not given to the planning commission in interpretation issues on the applicability of ordinance standards.

The City can address this by amending one finding proposed by the applicant and by adopting an additional finding. Proposed finding 7 submitted in applicant's previous submittal can be amended by amending the 4th sentence in that paragraph to read "This is a determination the city council can make as the final decision maker of development in the city and as the city body that interprets the city's ordinances."

An additional finding could be made as follows: "The planning commission has twice previously approved this PD. It is apparent to the city council that the planning commission believed that it had adequately addressed all the requirements for approval of the planned development. Additionally, planned developments can be approved by the planning commission unless they are appealed to the city council. Once they are appealed to the city council the council has jurisdiction and authority to make the decision. The Land Use Board of Appeals remanded this matter to the city to make a determination and since the decision remanded from LUBA was remanded from a decision of the city council it is appropriate for the city council to address the remanded issue."

It should also be understood that the issue before the council is very narrow. It is only to address whether findings can be made to show that construction will not create a drainage or pollution problem outside the planned area. Comments addressing this topic can be made in writing or, opponents had the option of providing their comments to the opponent who appeared at the hearing to have them read out loud. To the extent that the comments are outside the scope of that issue, they are not relevant. I note that the City received some comments from folks that simply do not want additional housing to be built. While they enjoy their house in an R-1 zone they are saying that others should not have the opportunity to live in the same area. The property has long been zoned R-1 and that is the proposed use of the property. Comments such as those that are not within the scope of the remanded issue should not be considered.

It must also be remembered that approval of the PUD is not a popularity contest. The applicant has a right to develop the property in accordance with the applicable standards. To deprive the applicant of that right would be a taking of property rights as has been addressed at previous hearings.

There are a number of LUBA cases discussing local procedures after a LUBA remand. One case on point is *Rosenzweig v. City of McMinnville*, 66 OR LUBA 164 (2012). LUBA stated that where a city development code requires a hearing before the planning commission before planned development approval but does not specifically require a second hearing before the planning commission when a planned development approval is appealed to LUBA and remanded to the city, the city does not need to hold a second hearing before the planning commission where LUBA's remand does not require an additional hearing. The case also said the city did not need to hold a second evidentiary hearing.

In this case LUBA remanded the case to the City of Waldport to determine whether construction activities will create a drainage or pollution problem outside the planned area. There were no requirements or guidelines in the LUBA order about how that determination needed to be made. There was not even a requirement for an evidentiary hearing. There is no requirement by LUBA and no requirement in the WDC that the matter be heard again by the planning commission. The initial hearing before the planning commission on the applicant's application was sufficient to satisfy the requirements of the WDC.

There are other LUBA cases that are in accord with the *Rosenzweig* case. The procedure followed following the remand were appropriate and allowed all parties due process in presenting additional evidence and testimony.

The applicant's submittal of April 13, 2020 discussing the procedures for avoiding offsite drainage and pollution problems was based on information provided by the applicant's engineer. At the hearing councilor Campbell asked whether the proposal had been reviewed by the engineer. In order to make sure there is no misunderstanding on this point we are submitting a letter from the applicant's engineer confirming that the project can be built without creating a drainage or pollution problem outside the planned use.

Also, in order to satisfy the reason for the remand, the applicant suggests that the City insert as a condition of approval the following:

The applicant shall, prior to construction activity within the PD and the construction of the Norwood Drive extension, apply for and obtain a water discharge permit from DEQ and comply with the requirements of the permit which are designed to assure that the project will not create a drainage or pollution problem outside the planned area. Also, prior to construction of the Norwood Drive extension and the infrastructure serving the PUD (including water, sewer, roads, storm drains and power) the applicant shall provide engineered plans for review and approval by

the City's engineer and shall provide the city with a copy of the DEQ permit. The applicant shall also apply for any other permits required from any governmental authority that are required for construction to occur at the site.

As was discussed in past hearings and analysis of this project, the applicant does not need to provide detailed engineering plans at this point of preliminary approval. The applicant needs to show that the project is feasible. The applicant has met this standard with regard to offsite drainage and pollution by showing that there are methods that can be employed and are typically employed in coastal construction to show that construction will not create a drainage or pollution problem outside the planned area. The simple reality seems to be that there is no type of analysis that would be sufficient for the opponent to drop her opposition to the project. The standard which must be met is whether construction can be managed so as not to create a drainage or pollution problem outside the planned area. The standard is one of reasonable objectivity. The answer is that the PD can be managed so as not to pose a problem.

The opponent attacks the seven proposed findings proposed by the applicant. The applicant's response to the opponent's contention follows.

1. The applicant acknowledged that it will have to apply for a DEQ permit and follow the requirements of the permit. The DEQ permitting process is designed to protect surrounding properties and avoid problems of offsite drainage and pollution. The applicant is doing more than just addressing DEQ requirements, it will be meeting them.

The opponent has chosen to characterize Norwood Drive as a "Public Land Right of Way". It has already been well settled during previous hearings that Norwood Drive is a City Street. It was platted in the 1960s when the plat of Norwood Heights was filed. A portion of the street that is platted is not yet built. As a requirement of PD approval the city is requiring the applicant to build the platted, but unbuilt portion of the street. The street will be built to city standards. The engineered plans will be submitted to the city prior to the construction for review and approval. The plans will need to be approved by the city engineer.

It must be remembered that the City previously approved the location of this street when it approved the plat of Norwood Heights. Furthermore, the City reconfirmed the location of the street when it prepared its transportation plan and showed this street being extended not only through the area already platted and dedicated but through the applicant's property. The transportation plan shows this street ultimately connecting with Kelsie Street to provide access over the top of the hill which has previously not existed in Waldport. The importance of this was discussed in previous proceedings and will not be repeated again here.

The opponent continues to hammer the point that after the property was logged pursuant to the Forest Practices Act there was soil that slid onto the Forest Service property. As the applicant previously explained, there was some soil that went on the Forest Service property after an exceptionally heavy rain. This matter was resolved with the Forest Service.

The circumstances here are different because the development of the property is not occurring under the Forest Practices Act. The applicant will have prepared engineering plans in developing the road and the property. The applicant will obtain the necessary permits and follow DEQ best practices. There will be hay bales, sediment fences and diversion trenches, if necessary, to avoid any water going to the Forest Service property. It should also be noted that in the Forest Service response to the notice they have simply asked what the plans are to avoid water going onto Forest Service property. This issue has been addressed by the applicant's engineer by stating that roof drains can be diverted to the street and the back yards can be designed with a swale or French drain structure that directs the storm water to the north and then to the stormwater system.

