

SUPPORT APPEAL

APPEAL OF ASHCREEK NA RE RESERVOIR APPLICATION OF TUALATIN VALLEY & GARDEN HOME WATER DISTRICTS

6217 SW GARDEN HOME RD LU 10-200954 CU AD

IF YOU WISH TO SPEAK TO CITY COUNCIL, PRINT YOUR NAME, ADDRESS, AND EMAIL.

NAME (print)

ADDRESS AND ZIP CODE

Email

✓ DEAN SMITH	8802 SW 52ND 97219	smithd111@comcast.net
✓ Charles Osberg	8021 SW 61 ST Avenue 97219	OZ@ATT.NET
✓ DR. CHAROLD L. BAKER	8039 SW 62nd PL 97219	superenal@aol.com
✓ NANCY DONNER	6254 SW Garden Home 97219	mikedonner@gmail.com
✓ Travis Stevenson	6317 SW Garden home rd 97219	travistrowe@hotmail.com
✓ Kip Nagely	8037 SW 61 ST AVE 97219	—
✓ Virginia A Ottmar	6245 S.W. Garden Home Rd 97219	
JACK KLINGER	8700 SW 54 TH Wd 97219	jklinger@EASE.com
✓ Nancy Trullinger	5445 SW Dolph Dr. 97219	nancytru@mac.com
✓ Bill Schoonover	6316 SW Garden Home Rd	

**SUPPORT
APPEAL****APPEAL OF ASHCREEK NA RE RESERVOIR APPLICATION OF
TUALATIN VALLEY & GARDEN HOME WATER DISTRICTS****6217 SW GARDEN HOME RD LU 10-200954 CU AD**IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

NAME (print)	ADDRESS AND ZIP CODE	Email
✓ Lyndon Ruhne	8121 SW 62nd Place, 97219	LTRUHNKE@aol.com
✓ Laura Ghinea-Smith	8050 SW 62nd PL, PD 97219	tymkeeper@aol.com

July 14, 2011

To: Council Clerk
City of Portland
1221 SW Fourth Avenue, Room 140
Portland, OR 97204

Fm: Lyndon Ruhnke
8121 SW 62nd Place
Portland, OR 97219

Re: LU 10-200954 CU AD

Dear Council Clerk:

My family resides in the home directly to the west of the proposed water tank that is the subject of this appeal. The proposed water tank will have significant adverse effect to the desired residential character of the neighborhood that cannot be resolved through mitigation. Tualatin Valley Water District's request for a conditional use should be denied because it does not meet the applicable approval criteria. The proposed tank is simply too big for the lot, and the proposed mitigation measures will not adequately screen it from view.

PCC 33.815.105 B.2 requires the proposed tank be compatible with adjacent residential developments based on characteristics such as site size, building scale and style, setbacks and landscaping or 3. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping, and other design features.

The site size is similar to many lots in this residential neighborhood. The proposed tank will be 46 feet in height, over 92 feet in diameter, and have a concrete finish. The proposed setbacks barely meet the minimum requirements on two sides, and the landscaping, existing and proposed, will not properly screen the tank from three sides.

The Hearings Officer found that the proposed water tank did not have the same building style as the nearby residences, but often institutional structures do not look like, and are bigger than residences nearby. See pp. 16-17 of Decision of the Hearings Officer ("Decision"). While there may be no other practicable alternative to the height of the tank, there are obvious alternatives in building scale, and style to make the proposed tank compatible with the adjacent residential neighborhood, such as a smaller rectangular tank. The foot print of the proposed tank is more than double the existing development. The circular design of the tank places it within one inch of the required landscaping setbacks on the west side of the site and within 3 inches on the east.

In the Decision the Hearings Officer considered whether each characteristic listed in PCC 33.815.105 B.2 had to be met in order for a proposed institutional development to meet the codes requirement. The Hearings Officer decided that the characteristics listed in PCC 33.815.105 B.2 had to be considered collectively, and if on balance, the characteristics of a proposal are compatible, then the approval criterion is met. Decision at page 19. In this case, a balancing of characteristics is not appropriate. The lot may be similar in size to others in the neighborhood, but the proposed development's minimal setbacks, building style, inadequate landscaping, and sheer size on such a small lot are incompatible with the adjacent residential development. (see exhibits 24, and 40 a.).

The Hearings Officer found that PCC 33.815.105 B.2 and B.3 are alternatives, meaning that an applicant need only satisfy one or the other. The Hearings Officer decided if the applicant failed to meet the requirements of PCC 33.815.105 B.2, they mitigated any differences in appearance based on existing and proposed landscaping, a black finished chain link fence and other design features. Decision at Page 19. The findings of City Staff (Staff Report and Recommendation at page 5) and the Hearings Officer (Decision pp. 18-20), with respect the physical compatibility of the proposed development and the surrounding residential neighborhood, are subjective. The various site plans and images submitted by the applicant, and the written and oral testimony of opponents to the project illustrate how this project is incompatible with the surrounding neighborhood.