The opponent makes the unsubstantiated assertion that road and site excavation will take place within soils that have demonstrated failures and with this increase, the failure rate will continue to contribute to instability in the area. However, this is an assertion without a factual basis and without any supporting information provided by the opponent. While there may be steeper slopes associated with some of the access road, this does not preclude building a safe road. It does involve engineering the road so it will be well built and serve the City for a long time. Again, remember, this is the location the City chose for its road. The applicant's contention that Norwood Drive itself already has a recorded driving road surface of 26% defeats her argument because Norwood Heights and opponent's property is already being served by a steep road that the City has already accepted for maintenance. (This is not to say the Norwood Drive extension will be that steep, it is simply saying that the opponent acknowledges that roads can be built that will last even in steeper slopes.) It must be understood that when roads in a development whether it be a subdivision, PUD or a partition are built to city standards they are then dedicated to the city. This is important because the city wants control over the streets in the city as they are used for public travel. Anyone familiar with coastal construction knows that construction on slopes is not uncommon and that these roads, because they are properly engineered will have a long life. Also, please remember that prior to construction the infrastructure, including the streets and the Norwood Drive Extension the applicant will be required to have a geologic report completed. The report will be used to guide the design and engineering of the road. LUBA has already ruled that the geologic report did not need to be completed during the preliminary approval phase. Also, remember this is a preliminary approval and the city only needs to determine the project is feasible, it does not need the detailed engineering plans at this stage.

2. The applicant's statement that it will preserve as much existing vegetation down gradient as possible is not a meaningless or empty statement. It is an accepted method of controlling water and runoff. The practices to be employed in developing a planned development are different than those under the Forest Practices Act. Therefore, the opponent's reference to a previous occurrence that happened after an extraordinary event is an apples and oranges comparison. The standards for development under a PD are much

tighter and strict and will, as previously noted, require a DEQ permit and following the standards set forth therein, which includes provisions for wet weather.

The drainage way running along the north and east of the property will be protected because the applicant is not going to develop that area. There was an intentional decision of the applicant to avoid building in those area in order to avoid disturbing those areas.

A cultural resource investigation is not required.

3. Comparing the planned development to a subdivision is not irrelevant because had the property been developed with more lots in a subdivision, or had the City simply constructed the road itself, the offsite drainage issues would not need to be addressed.

4. Finding 4 does not demonstrate that the developer is anticipating violations. Quite to the contrary. At the last LUBA hearing a question was raised about monitoring during construction. The applicant's attorney replied that he was aware, as a result of other clients' projects, that DEQ actively monitored activity and would assure that permit regulations were met. A LUBA board member questioned whether that was in the record or whether I was just familiar with those situations. I replied that was not in the record but I was familiar with those situations. Simply stated, we want to make sure this time that is in the record and that LUBA understands that there are agencies beyond the City that must permit and monitor the activity to assure protection of surrounding properties.

5. This finding provides that the city public works department can monitor the project. Opponent complains there is no city engineer on staff. That is irrelevant. As is well established by the record the City hires engineers to represent the City and the applicant is required to reimburse the city for the cost. In fact, the applicant will have an engineer available to provide regular oversight and expertise while the project is under construction. The opponent seeks to make assumptions—that no engineer will be on site—that simply are not true.

6. The applicant has requested that all the previous findings be included in the submittal.

It is clear from a reading of WDC 16.12.030 that the requirements are for development on individual lots. (The City can make such a finding,) The PD is governed by WDC 16.60. Note there is no reference in WDC 16.12.030 to Section 16.60 while there are references to other sections such as clear vision, signs and condition use and exemptions. Additionally, this argument of the opponent is outside the scope of the remand.

7. The City's procedures on remand are appropriate. They give all who desire an opportunity to present evidence and testimony. The procedure meets all procedural and due process requirements. By showing that there will not be an offsite problem from drainage and pollution, the areas such as Alsea Bay and Highway 101 will be protected.

It is not presumptuous at all of the applicant to state that any decision of the planning commission will be appealed to the City Council. If the applicant had not prevailed at the planning commission it would appeal to the City Council. The opponent has twice appealed decisions from the planning commission to the City Council, so it is not a stretch to think that she would do it a third time especially given all the opponent's submittals urging this matter to be indefinitely delayed. It is also to be noted that the proposed findings are to be considered by the City Council. Any findings the City Council makes are those of the City, not those of the opponents.

The City is entitled to establish the procedure on remand provided it meets the test of an opportunity to be heard by all parties and provides due process. The procedure established by the City meets this test.

The applicant requests that the City approve the PD with additional findings and conditions to address the LUBA remanded issue concerning offsite drainage and pollution during construction. The applicant also requests that the City adopt the updated time table for the phases as set forth in the staff report. The update is necessary to account for the delays occasioned by the appeals.

Dated this 21st day of May, 2020.

Dennis L. Bartoldus

Dennis L. Bartoldus, Attorney for Tidewater Development LLC
PO Box 1510, Newport, OR 97365
Email: dennis@bartolduslaw.com
Phone: 541-272-4144

Ironmark LLC
P.O. Box 38
Saint Paul, OR 97137
Ph: (503) 765-8755



May 20, 2020

Justin Peterson
Community Development Planner
Oregon Cascades West Council of Governments
1400 SE Queen Ave, Suite 205
Albany, OR 97322

RE: Vista View Preliminary Plan – Norwood Heights Road Extension

The purpose of this letter is to provide some typical DEQ construction discharge standards that could be used during the construction of the Norwood Drive extension to satisfy WDC 16.60.030(C)(4). Since the construction of the extension of Norwood Drive is part of a development plan that will have a disturbed area greater than 1 acre, a DEQ NPDES 1200-C permit will be required. In order to obtain a 1200-C permit, an Erosion Sediment Control Plan (ESCP) will need to be designed and submitted to the DEQ for review, implementation of the DEQ's Best Management Practices (BMPs) are a key component to the plan. Some of the potential applicable BMPs from the DEQs "Construction Stormwater Best Management Practice Manual" to the construction of the Norwood drive extension are listed below:

- **Preserve Existing Vegetation**
 - The existing vegetation outside of the right-of-way on the north and west side of the Norwood drive extension will provide excellent filtration of the stormwater runoff and limit the stormwater velocity, minimizing erosion.
 - Vegetation is frequently the best preventative measure for erosion.
- **Post grading – Reestablish vegetation**
 - After the grading to construct the roadway extension, re-seed the exposed slopes to re-establish the vegetative cover.
- **Rock check dams**
 - On the east side of the Norwood Drive extension, a ditch will likely be required to direct the stormwater downhill to the existing drainage. Rock check dams evenly spaced along the ditch will serve to slow the velocity of the stormwater and filter the stormwater sediment.
- **Riprap outlet protection**
 - At the end of the ditch on the east side of the Norwood Drive extension a riprap basin could be installed to allow for the stormwater to settle out sediment before discharging.

Many other stormwater and erosion control measures are available to be implemented to control stormwater runoff as the situation dictates based on weather. Performing construction during the dry summer months would help to eliminate the need for additional protection measures. These measures also apply to construction of the streets and the grading within the project site.

A portion of the subject site slopes gently to the west, towards the property owned by the U.S. Forest Service. There are several options to the divert stormwater of the future lots from discharging onto this property. The roof drains could be directed to the streets to be conveyed by the stormwater system. The rear yards could have a swale, or a french drain structure that directs the stormwater to the north and then is conveyed to the stormwater system.

In my opinion, there are no extraordinary features, topography or circumstances associated with the construction of the extension of Norwood Drive or the development of this site that would make the DEQ environmental standards unable to be met. The site appears typical of other sites in the region that have developed similarly.