In the Staff Report and Recommendation, and in the Hearings Officers Decision, great weight has been given to the fact that the applicant has met the development standards for institutional uses in a single dwelling residential area for landscaping buffers and the size of the proposed tank, but the importance of the physical compatibility of the development is key to the neighborhoods livability. The lot that this proposed tank would be placed on is much smaller than other sites that the applicant, or even the Portland Water Bureau, uses for similarly sized storage tanks. The applicant is attempting to squeeze an oversized storage facility on an undersized lot to the detriment of the neighboring properties. The City Council has the authority to use its judgment in interpreting the Code; in this case, I believe that judgment should be that the proposed project does not meet the requirements of PCC 33.815.105 B.2 or B.3, or the intent of the Code.

The applicant has testified about its need for additional storage capacity, and the need for a cost effective solution in replacing the current derelict, and dangerous tanks. The neighborhood supports the replacement of these tanks with something compatible, and safe, but needs your assistance so that the cure is not worse than the illness.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Lyndon Ruhnke', is written over a horizontal line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

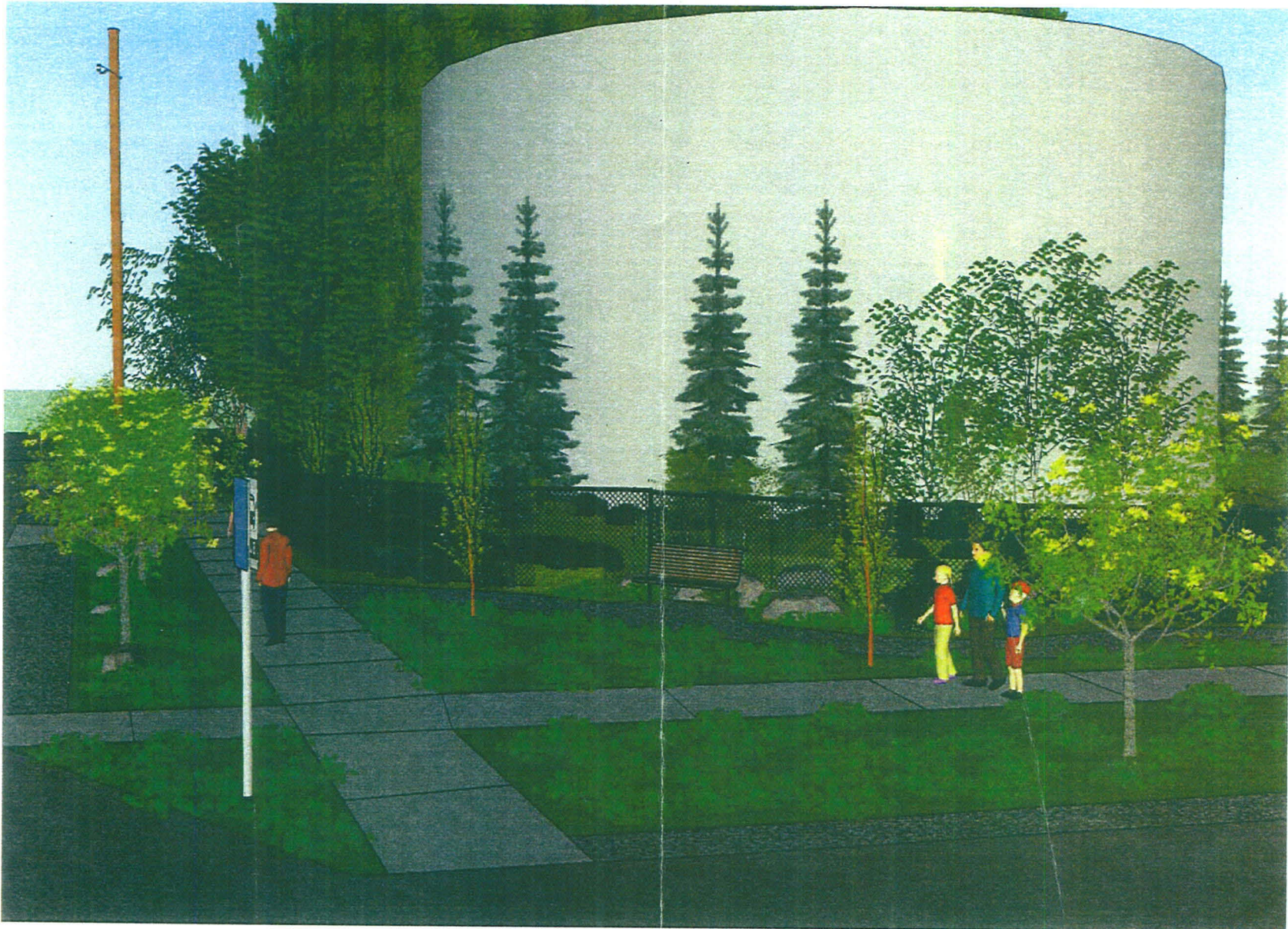
Lyndon Ruhnke

Exhibit 24



Exhibit 40a

Proposed TVWD Garden Home Reservoir - Looking Northeast - Landscaping at Time of Planting