Sincerely,



Brandt Thissell, PE



RENEWAL DATE: 6-30-20

Hollis Lundeen
P.O. Box 1392
Waldport, Oregon 97394
May 21, 2020

City of Waldport
Lincoln County
P.O. Box 1120
Waldport, Oregon 97394



To The Members of the Waldport City Council, Planning Commissioners, City Manager, City Planner, City Attorney, and City Recorder:

Please consider this as a response, for the record, to the Public Hearing held at City Chambers on May 14, 2020, regarding the State Land Use Board of Appeals Remand Final Opinion and Order relating to Tidewater, LLC.'s application for Preliminary Plan approval of the Vista View Planned Development.

Upon my arrival into City Chambers, there were, at a minimum, 3 public person's present on site, requesting to attend the Public Hearing, however, they were turned away, even with the possibility of maintaining social distancing, and wearing masks.

It was an in-chambers audio challenge to hear conversation between everyone in attendance, all were wearing masks. After departing the chambers, I later learned that there was an incredible amount of white noise and static over the live stream, and that it was very, VERY, hard to hear any dialogue through the Live Stream, and much of what could be heard was muffled due to those attending wearing masks. It was clear that using this forum as a public hearing process did not follow protocol for public meetings, and for sure did not allow the ability for public citizens of the community to participate and interact live with the hearing procedures. Please reference the letter with Citizens signatures to postpone the hearing and also the suggestion of procuring a larger size room, other than Chambers, in order to facilitate public in-chamber participation, while maintaining social distancing and COVID-19 requirements. I request the City to find an immediate solution to permit public participation and improved communication with the public, and before the scheduled deliberations May 28. Even though the record was held open, unless a citizen was aware of and utilized the Waldport Welcome page, one would never know an audio, other than the Live Stream was available.

The City did not publicly advertise there was an alternative available to the public other than the Live Stream version which was inaudible, other than posting it on the Waldport Welcome page. The City of Waldport did not communicate to the public, other than during the live stream inaudible version, that there would be deliberations regarding the public hearing taking place May 28 at 2 pm. For only for a very short period just prior to the hearing was it advertised on the Waldport Welcome Page that the hearing would remain open and that Public Comment would be received until May 21 @ 5 pm. This inconsistency and lack of communication regarding public participation is not acceptable, especially when previously requested in a timely manner, as per previously established protocols, and during such a critical time of health risk to citizens of the community, along with such controversy and public citizen concern regarding this Planned Development. This has been a very confusing undefined communication process, inhibiting those to participate, and is also reflected in the additional public view and comments that are in the record. The public comments that were shared with me showed citizen and community concern over the important remand issues of drainage and pollution that I certainly encourage the City to address, individually and publicly.

By not having the hearing presented to the Planning Commission prior to the City Council is circumventing the process as stated in the remand by LUBA, and also as per Waldport Municipal Code.

During the public hearing on May 14, interjection by the respondents intervenor in regards to the appeal by attorney present at the Public Hearing was completely inappropriate to voice her opinion as "council" to the City Councilors, as she was not present at the meeting on April 23, and was not aware of the contents of the letter.

Also please note on the Information Station Live Stream April 23 documentation, that, then Mayor Cutter states that *"doing a public hearing in this process, it is challenging and I don't know that it would give Ms. Lundeen a fair representation, nor the opposing party, but I do think we can accommodate everything we need to do in council chambers, with appropriate social distancing."* Mayor Cutter's statement is correct, however, he failed to include and address all those citizens who signed the letter that was requested to be read at the meeting but was not, and clearly an indication that the Council did not have copies of the letter at the time of the April 23 meeting. In referencing the archived packet, the letter referenced, was not evident, that it was in the packet that went to the City Councilors. This is contradictory to what was stated at the City Council Meeting held on May 14, 2020.

Regarding the verbal testimony and rebuttal made by Traci McDowall, representing past attorney for Tidewater, LLC, Dennis Bartoldus, I make the following comments to all those addressed in this letterhead to take into consideration prior to deliberations on May 28, 2020.

The attorney for Tidewater, LLC. Stated that there was a "narrow but limited issue" consideration to make regarding the LUBA remand.

This is a conjectured subjective statement, as, drainage and pollution considerations are of a massive and monumental impact environmentally to the community, the Citizens of Waldport, and those who travel through the immediate area including the below traffic on State Highway 101. Drainage and pollution are absolutely directly related financially to the City of Waldport, and it's tax paying citizens, by the applicant/developer, Tidewater, LLC. inadequately submitting evidence regarding the standards that will be followed regarding drainage and pollution. Within the findings, it is inadequately defined who is responsible for drainage and pollution during and after construction on the public road, especially if the primary users of that newly constructed road will be eventually and essentially the residents of the development. It is imperative that this be addressed within the findings, as the Citizens of Waldport have great concern, should there be a maintenance challenge, directly related to drainage and pollution, prior, during, or after construction. A clear definition of who is responsible for costs related to drainage and pollution on a public road utilized by Vista View residents should not be the responsibility of local citizens not using a dead end road that is primarily used by Vista View Residents.

The past performance of the applicant needs to be taken into consideration in the findings.

Regarding drainage and pollution, the findings do not address compliance with the Waldport Development Code, Waldport Comprehensive Plan and the Yaquina John Point Transportation Plan.

Attorney states that steep slopes will be avoided, which again is a false statement, as the location of this 300 feet of road is on the steepest section owned by the public, which has voiced more than once and by more than one citizen that there are concerns in the inadequacy presented in the findings regarding drainage and pollution.

In the rebuttal made by the attorney, Traci McDowell, representing Tidewater, LLC., the applicant for this Preliminary Plan approval, she states that this road will be built on common coastal terrain. The soils directly parallel to the road construction have demonstrated failure, documented within the record she called for, referencing all prior documentation at the beginning of her testimony for the applicant/developer, Tidewater LLC. It is obvious she is unfamiliar with the location of this 300 feet of proposed construction, with recorded side slopes of 75% and that the soils have drastically failed and impacted neighboring Federal Land owned by the USDA Forest Service which is public domain land. Not addressing specific methods and standards within the findings continues to show inadequate respect to drainage and pollution problems outside the planned area. There was no protection to the slopes during timber harvest which failed, and sediment filled in the brand new bunkhouse located directly next to neighboring USDA Forest Service Federal Land.

With no Construction Activity Plan or monitoring specified, no environmental analysis, and no documentation of an Environmental Social Economic and Energy Consequences Analysis (ESEE) will definitely create a drainage and pollution problem outside the planned area and affect 3 public domains (City, State, and Federal Lands), and the Alsea Bay designated as a Conservative Estuary, which essentially is PUBLIC DOMAIN. The Community and Citizens of Waldport have a voice in how that Public Domain will be impacted from construction activities, and respectfully request the Mayor and City Councilors to consider these impacts prior to deliberation on May 28.

Respectfully submitted,



Hollis Lundeen

Reda Eckerman

From: Barbara Davis <jibdavis@peak.org>
Sent: Saturday, May 16, 2020 6:53 PM
To: Reda Eckerman
Subject: Tidewater/Vista View development

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Waldport City Council Members, Planning Commission Members:

I attempted to watch the May 14 City Council meeting remotely, as advised. Unfortunately the platform the city has employed to allow public monitoring (without contemporaneous public input) of the meeting was ineffective as most of the comments and replies by council members was unclear at best, most often muffled by the use of face masks and the council members speaking distantly from the microphones. I request that you allow on-site public attendance while maintaining social distancing guidelines.

Prior to the May 14 meeting I was informed by Waldport City manager, Dan Cutter, that the hearings and discussions on the Tidewater/ Vista View development "have already cost the city \$20,000." As a property owner and taxpayer within the city I appreciate that the city is monitoring costs to the city which can, in turn affect property taxes. The U.S. Forest Service property is downslope, west of the Vista View property. I am aware that a slope failure occurred during timber harvest activity on the Tidewater property causing damage to the U.S. Forest Service property. Keeping drainage and pollution in mind, I would like to know who would be liable for costs of reparations and restorations to *any* affected property should another slope failure occur on the Tidewater/Vista View property, particularly if it was assessed as being caused by inadequate drainage?

Would the costs be incurred by the City of Waldport (i.e. taxpayers), ODOT (i.e. taxpayers) if the slope failure affected Hwy. 101, the U.S. Forest Service (i.e. taxpayers), or **Tidewater Development, LLC**?

I respectfully request an answer to this question prior to this development moving forward.

Thank you,

Barbara Davis
Waldport

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Reda Eckerman

From: Reda Eckerman
Sent: Friday, May 15, 2020 9:56 AM
To: lotravel1@gmail.com
Cc: Dann Cutter
Subject: City of Waldport City Council meeting - May 14 issues
Attachments: 051420lundeen.pdf

In response to your request yesterday for minutes/copies of submissions referenced during the public hearing, I have attached a scan of the submission from Ms. Lundeen that was distributed at the meeting.

The other materials that were referenced are found in the Council packet and the LUBA record, both of which are posted on our website. Here is a link to the packet:

<http://www.waldport.org/Documents/pdf%20files/051420ccpac.pdf> , and the LUBA record:

<http://www.waldport.org/Documents/pdf%20files/LUBArecord.pdf>

The livestreaming recording of the meeting did have some technical difficulties, so I have posted an audio-only recording on the website as well, at the following address:

<http://www.waldport.org/audio/05142020ccmtg.MP3>

Your comment with your question regarding the environmental impact study will be included in the materials that will be provided to the Council at their May 28 meeting.

Please let me know if you have any questions or require further information.

Reda

Reda Q Eckerman, City Recorder
City of Waldport
PO Box 1120
Waldport, OR 97394
(541)563-3561 X 12
www.waldport.org

"The extensive vocabulary I have acquired through rigorous trials of education is utilized in a manner designed to create the illusion that I possess undeniable genius"

Reda Eckerman

From: Information Station <news@information-station.news>
Sent: Thursday, May 14, 2020 4:50 PM
To: Reda Eckerman
Subject: Fwd: City of Waldport City Council meeting - 14 May issues

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From : lotravel1@gmail.com
To : news@information-station.news
Cc : lotravel1@gmail.com
Date : Thu, 14 May 2020 14:51:52 -0700
Subject : City of Waldport City Council meeting - 14 May issues
=====

I had a very difficult time hearing the proceedings, can you provide complete minutes and copies of all submissions referenced by the speakers (vista view lawyer and Ms Lungren) please?

I have a question for the council – has an environmental impact study been conducted that would show impact of road and construction effort.

Respectfully

Louis Orndorff

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From: news@information-station.news

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Reda Eckerman

From: Sam Defazio <irritablekitten@gmail.com>
Sent: Thursday, May 14, 2020 2:19 PM
To: Reda Eckerman
Subject: Tidewater hearing

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I cannot participate or listen in on the entire hearing due to work, but these are my thoughts about the situation:

I live next to the plot of land for the proposed project and I think it is unfair to all of us to have our daily lives disrupted. Not only temporarily through the construction process, but permanently from the increase of traffic, pollution, and potential flooding by living downhill from an area that will get a significant amount of rain every year.

P.S. There is an excessive amount of white noise from the camera you are using to live stream the meeting, making it difficult to hear most of the speakers in the room.

--

-Sam Defazio

Total Control Panel

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To: reda.eckerman@waldport.org
From: irritablekitten@gmail.com

Message Score: 1
My Spam Blocking Level: Low

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Medium (75): **Pass**
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PH

Reda Eckerman

From: bgbg <bgbg@peak.org>
Sent: Thursday, May 14, 2020 11:14 AM
To: Reda Eckerman; Greg Holland
Subject: Public Meeting

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Yesterday the city posted a process email regarding a meeting being held today. Please accept this email as an objection to today's meeting as configured. There is no meaningful public participation. We have to listen.. Write our questions and hope city council receives them. There is no interaction. Is the Vista Developer also participating by email? If not why is the developer given direct access to council when neighbor parties to the issue treated differently. Please consider postponing and require everyone who wants to appear for the meeting as well as council members to appear remotely. Can you let me know which state agency has over site of public meetings? Another question. Why isn't this matter being heard by the Planning Commission? They are better informed about all of the development issues.

Sent via the Samsung Galaxy Note9, an AT&T 5G Evolution capable smartphone

Total Control Panel

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To: reda.eckerman@waldport.org
From: bgbg@peak.org

Message Score: 1
My Spam Blocking Level: Low

High (60): **Pass**
Medium (75): **Pass**
Low (90): **Pass**

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Justin Peterson

From: Brian Claudy <brianclaudy@gmail.com>
Sent: Thursday, May 14, 2020 7:39 AM
To: Justin Peterson
Cc: Brian Claudy; Brian Claudy; Kristine
Subject: Chad Dr

Sent from my iPhone

Begin forwarded message:

From: Brian Claudy <bclaudy@samhealth.org>
Date: May 14, 2020 at 7:33:00 AM PDT
To: "brianclaudy@gmail.com" <brianclaudy@gmail.com>
Subject: FW: Chad Dr

WARNING: This email originated from outside of SHS. DO NOT CLICK ANY LINKS OR OPEN ATTACHMENTS unless you recognize the sender and know the contents are safe.

Hi Justin,

This is a personal matter as our home is on Chad Dr. We just wanted to confirm that the Development going on for the property North of Kelsie Ln. is still required to use Norwood Dr.? We had sent Larry Lewis a message over a year ago (see attached) that there was traffic using Chad Dr. of dozers and loaders on semi trucks. Only to discover they were doing ground work in the development that will be putting in 32-34 homes. They also used Chad Dr. for more than a 2 month period to log that property and we were assured by the City of Waldport that the access for the first phase according to the planned development approved by the Commissioners required the developer to use Norwood Dr.

It was also explained to us that the second phase would entail them creating a road from Kelsie Ln through to Hwy 101 and that would be used for the remaining homes to be built and accessed.

Chad Dr. is only a two lane road with no sidewalks and occupied by seniors who use the road for exercise, walking

their dogs and to check their mail. We are sure it would be difficult for them to navigate a high traffic (under construction) situation as the road curves and has a revine drop off that is approximately 70'. The noise and smell from the semi's traveling back and forth when they were logging was extremely challenging to deal with, not to mention how fast they would drive on the street. You really had to be on alert when backing out of your driveway because it was an all day event, starting at 7am and sometimes didn't end until after 7pm.

We want the City of Waldport and the Commissioners to uphold the planned development they approved and either block off the makeshift road that was added at the end of Kelsie Ln. leading to that property and/or ensuring the correct road (Norwood Dr.) is used for the development/construction for the property or provides information to the Chad Dr. residents of how they will enforce the approved access be used.