3/17/2011

Charles S. Osborne, Resident of 8021 SW 61st Avenue, Portland, Oregon

Re: LU 10-200954 CU AD; Tualatin Valley Water District variance

Good afternoon. Mr. Mayor, members of council:

Tualatin Valley Water District and hearings officer Gregory J. Frank have mis-interpreted City of Portland zoning code in attempting to site an industrial facility in a residential zone, in violation of law, specifically title 33.

As former Portland hearings officer George Fleerlage teaches in his 20 February 1981 denial of Water District's earlier siting attempt, Code dictates that structures and facilities must not be so massive that they are detrimental or injurious to the character and value of the surrounding properties. These are qualitative conditions. But code continues and aids us by allowing us to quantify these conditions. One way is through comparison of the massiveness of the structure to the size of the lot. The proposed facility fails the criterion set forth by law.

Title 33 specifies the maximum allowable ratio of "floor space" to lot size. The proposed water tank fails the criterion.

Water District and officer Frank attempt to misdirect attention from their action to the extent of including the Webster's Dictionary definition of the word "floor" to the record to justify their attempt to circumvent code. They point out that the fifty-foot tall concrete water tank has but one floor.

If code had intended to consider only the footprint of the structure in relation to the size of the lot, the word "footprint" or "foundation" would have been used, as those words are used in numerous other places in code. But code specifies floor space.

The massiveness of any structure is defined by not only length and width but also height. A residence of four stories height is four times as massive as a single story dwelling. Code intentionally uses the term "floor space" – the sum of the area of all floors – as a simpler way of quantifying the massiveness of the structure rather than demanding all sorts of geometrical calculations and measurements of roof pitch and dormers and balconies. Code is not height blind. Yet Water District and officer Frank lead us to believe that a five-story water tank is no more massive than a one story home of the identical footprint.

The letter and intent of code – of law – has been broken and we petition you to reverse this decision. This tank, as currently designed, can not legally be sited on this lot.

Thank you. Respectfully submitted,

Charles S. Osborne

Testimony to the Portland City Council by the Ashcreek Neighborhood Association

**RE: LU 10-200954 CU AD: Tualatin Valley Water District (TVWD)
Appeal of Hearings Officer's Decision re Proposal for New Two-Million Gallon Water Reservoir
at 6217 SW Garden Home Road, Portland, Oregon**

**Presented by Dean Smith, President
Ashcreek Neighborhood Association [Appellant]
July 14, 2011**

Mr. Mayor and members of the City Council. My name is Dean Smith. I am President of the Ashcreek Neighborhood Association, the appellant in this matter and a recognized neighborhood association within the City of Portland. My address is 8802 SW 52nd Avenue, Portland, Oregon.

We appreciate the opportunity to appear before Council on this matter, which is of great importance to our neighborhood. I would like to say at the outset that we do not take our right to appeal this case lightly. We have exercised our appeal rights only after careful consideration of the impact of this project on our neighborhood and the strenuous objection to it by the most affected members of our community – the neighbors immediately adjacent to the project.

We believe the central issue in this case is very simple: The size and scale of the proposed project is not compatible with the adjacent residential properties and, further, is injurious to the overall character and residential qualities of this portion of our neighborhood. Those of you familiar with SW Garden Home Road in this location will recognize it as a relatively pastoral setting, with residences on rather spacious lots – along a lovely two-lane road that curves through our neighborhood. On average, about 3,400 vehicles travel the road daily.

This is the context with which Council must evaluate whether or not this project, as currently proposed, is compatible with the neighborhood. This case focuses squarely on the core issue anticipated by the City Code governing conditional uses in residential zones. The Code is designed to allow for certain types of otherwise non-conforming uses, with conditions, so long as they are not injurious to the neighborhoods in which they will be located. And therein lies the core question: Is a two-million gallon water tank – twice in size to the current tanks and thus twice the current level of use – compatible? Does it meet the language and intent of the Code?

In a nutshell, the bases for our continuing objection to this conditional use application are these:

1. A structure of this size and scale will alter the character and appearance of this section of the Ashcreek neighborhood to the detriment not only of the immediate residences but also the neighborhood as a whole. Chapter 33.815.105 (B) (2) requires that “. . . the proposal will be compatible with the adjacent residential developments based on characteristics such as the site size, building scale and style, setbacks, and landscaping . . .” We do not believe this

project meets this criterion. We believe the Hearings Officer has narrowly construed compatibility in this case. We believe, further, that Council has the authority to more broadly interpret the Code, which in this case is clearly intended to ensure that there are minimal adverse impacts from conditionally approved projects on residential neighborhoods.