Thank you for your time,
Brian Claudy & Kristine Castillo

Brian H. Claudy & Kristine M. Castillo

1575 SW Chad Dr.
PO Box 1118
Waldport, Oregon 97395
(541)961-3278

Justin,

Kristine has sent you the same email but I agree wholeheartedly with the content. I am sorry I will not be able to attend the meeting today but due to work requirements here at the hospital I have only this email as my voice. Thank you for your time on this matter and I trust you will agree with us residents on Chad Dr. that this matter of using Chad Dr. is wrong.
Brian Claudy.

----- Forwarded message -----

From: **Kristine Castillo** <kcastillo@co.lincoln.or.us>
Date: Fri, May 3, 2019 at 11:33 AM
Subject: Chad Dr
To: Larry Lewis <larry.lewis@waldport.org>

Hi Larry,

Just wanted to let you know that weve noticed semi trucks with loaders on them, driving up and down Chad Dr. this week. Not sure what development is going on that they would be using our street. Thought I would give you a heads up. Maybe its ground work but where?
Kristine

Kristine M. Castillo

Permit Specialist
Lincoln County Planning Department
210 SW 2nd Street
Newport, Oregon 97365
Direct Line (541) 265-0229
Office Fax (541) 265-6945
kcastillo@co.lincoln.or.us

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Justin Peterson

From: Langum, Zeke J -FS <zeke.langum@usda.gov>
Sent: Wednesday, May 13, 2020 8:41 AM
To: Justin Peterson
Cc: Holman, Michele - FS
Subject: Tidewater Development Question

Hi Justin,

I am the Zone Engineer for the Siuslaw National Forest. I just got a copy of the Notice of Public Hearing on the Tidewater Development project. I am new to this position and have just heard about this. With this project being located on a hill directly above us I was wondering if drainage issues are being addressed in the conditions for this project? I am guessing road and roof runoff is already being directed to some sort of storm water system, but my other concern would be any backyard drainage from lots directly above the Forest Service compound which could cause erosion or water issues. Just wanting to know if these concerns are being addressed. Please give me a phone call to discuss. Thank you
541-750-7056



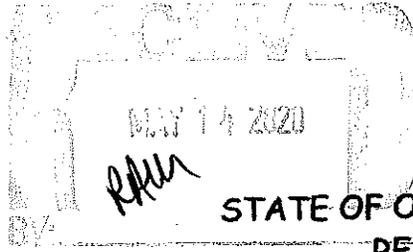
Zeke Langum
Zone Engineer
Forest Service
Siuslaw National Forest

p: 541-750-7056
zeke.langum@usda.gov
3200 SW Jefferson Way
Corvallis, OR 97331
www.fs.fed.us



**Caring for the land and serving
people**

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@ 1:48 pm

CITY PLANNER PETERSON
City stamp copy

WALDPOR CITY COUNCIL
Lincoln County, Oregon
STATE OF OREGON LAND USE BOARD OF APPEALS
REMAND per LUBA No. 2019-046

Case File #1-PD-PC-17 Tidewater Development LLC - Visa View Planned Development
May 14, 2020

Referencing Notice of Public Hearing Dated April 21, 2020, we the undersigned request postponement of the scheduled hearing until after COVID-19 restrictions are lifted to permit public participation in a manner that past hearings have occurred, and not by remote access, which has failed as per Ms. Hollis Lundeen's documentation.

SIGNATURE	PRINTED NAME	ADDRESS
	PAUL F. BLASKO	1185 SW Norwood Dr
	LINDA BLASKO	1125 SW NORWOOD DR WALDPOR OR
	RAY BRECKENIZER	1080 SW NORWOOD DR
	Bernice Barnett	1065 SW Norwood Dr Waldport, Or 97394
	Bruce D. Garrow	1065 SW Norwood Dr. Waldport, OR 97394
	Joyce L. Wilson	725 SW Skyline Terr. Waldport, OR 97394
	KIMBERLY ANDREW	745 SW Skyline WALDPOR OR 97394
	Joan O. Quill	810 SW Skyline Terrace #907 Waldport, OR 97394
	C. Kevin Quill	1025 Norwood
	ELLY HORVATH	1025 Norwood
	Inge Horvath	1025 Norwood
	Shell, Orndorff	1160 SW Norwood
	Louis Orndorff	1160 SW Norwood

WALDPORT CITY COUNCIL
 Lincoln County, Oregon
 STATE OF OREGON LAND USE BOARD OF APPEALS
 REMAND per LUBA No. 2019-046

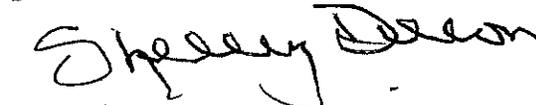
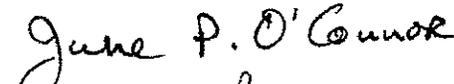
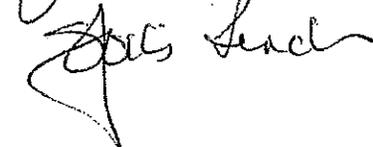
Case File #1-PD-PC-17 Tidewater Development LLC - Visa View Planned Development
 May 14, 2020

Referencing Notice of Public Hearing Dated April 21, 2020, we the undersigned request postponement of the scheduled hearing until after COVID-19 restrictions are lifted to permit public participation in a manner that past hearings have occurred, and not by remote access, which has failed as per Ms. Hollis Lundeen's documentation.

SIGNATURE

PRINTED NAME

ADDRESS

	Pam Mugleston	1120 SW Norwood
	Tim Mugleston	1120 SW Norwood
	Barbara B. Davis	1235 SW Fairway Dr.
	Shelley Dillon	1088 Norwood
	Elizabeth A. Nicholson	865 SW Dunes Dr.
	June P. O'Connor	250 N. E Willow St.
	Hollis Lundeen	980 Norwood Drive

Citizen Response to Vista View LUBA Remand
Oregon Land Use Board of Appeals Decision No 2019-046
Waldport Case File #1-PD-PC-17
Public Remote Hearing May 14, 2020

Regarding the Applicant/Developer, Tidewater LLC's, submittal dated April 13, 2020, to the City of Waldport, response to the remand made by the State of Oregon Land Use Board of Appeals Decision on No 2019-046, to Waldport Case File #1-PD-PC-17, we request the City Council to consider, address, and include in the record, the following below response and evidence including the attached signatures from concerned Citizens of Waldport, Oregon.

Initially, after learning of this submittal, Hollis Lundeen immediately requested to the City of Waldport in writing, that the submittal be considered by public hearing in front of the Planning Commission for recommendation to the City Council as was established protocol from all prior submittals made by the applicant, Tidewater, LLC.

The City Council did not address as requested, and disregarded Hollis Lundeen's written request, which was timely submitted for consideration for the Virtual Remote Call In City Council Meeting on April 24, and again on May 8, 2020.

This PUBLIC HEARING is of grave concern and importance to the citizens of Waldport. NEVER before, in the history of Waldport's Planning Development, has there been a Planned Development Proposal that has been submitted with 2 remands from the State of Oregon Land use Board of Appeals, therefore the importance of public participation IN PERSON to testify in front of the City of Waldport, was requested, however, not considered and disregarded.

With initiative taken, the citizens of Waldport, requested that the proposed virtual hearing be postponed, since COVID-19 Restrictions do not allow for public participation. Past hearings have been conducted, with a documented increase in attendance. The City Council Meeting held remotely by call in procedures, failed to permit or allow public comment, as documented in the attached May 8, 2020 letter submitted to the City of Waldport to be included in the Staff Report for City Council consideration PRIOR to the hearing and as per hearing notice requirements.

Regarding the submittals of the applicant's response to the remand made by LUBA, the applicant/developer, Tidewater LLC, continues to fail at demonstrating HOW the WDC 16.60.030 (C)(4) requirements are adequately met.

Proposed Findings: (Submitted to City of Waldport by Applicant: Tidewater LLC.)

As per proposed Findings Listed 1-7, submitted by the Applicant, Tidewater LLC, please consider the following observations, evidence, and statements of concerned citizens comments which challenge the validity and credibility of the Findings made by the applicant, Tidewater, LLC.

1. By simply stating that all requirements of the DEQ will be addressed does not justify determining that there will not be a drainage or pollution problem outside the planned area.

This is PUBLIC LAND RIGHT OF WAY that the applicant/developer, Tidewater, LLC, proposes to utilize to access their private property which is currently inaccessible without this PUBLIC LAND ACCESS.

This is one of the many concerns of the Citizens of Waldport, who request the City Council to consider the impacts of the drainage and pollution on public land, owned by the City of Waldport, and also includes a direct boundary to Public Land administered by the USDA Forest Service, and drainage and pollution flowing directly into the State of Oregon Scenic Highway 101 infrastructure directly below the Planned Development called Vista View, which will drain into Alsea Bay, a designated Conservation Estuary.

The applicant/developer's, (Tidewater, LLC,) past logging and harvest performance and activity has demonstrated negligence to WDC 16.60.030 (C)(4) requirements by failing to observe best management land practices, which triggered slope failure, with no proactive preventive measures, and as previously documented, resulting in earth, mud, sediment and debris flows of Tidewater's private land sliding and penetrating into neighboring public USDA Forest Service land, and damaging the brand new US Forest Service, Bunkhouse. This is a prime example of failure to meet the remand and WDC 16.60.030 (C)(4) requirements.

(NOTE: USDA Forest Service land is PUBLIC LAND DOMAIN).

Road and site excavation within soils that have demonstrated failure, and with this increase, the failure rate will continue to contribute to instability of slope. The area where this road access will be excavated has recorded side slope measurements of +75%, which can be interpreted as 75 feet of elevation gain per 100 feet of slope distance. Norwood Drive itself, has a recorded driving road surface of 26%.

The side slopes of the applicant's planned road access location on public road right of way are $+2 \frac{1}{2}$ times as steep!!! This will require a retaining structure of a high risk cost magnitude that, if not precisely designed and constructed will place an enormous cost to maintain by the City of Waldport.

The probability of continued slope failure will occur within the City of Waldport's right of way, once road construction is initiated. This will be an ongoing maintenance challenge that can be prevented, by locating access at a less steep slope and in an area where soils and drainage do not have the drastic impact of slope failure.

This proposal by the applicant/developer is unprecedented for any Planned Development proposal made to the City of Waldport, let alone with the expectation from the developer that once constructed, the city will take over the maintenance and transportation challenges of all drainage and pollution that result, at no cost to the developer, that will be passed on to the Tax Paying Citizens of Waldport.

The City would be well advised to require the applicant to provide alternate access points prior to considering taking on a future maintenance challenge that will be ongoing and consume funds that currently are limited and stretched in maintaining the existing infrastructure of Waldport's Transportation System.

We, as tax paying citizens, request the City to reconsider this proposed location for access, and again, proves that the remand made to the City by LUBA is not adequately meeting the standard of WDC 16.60.030 (C)(4) requirements.

2. The applicant states there will be as little as possible disturbance, and will preserve as much as existing vegetation down gradient as possible. These are ambiguous statements that cannot be substantiated, especially regarding the applicant/developers past performance and failure to provide adequate provisions to address drainage and pollution, which has been documented and provided previously to the Planning Commission, City Council and to the State Land Use Board of Appeals. The applicant/developer, Tidewater LLC., submittal states there will be utilization of sediment fences and other forms of erosion protection. Applicant's use of these remedies along with best management practices failed to be utilized or demonstrated by the applicant after slope failure due to logging and harvest activity on the 7.75. acres where 34 homes are proposed to be constructed, along with transportation impacts both inside and outside the planned development. This is demonstrated failure to adequately address WDC 16.60.030 (C)(4) requirements.

Construction will disturb existing stream corridors which have not been assessed by the City of Waldport since June of 1999. Even the applicant agrees, there has been a complete differing site condition resulting from the total timber harvest conducted on the entire 7.75 acres. The findings do not address when construction activities are required to stop and start, related to precipitation and adverse weather conditions.

A cultural resource investigation has not been discussed, or conducted to investigate the Public Road Right of Way which will be forever disturbed should this preliminary plan be approved without meeting the WDC 16.60.030 (C)(4) requirements. A cultural resource survey is required to be conducted PRIOR to any exploratory excavation taking place. If not, the existing scenic and aesthetic quality of this undisturbed space will forever be lost, along with a high risk potential of slope stability failure resulting in a possible fill slope failure. A failure risks blocking State Highway 101 below and bordering Alsea Bay Conservation Estuary along the seawall, and flows into the Study Area of Environmental Constraints designated wetlands both above through and below the Planned Development. Removing this well established ground cover could result in what did occur and the applicant admitted to, resulting in failing sediment flowing into the neighboring USDA Forest Service brand new constructed bunkhouse. This is a perfect example of the applicant's negligent management practices and reactive management practice of clearing and harvesting the land completely without taking any initiative to protect the natural state of the land. This negligence resulted in a still existing scar which remains to this day along with recent documentation that there has been sedimentation failure, and neighboring tree loss outside the applicant's cutting boundary. Please refer to all exhibits listed in the record, specifically, pages 131-141.

This Finding negates the validity of the statement, since there is no location designated or quantified measurement of what soils and slopes will be disturbed and what earth mass will be affected by drainage and pollution both in and outside the development.

This is in direct violation of Waldport Development Code (WDC) 16.60.030 (C)(4), and 16.12.030 E & F.

3. Comparing the Planned Development to a Subdivision is completely irrelevant. It does not avoid construction within the Public Road Right of Way steep grade and side slopes outside the Planned development, negating compliance that WDC 16.60.030 (C)(4) requirements are adequately met.

4. This finding demonstrates the developer is anticipating violations. A proactive approach to meet WDC 16.60.030 (C)(4) requirements would be to show how the applicant plans to adequately provide a plan of how drainage will be facilitated to the sediment pond specified on the applicant's property, which is located above where road right of way excavation will take place. As currently shown, there is no evidence of how drainage and pollution will travel from the lower road elevation up to the sediment pond, which is at a substantially higher elevation. There are no measurements, described, taken or shown regarding the elevation and adverse grade change between the road for access and the sediment pond.