In this context, it is important to recognize that City Code allows certain uses that are not allowed outright in residential zones to be conditionally on the basis that they provide [and I quote] "beneficial effects and serve important public interests," as set forth in Chapter 33.815 of City Code, but do not have [again I quote] "significant adverse effects on the environment . . . or change the desired character of an area." Further, the Code sets forth approval criteria that allow institutions and other non-Household Living uses in a residential zone that [quote] "maintain or do not significantly conflict with the appearance and function of residential areas".

The Code specifically intends to protect residential neighborhoods from uses that involve a "building scale and style" not compatible with neighborhood character and livability. We believe it is within Council's prerogative, to interpret the standards and language in the Code accordingly in order to protect residential neighborhoods. In this case, the sheer size, scale and bulk of this project damages the character of the neighborhood and is incompatible.

2. We disagree that the project as proposed meets the intent of the maximum FAR requirements within the Institutional Development Standards. It is important to recognize that the Standards set forth maximums and minimums that apply. However, these are not absolutely prescriptive in that a project can ostensibly fall within these maximums and minimums and STILL not be compatible in the context in which the project is placed. In other words, the standards are part of the evaluation of impact and compatibility – but NOT the sole determinants. That is where Council, as the creators and arbiters of City Code, must exercise its judgment since prescriptive standards do not always lead to the right and responsible decision. They serve as a guide – and certainly set specific maximums – but need to be looked at within the entire context.

In evaluating the core issue here – size, scale and bulk – the best tool we have to measure that is floor area ratio. In this case, FAR is an important consideration but also a problematic one. The Hearings Officer has based his findings that the project does not violate the "building scale" criterion on the notion that this structure is but one floor in height – a 46-foot tall floor. The basis for that finding was a dictionary definition of a floor because apparently the Code does not provide specific direction in this type of situation.

However, one must look to the intent of the Code in having FAR as one of the standards that must be met for institutional uses in residential zones. That intent would necessitate a reasonable way of assessing FAR in this type of structure as a means of understanding its

bulk and mass and, thus, its impact and compatibility with the neighborhood. In our view, the appropriate way to calculate FAR, as a measure of visual impact and compatibility, is to base it on some reasonable measure, such as the standard floor height of a structure, which is 10 feet per floor. Or, in the case of a storage-type facility, perhaps 15 feet per floor. Either way, the resulting FAR would exceed the allowable 0.5:1 by a considerable factor.

Using the HO's basis for calculating FAR, at a 15-foot floor height the proposed structure would have to be 170.4 feet tall to exceed the allowable FAR. This clearly isn't the intent of this provision of the Code. The HO's method of calculating FAR would render this metric in the Code meaningless, which we don't believe was Council's intent in promulgating these standards.

But what if this were a different type of storage facility – say an archive or records storage facility. This would typically be probably a lot like a warehouse with, say, 15-foot floors – or in this case, 3 floors. In that event . . . with the SAME size structure in this SAME location and using conventional FAR calculations . . . it could not be allowed. Same type of use – passive storage. Same size of structure. One allowable under the Hearings Officer's reasoning; one clearly NOT allowable.

Now, we are not proposing that Council make some sort of arbitrary determination that if this were a storage facility with walk-able floors rather than one giant container, the FAR should be calculated as this or that. What we are suggesting that this should INFORM the question of compatibility. If one exactly the same structure were allowable in one case but not in another, both passive uses, it demonstrates that judgment and an appropriate interpretation of the intent of the Code is essential in this case.

We've included in our testimony an Attachment that we introduced as part of the original record showing the result of an FAR calculation using a 10-foot floor height so as to help inform you about the context of this decision. It shows the relative scale differences between the adjacent residential properties and this proposed 92-foot wide, 46-foot tall water tank. A 15-foot floor height calculation isn't much different. We think it is evident that there is a striking differential between the two. No matter how you look at it, this is an oversized structure on an undersized parcel.

While the TVWD representatives have described the project a "replacement" of the existing water tanks, it is in fact a significant expansion in the use at the site. The proposed structure is twice the size of the existing tanks. It represents a considerable increase in the scale of use with corresponding impact on the neighborhood. This, in itself, constitutes an impact that damages the residential character of the neighborhood and supports our belief that it does not meet the compatibility standard in the Code.

Finally, we would like to say what we WOULD support. And that is an actual replacement of the 1 million gallons of water storage currently at this site. We have no objection to the

Dean Smith, President

Ashcreek Neighborhood Association

construction of a new, seismically sound structure with a capacity of 1 million gallons. We have learned to live with this size of tank and use for the past 50+ years, and would have no objection to a full replacement. Doubling the size of the storage tank, on this site and in this location, however, is untenable to the neighborhood.