There is no plan addressed on how the applicant/developer, Tidewater LLC., will facilitate fill failure of the earthen sediment pond, which will flow directly into the live year round stream that flows into Oregon Department of Transportation Scenic Highway 101 Infrastructure, and across the State Highway DIRECTLY into Alsea Bay, a designated Conservation Estuary. The sediment pond is located within the drainage of the year round stream, which carries the largest stream flow in the area, and is a Designated Wetland Study Area with Environmental Constraints listed in the Waldport Comprehensive Plan.

As per WDC 16.70.080, the applicant/developer has failed to show an Environmental Social, Economic and Energy (ESCC) consequences analysis has or will be addressing the designated wetland within the study area of Environmental Constraints listed in the Waldport Comprehensive Plan. It is not addressed in the Findings, and is directly related to the remand made by the State of Oregon Land Use Board of Appeals requesting the City of Waldport to determine whether construction activities will create a drainage or pollution problem outside the planned area.

This clearly validates the request by the Citizens of Waldport to have the Planning Commission review the applicant/developers submittals prior to the City Council hearing in order to validate the Waldport Comprehensive Plan, Waldport Municipal Code, and Planned Development Land Use requirements have been met.

Consideration of expenditure of public funds in order to maintain access to this private dead end property, which is currently inaccessible without use of Public Right of Way, is an unprecedented and unjustifiable use of public works dollars in order to maintain a road that is located in an area where soils have previously failed and impacted neighboring USDA Forest Service Federal Land including neighboring Public Domain Land.

5. This finding states that the Public Works Department will monitor the development of the property and public land road right of way leading to the private property. There is no City Engineer on staff, should there be an immediate drainage failure or pollution requiring an immediate engineering decision or action, the failure could exacerbate to profound proportion of irreparable damage, especially considering the Designated Wetlands and Alsea Bay as a Conservative Estuary.

This Finding would serve better purpose by requiring the applicant to provide on site Professional Engineering expertise provided to the City during construction practices in order to facilitate aid to adequately meet the requirements of WDC 16.60.030 (C)(4).

6. The City of Waldport's previous findings should be stated and included to complete the understanding of what and why this statement is included. As it stands it does not address the remand without clarification of what the storm water drainage and pollution findings are.

Applicant is non compliance with the Waldport Development Code for R1 Residential Property: 16.12.030 clearly states the standard for drainage shall show width, depth, and direction of flow of all drainage channels on the property, and in addition shall show the location, size and type of conduit used in drainage channels and driveway accesses shall be clearly designated. It is not shown how pipes draining water from roof drains and other non pervious surfaces will be separated from entering into the sewer facility. A clear violation and non compliance of the Waldport Development Code, which, if reviewed by the Planning Commission would be evident in their review and duties as validating where code is compliant and where it is in violation and non compliant.

7. With the sensitivity of this Planned Development and the magnitude of its environmental impact to the drainage and pollution to the surrounding public domain of local city, state and federal PUBLIC PROPERTY, such as City of Waldport: Road Right of Way Public Land for accessing property that has alternate means of access with reduced land mass, drainage and pollution access, State Highway 101 and Alsea Bay Riparian and Designated Conservative Estuary Preservation, and Federal USDA Forest Service Ranger Station land, we as Concerned Tax Paying Citizens of Waldport, request the City of Waldport to conduct a participatory Public Hearing in front of the Planning Commissioners to take into consideration all of the above findings and to make recommendations to the City Council in order to request the applicant to provide a substantiated and qualified adequate plan to meet the requirements of WDC 16.60.030 (C)(4).

It is presumptuous of the applicant/developer, Tidewater LLC., to assume and state in this proposed finding, and I quote in italics from the submittal: *As a practical manner, any decision of the Planning Commission could be appealed to the City Council by any party who participated and it is extremely likely that any party that did not prevail at the planning commission on this matter would appeal to the City Council. By holding an evidentiary hearing before the City Council on the remanded issue the City provided the opportunity for the parties to submit evidence to the ultimate decision maker at the City. No party is prejudiced by that procedure and it provides due process to all parties.*

This statement does not reflect the views of citizens who have participated in prior hearings that have established the protocol of preliminary plan approval goes through initial hearings with the Planning Commission to hear the testimony of the public and then make recommendations with the knowledge they hold regarding Land Use Code and Requirements, Waldport Comprehensive Plan, WDC Title 16 Code, and specifically addressing the remand requirements of Planned Development Waldport Development Code 16.60.030 (C)(4).

At both prior Planning Commission and City Council Public Meetings, there were repeated verbal requests made by the public once the remand was issued in October requesting any submittals made by the applicant/developer, Tidewater LLC., addressing the remand were requested to pass through the Planning Commission to review prior to the City Council to consider. This was followed up by two written requests submitted to the City of Waldport, which were not verbally discussed at the City Council Meeting held remotely on April 24, and again submitted to be included in the staff report for the hearing scheduled for May 14, 2020 requesting postponement until COVID-19 restriction were lifted in order to have a uninterrupted and smooth transition between listening and public comments received, which failed to take place at the April 23, 2020 City Council meeting.

It is without a doubt and evident, that the submittals and findings made by the applicant to the City of Waldport dated April 13, 2020 DO NOT SATISFY OR ADEQUATELY MEET Waldport Development Code 16.60.030 (C)(4) requirements, therefore, the remand made by the State of Oregon Land Use Board of Appeals stands. Preliminary Plan requirements have not been met per Waldport Development Code 16.60.030 (C)(4). These findings have not been reviewed by the Waldport Planning Commission, whose duties are to make recommendations of Land Use Development to the City Council, and to assure the public, by their thorough review, that The Waldport Comprehensive Plan, Waldport Development and Municipal Code and Ordinances are met prior to Preliminary Plan approval of a Planned Development.

All previous submittals have been reviewed by the Waldport Planning Commission, and established this protocol for review of this planned development. The applicant's statement of not requiring a Planning Commission hearing negates the purpose, and as previously stated, this development is unprecedented in its environmental impact of drainage and pollution to 3 PUBLIC DOMAIN BODIES: Local city, State and Federal Lands, which are ultimately governed by Citizens of the United States of America.

We the below Citizens have a right to request a Public Hearing to the Planning Commission, prior to a City Council Hearing, to listen to our concerns and make sure that the remand and land use development requirements have been met, and make recommendations to the City Council regarding Waldport Development Code 16.60.030 (C)(4) requirements.

As long time Citizens of Waldport, we request both the Waldport Mayor & City Councilors with the City Planning Commissioners, including all those elected and non elected official who are considered a part of the decision of approving this application, and preliminary plan, to review the factors and evidence presented in this submitted documentation with citizen signatures, regarding the remand made by the State of Oregon Land Use Board of Appeals Final Opinion and Order addressing Waldport Development Code 16.60.030 (C)(4) requirements, pollution and drainage, which have considerable effect and affect to the Community and Citizens of Waldport.

Hollis Lundeen
P.O. Box 1392
Waldport, Oregon 97394
May 8, 2020

City of Waldport
Lincoln County
P.O. Box 1120
Waldport, Oregon 97394

To The Members of the Waldport City Council, Planning Commissioners, City Manager, City Planner, City Attorney, and City Recorder:

Regarding the recent Notice of Public Hearing dated April 21, 2020, states that due to COVID-19 restrictions, some or all attendees may be participating electronically. Physical attendance at the meeting may be limited due to COVID-19 restrictions.

For the record and to be included in the Staff Report, submitted as per hearing directive, we the below citizens of Waldport, request to the City Council, that the hearing be postponed until such date as citizens and interested parties are able to participate in the manner of which previous hearings have been held.

I, Hollis Lundeen remotely participated in the City Council meeting on April 23, 2020. I remotely telephoned into the City as directed, and was verbally recognized and officially signed in by Dann Cutter, (formerly Mayor, now in the position of City Manager.)

Dann stated that I would be placed "on mute" during the meeting, and when it came time for the council to receive public comment, he would release the mute button, for local participation and comments. He also informed me to utilize the *6 key on my phone to personally mute or un-mute during public comment.

The attached letter was submitted to the City on April 22, 2020, and it requests the letter be included for the record, and to be read out loud at the City Council meeting. It was not read out loud as requested, nor was it's content discussed. It was made part of the record. When Mayor Dann Cutter asked for public content, I continually spoke up and repeatedly utilized the *6 to make comments to the City Council, and inquire as to why it was not read. I also had some questions regarding road work on Norwood Drive that I was not able to verbally inquire about. There was no acknowledgment that I was heard, from any Council Members hearing me. The meeting was adjourned without my public comment being heard, received, or acknowledged.

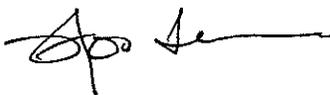
Being completely frustrated, I telephoned the City, and explained the situation to City Clerk, Robin Morris, who was very courteous to put me through to Dann's office phone, which I left a message requesting a call back. I called the City again requesting if there was a way I could be connected directly to the telephone number Dann Cutter was using for the meeting. After leaving a message on that phone, Dann was kind enough to timely return my call and explained that he was surprised that he did not hear any public content from me, and I explained I repeatedly tried, but was unsuccessful. He shared that possibly the mute release button was not working, and apologized. I shared my comments with him that I was quite disappointed that I was not able to participate and was concerned regarding how this could be repeated at the hearing scheduled for May 13, 2020, therefore, I am taking this moment to again request in advance that the public hearing be postponed until the citizens of Waldport can be assured they can participate in a manner that is not cumbersome, and has proved to be successful, flawless and reliable to receive public comment.

It is imperative that this hearing is held in a guaranteed manner for the public to be able to professionally participate especially considering the importance of such a unprecedented magnitude of this Planned Development Preliminary Plan remand made by the State Land Use Board of Appeals.

As described above, the prior remote participation demonstrated failure to allow for public comment. Therefore, we the below Citizens of Waldport, request postponement of the hearing until the COVID-19 restrictions are lifted in order to allow physical and not remote, public participation and attendance in a manner that allows for undisturbed, uninterrupted, successful public comment.

Thank you.

Respectfully submitted as per directive,



Hollis Lundeen

Hollis Lundeen
P.O. Box 1392
Waldport, Oregon 97394
April 22, 2020 (PM)

City of Waldport
Lincoln County
P.O. Box 1120
Waldport, Oregon 97394

To The Members of the Waldport City Council, Planning Commissioners, City Manager, City Planner, City Attorney, and City Recorder:

Regarding the recent Notice of Public Hearing dated April 21, 2020, I notice that this hearing, referencing the Land Use Board of Appeals (LUBA) 2019-046 Final Opinion and Order issued 10/24/19 @ 1:07 pm for the Vista View Planned Development is scheduled for the City Council to hear. This is disregarding my verbally recorded requests for any new submittals made to the City by the developer, Tidewater, to be presented to the Planning Commission, prior to the City Council, so that the Planning Commission can make their recommendations for Land Use, to the City Council for consideration. This is the protocol that was previously defined and followed for Case File #1-PD-PC-17 Tidewater Development LLC - Vista View Planned Development.

For the record, and in addition to all the many previously recorded verbal requests, please consider this request in writing, for the hearing to be heard by the Planning Commission to make their recommendations to the City Council regarding the LUBA decision.

Should the State of Oregon continue to be under the current COVID-19 restrictions, prior to the proposed hearing on May, 14, 2020, I request the hearing to be postponed until physical attendance by the public can be allowed and permitted.

Since I am not able to participate by physical attendance to the City Council Meeting scheduled for April 23, 2020 @ 2:00pm at City Hall due to the COVID-19 restrictions, I request this written request be verbally read into the record out loud for those of us citizens participating remotely.

Thank you. Hollis Lundeen 

Dann,

I wish to notify you that effective today, May 15, 2020, I am resigning from my position as a City Councilor for Waldport.

I've been happy to serve since 2017, but I believe now is an opportune time to pass the baton.

It's been "great fun, but it's just one of those things."

I wish you the very best in your new role as City Manager. You have a lot in front of you, and your energy and enthusiasm are much appreciated.

If there is ever anything I can help you with in my realm of experience (e.g., water and wastewater, pump stations, SKADA systems) I would be more than happy to. Please feel free to give me a call.

Sincerely,

Harry K. Dennis, Jr.

hkdennisjr@earthlink.net

541-563-4573

Waldport Beachcomber Days
proposal for handling the
Waldport Wednesday Market

The Waldport Beachcomber Days would like to express interest in handling the operations and logistics of the Waldport Wednesday Market that was held at the community center parking lot. In doing so we believe that it will help offset the burden of funding for the time honored tradition of the Beachcomber Days event.

If we are approved to handle the market, we will add it to our bylaws that all future executive board members that are elected will accept the management of the Wednesday market. Meaning that the President, Vice-President, Secretary and Treasurer shall be responsible the vendor setup, billing and handling of the market setup and logistics. This will ensure that the market will be taken care of no matter who is the current elected officials. An email address, Facebook page and phone number will be setup specifically for the market so that current and future board members of Beachcombers will be able to maintain operations while maintaining a consistent, unchanging path of communication for the community, vendors and patrons.

Under the current guidelines set forth by the State of Oregon, Lincoln County, City of Waldport, Oregon Health Administration and Center for Disease Control due to the COVID-19 pandemic the following policies will be implemented and adhered to. As the policies change and are updated from the above agencies, we shall adjust and modify as needed.

- Vendor booths shall be 10 feet apart
- Clear and Marked social distance marks shall be placed in front of each vendor booth
- Two outdoor portable toilets shall be accessible
- Hand sanitizing stations will be available for the public to use
- One Entrance and One Exit clearly marked
- Traffic flow thru the market in a one-way direction will be indicated.
- No more that 50 patrons shall be allowed within the market at one time
- Masked will be highly recommended to be worn

Waldport Beachcomber Days will pay the City of Waldport 25% of the vendor booth fees in exchange for the use of the Waldport Community Center parking area and insurance coverage for the market. Until the COVID-19 restrictions are lifted and/or relaxed, we will asked that the we will be allowed hold back \$300 of the 25% for portable toilet and hand sanitizing stations per month until we are able to use the community center restrooms. At that time, Beachcomber Days will take on the responsibility of maintaining and cleaning the restrooms within the community center building. We also ask that for the use and ability to close NW Alder street during the market as needed to maintain the social distancing guidelines while still accommodating all vendors who may want to participate. This may or may not be needed every week. The City of Waldport and Central Oregon Coast Fire & Rescue will be notified no less that 2 days prior to the market in the event that street will be need.