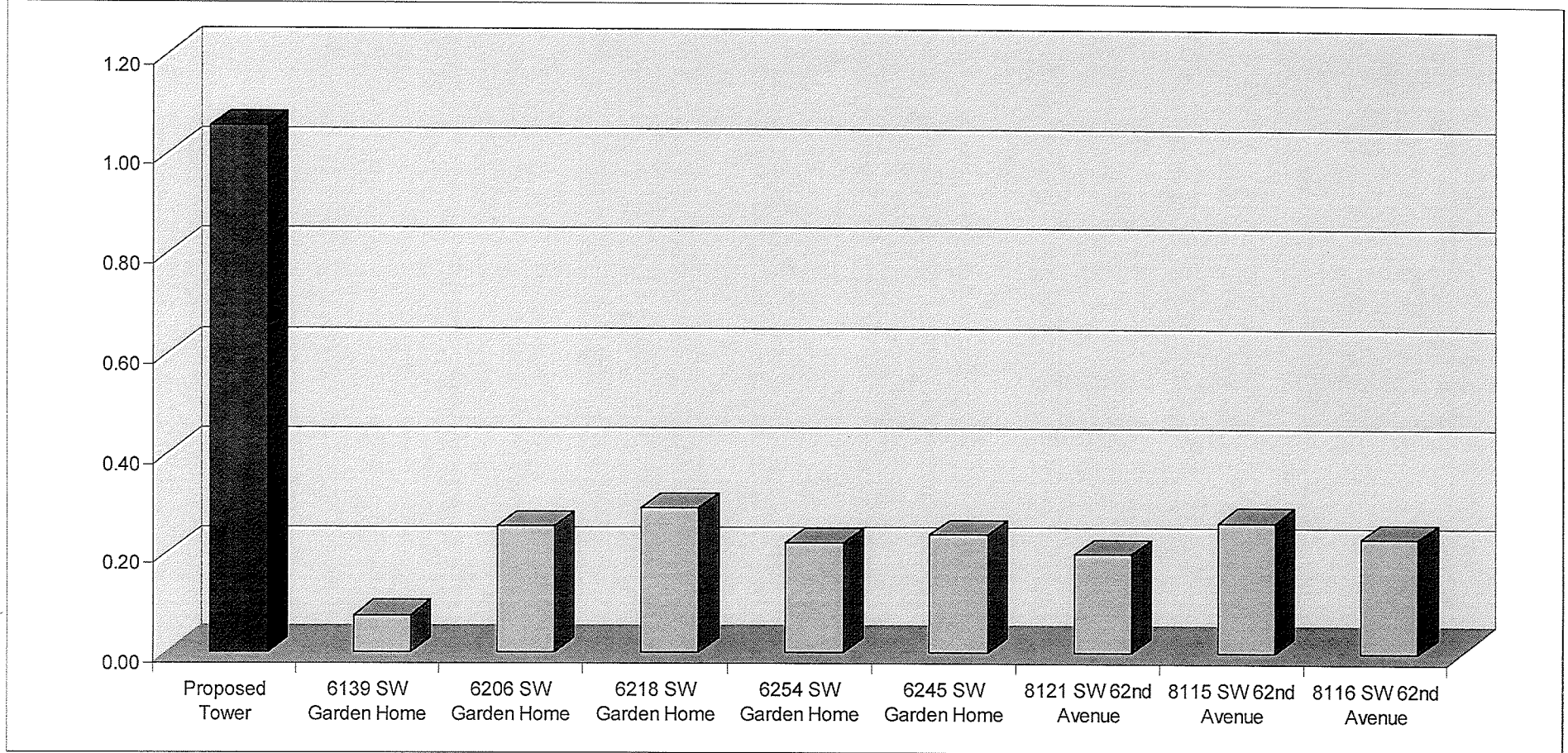
We believe this conditional use application should be denied and the Hearings Officer's decision overturned. The project design does not render the project "... compatible with adjacent residential developments ..." as required.

Thank you.

Attachment 1. FAR Comparisons: Proposed Water Tower to Surrounding Residential Dwellings

Structure	Size Size	Floor Area	FAR
TVWD Proposed Tower	28,314	29,914	1.06
6139 SW Garden Home	30,900	2,288	0.07
6206 SW Garden Home	10,759	2,733	0.25
6218 SW Garden Home	10,829	3,144	0.29
6254 SW Garden Home	12,366	2,724	0.22
6245 SW Garden Home	9,695	2,302	0.24
8121 SW 62nd Avenue	22,917	4,548	0.20
8115 SW 62nd Avenue	10,000	2,630	0.26
8116 SW 62nd Avenue	12,196	2,798	0.23

Tower Radius 46
of stories 4.5 10/ft/story



Submitted by
Nancy Banner
7/14/11



Moore-Love, Karla

From: Lyndon Ruhnke [lyndon@baxterlaw.com]
Sent: Thursday, July 14, 2011 1:02 PM
To: Moore-Love, Karla
Subject: Fwd: Ottmar testimony; LU 10-200954 CU AD
Attachments: 2011_07_14_11_24_13.pdf

Dear Council Clerk:

Please find forwarded testimony from my neighbors Perry and Virginia Ottmar in this matter.
They will be bringing copies to the hearing.

Thank you for your assistance with this matter,

Lyndon

Lyndon L. Ruhnke
Baxter & Baxter, LLP
8835 SW Canyon Lane, Suite 130
Portland, Oregon 97225
(503) 297-9031 (Telephone)
(503) 291-9172 (Facsimile)

<http://www.baxterlaw.com>

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

From: **Lindsay Nied** <lindsay@baxterlaw.com>
Date: Thu, Jul 14, 2011 at 11:25 AM
Subject: Ottmar
To: Lyndon Ruhnke <lyndon@baxterlaw.com>

Lindsay M. Nied
Legal Assistant
Baxter & Baxter, LLP
8835 SW Canyon Lane, Suite 130
Portland, Oregon 97225
(503) 297-9031 (Telephone)
(503) 291-9172 (Facsimile)

<http://www.baxterlaw.com>

7/18/2011

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Case File LU 10-200954 CUAD Tualatin Valley Water District
Council Clerk
1221 A.W. Fourth Ave Room 140
Portland, Or 97204

We have lived on Garden Home Road and Sixth Second Place since 1978, across from the proposed site of the two million gallon water tanks.

The present two towers are large but the placement of them is not as intrusive as the proposed tank of two million gallons.

We feel the proposed tank is out of character and is not appropriate for our neighborhood.

From our property we will see up close a large concrete tank with little vegetation to conceal it. We feel it will affect the liveability of our neighborhood.

Thank you for hearing our concerns.

Perry & Virginia Ottmar
6245 A.W. Garden Home Rd
Portland, Or. 97219

Moore-Love, Karla

From: Lyndon Ruhnke [lyndon@baxterlaw.com]

Sent: Thursday, July 14, 2011 2:24 PM

To: Moore-Love, Karla

Subject: LU 10-200954 CU AD

Attachments: 07.14.11 final tank comments.pdf

Dear Council Clerk:

Please find attached my testimony, I will be bringing copies to the hearing.

Thank you for your assistance,

Lyndon

Lyndon L. Ruhnke
Baxter & Baxter, LLP
8835 SW Canyon Lane, Suite 130
Portland, Oregon 97225
(503) 297-9031 (Telephone)
(503) 291-9172 (Facsimile)

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7/14/2011

July 14, 2011

To: Council Clerk
City of Portland
1221 SW Fourth Avenue, Room 140
Portland, OR 97204

Fm: Lyndon Ruhnke
8121 SW 62nd Place
Portland, OR 97219

Re: LU 10-200954 CU AD

Dear Council Clerk:

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The Hearings Officer found that the proposed water tank did not have the same building style as the nearby residences, but often institutional structures do not look like, and are bigger than residences nearby. See pp. 16-17 of Decision of the Hearings Officer ("Decision"). While there may be no other practicable alternative to the height of the tank, there are obvious alternatives in building scale, and style to make the proposed tank compatible with the adjacent residential neighborhood, such as a smaller rectangular tank. The foot print of the proposed tank is more than double the existing development. The circular design of the tank places it within one inch of the required landscaping setbacks on the west side of the site and within 3 inches on the east.

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In the Staff Report and Recommendation, and in the Hearings Officers Decision, great weight has been given to the fact that the applicant has met the development standards for institutional uses in a single dwelling residential area for landscaping buffers and the size of the proposed tank, but the importance of the physical compatibility of the development is key to the neighborhoods livability. The lot that this proposed tank would be placed on is much smaller than other sites that the applicant, or even the Portland Water Bureau, uses for similarly sized storage tanks. The applicant is attempting to squeeze an oversized storage facility on an undersized lot to the detriment of the neighboring properties. The City Council has the authority to use its judgment in interpreting the Code; in this case, I believe that judgment should be that the proposed project does not meet the requirements of PCC 33.815.105 B.2 or B.3, or the intent of the Code.

The applicant has testified about its need for additional storage capacity, and the need for a cost effective solution in replacing the current derelict, and dangerous tanks. The neighborhood supports the replacement of these tanks with something compatible, and safe, but needs your assistance so that the cure is not worse than the illness.

Sincerely,

Lyndon Ruhnke

Moore-Love, Karla

From: Mike Clopton [mikeclopton@hevanet.com]

Sent: Wednesday, July 13, 2011 9:49 PM

To: Moore-Love, Karla

Subject: Case File LU 10-200954 CU AD Tualatin Valley Water District

We have lived at 8115 SW 62nd Place for 12 years. We live almost directly across the street from the proposed new tanks by Tualatin Valley Water District. We drive by it everyday as we leave our driveway. We are opposed to the proposal and disagree with the Hearings Officer's decision because

- 1) TVWD indicates it needs additional storage capacity and a two million gallon tank is the most cost effective option. We question whether need and cost effectiveness should be deciding criteria for this conditional use application.
- 2) The doubling of the tank size will undoubtedly double the impact to us as neighbors of the water facility, and make it difficult to hide this "eyesore" each time we go by it.
- 3) This project increase in intensity of use would come at the expense of the residents in our residential neighborhood at no benefit to us or the City of Portland.

We feel the City Council has the authority to use its judgment in interpreting the code. In this case, we believe the judgment that the proposed project does not meet the Code nor the intent of the Code.

Thank you

Mike & Gayle Clopton
8115 SW 62nd Place
Portland, 97219
503-246-6515

7/14/2011

Moore-Love, Karla

From: Joseph Carmody [joseph.carmody@rodgersinstruments.com]

Sent: Wednesday, July 13, 2011 10:45 AM

To: Moore-Love, Karla

Subject: Testimony for 7/14 appeal

Attachments: City Council hearing.doc

Hello. Attached please find my testimony for the City Council's hearing scheduled for Thursday, July 14th at 3:00. I am unable to attend in person.

If you have a moment and can acknowledge receipt of this, I would appreciate it.

Regards,

Joseph Carmody

--
Joseph Carmody
Director of Human Resources
Rodgers Instruments Corporation
1300 NE 25th Ave.
Hillsboro, OR 97124
503-648-4181
503-681-6508 Fax
Joseph.Carmody@RodgersInstruments.com
www.rodgersinstruments.com

7/14/2011

City Council Clerk (kmoore-love@ci.portland.or.us)
1221 SW Fourth Avenue, Room 140
Portland, OR 97204

July 13, 2011

Re: Case File LU 10-200954 CU AD
PC # 10-145753

Dear Mr. Mayor and City Council Members:

I am unable to appear in person to express opposition to the proposal by Tualatin Valley Water District (TVWD) in the above referenced case that is in front of the City Council on July 14th at 3:00. I am affected by this proposal as a member of the Ash Creek neighborhood and by the fact that my home and property directly adjoin that of TVWD on the northern boundary. I have lived in this home for 17 years.

My objection is based on the size of the proposed replacement tank. The two million gallon tank will at once eviscerate the livability of the neighborhood. No one who has seen the current property can credibly argue that the proposed tank would not destroy our neighborhood's livability. The proposed tank is a behemoth and would dominate the vistas of all who live near it. No amount of landscaping will come close to ameliorating or mitigating the deleterious impact of this monster. It would create a jarringly out-of-place visual appearance incompatible with adjacent residential development.

It is my understanding that an earlier effort by the then-Metzger Water District to add two additional tanks to the two that were in existence then on that property failed. That failure was based on the neighborhood's contention, and the decision makers' concurring opinion, that the Metzger proposal would be incompatible with the neighborhood's livability. Thirty years later, that logic remains valid and should be applied when considering TVWD's more extreme proposal. I ask you to remain consistent with the earlier precedent by denying this application, and thereby maintaining the character and livability of this neighborhood.

The backyard of my property currently receives filtered sunlight through the Sequoia trees on the northern boundary of the property. Installation of the new tank will expand the footprint of the structure such that my back yard will be blotted out from the sun. Instead of having two smaller tanks lined up on a north-south axis, the proposed tank would rise 46 feet and expand considerably farther to the west than do the current structures. This would condemn me, my family and my property to a dreary, dank and moldy future.

While I understand that neighboring home values are not part of the criteria used in deciding whether to approve this proposal, I nonetheless ask you to consider this factor. There can be no dissent from the conclusion that surrounding property values will fall as a result if this proposal is approved. If this massive tank were to be dropped in YOUR

neighborhood, you'd be just as concerned as we are about our ability to sell our homes, and the drop in value that will accompany the proposed installation of the tank. The city of Portland rightly touts its livability as a major attraction. The existing character of our neighborhood now depends upon that very livability being not only a city-wide virtue, but one that applies equally to individual neighborhoods.

I am not against the TVWD, even though we don't use a drop of their water. I acknowledge the need for utilities to locate installations around the city. Heck, I've lived next door to TVWD for a very long time. They've been good neighbors. I even acknowledge their need to build capacity for future demand. But this proposal would change everything. The essence of my objection is that the tank is too big for that location. As an alternative I would propose that the existing tanks be torn down (we all want safe tanks there) and be replaced by a single one million gallon tank which meets existing seismic standards. This would equal the current capacity of the site. TVWD could then look to expand capacity for future demand at another property they own, one which does not obliterate the character and livability of the surrounding homes and neighborhood.

TVWD refers to the station and its operation as "passive." In an operational sense this is true, but the sheer size of the tank ensures that it will be much more than merely passive. I would contend that the massive presence of the tank would create an inanimate omnipresence, radiating its dominance over the entire neighborhood. That hulking and incongruent aesthetic is what will greet every neighbor, every visitor, every single car that motors east up the Garden Home hill; not the current character and charm that now beckons and invites. I implore you to act in defense of our neighborhood by blocking the installation of this tank.

Thank you.

Joseph Carmody
8116 SW 62nd Place
Portland, OR 97219
503/977-2709

Moore-Love, Karla

From: Irene & Jim Linman [ijlinman2@gmail.com]
Sent: Tuesday, July 12, 2011 3:28 PM
To: Moore-Love, Karla
Subject: testimony regarding LU 10-200954 CU AD (HO 4100031)
Attachments: tank.docx; fish garden.jpg

7-12-2011

Please consider my comments:

I am writing this as a letter of testimony concerning the following case file:

LU 10-200954 CU AD, Tualatin Valley Water District

I have been living in the neighborhood that is proposed to be changed for 15+ years (moved here in December of 1995).

I do not believe that the proposed water tank is compatible with our neighborhood. This is an incredible area, and if you have not seen it, I would suggest that you do so. Not only are the homes very well-maintained, but it is graced with a couple of the most beautiful and acclaimed rose gardens in Portland and beyond (multiple awards through Portland's Royal Rosarians and the Portland Rose Society).

The proposed changes do not meet the provisions of Chapter 33.815.105. It would not be compatible with our adjacent neighborhoods. The existing site has not been properly maintained (kind of looks like a junkyard, and has been unacceptable for quite awhile). The changing from the two tanks (that used to be unobtrusive) to one monstrosity that will devalue all of our properties is atrocious. Changing 2 tanks with about 21.7439 ft in radii to one with a radius of 43+ ft. would create an eyesore for not only the people that live here, but everyone that drives by. The 1 ft. increase in height would be significant to the eye.

The water is not even used by Portland residents. The lot is too small to accommodate such a large tank. As we have seen, the landscaping will not suffice. Trees will be lost. Property values will drop. Basically, this proposal will be very detrimental to all residents nearby, and to everyone.

The statement that "... a few of the trees will be removed to accommodate the improvements, but the majority will remain and be preserved" is an insult to those of us that live here. The new tower would cause less sunlight for many residents (too much shade), be an eyesore for all, and make our neighborhood laughable in appearance.

Our livability should not be compromised because of the "need" or "cost effectiveness" of TVWD. We are residents of Portland. Please take care of our residents.

I was very involved with our neighborhood endeavor to repave our road 8 years ago. People in this neighborhood take pride in how it looks, and are very concerned about this proposal. TVWD did donate to our cause then. I would hope that they listen again. This is not right. We deserve much better.

7/12/2011

I wish I could attend the hearing, but I cannot, hence this email testimony.

Sincerely,

Jim Linman

8015 SW 62nd Pl
Portland, OR 97219
(503)927-4728
ijlinman2@gmail.com

7-12-2011

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Sincerely,

Jim Linman

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(503)927-4728
ijlinman2@gmail.com

Moore-Love, Karla

From: Terri Scribner [tascrib@msn.com]
Sent: Tuesday, July 12, 2011 7:25 PM
To: Moore-Love, Karla
Cc: llr1964@aol.com
Subject: Large water tower, LU 10-200954 CU AD

Dear City Council members,

We have lived at 7930 SW 62nd Place for 16 years. We have raised our daughters here and have enjoyed this small, deadend street with just 13 houses on it. Now the Tualatin Valley Water District has proposed to put a 2 million gallon water tank on a lot on our street. This tank would be much larger than the two smaller ones that exist there now, which are set back from the road.

We would like to express our concern for the impact this construction would have on the neighborhood. The size of the proposed tank is 4 times the size of either tank that is there now. Even with a small berm and a few trees, you cannot hide the size of such a monstrosity!

Portland prides itself on the city's livability. Please assist us in keeping our neighborhood a place for homes and not industrial sized structures.

Most Sincerely Yours,

Anthony and Terri Scribner

Moore-Love, Karla

From: ltruhnke@aol.com

Sent: Tuesday, July 12, 2011 10:41 PM

To: Moore-Love, Karla

Subject: LU 10-200954 CU AD

To: Portland City Council

From: Tara Ruhnke

Re: LU 10-200954 CU AD

I live at 8121 SW 62nd Place which is directly across the street from the TVWD site to the west. I am hoping to be at the City Council hearing, but in case I can not find childcare, I want to be sure that my voice is heard.

I am opposed to TVWD's proposal to double the size of the water tanks. I believe that doubling the capacity will be a significant change to the neighborhood (see Hearings Officer's opinion page 15, last paragraph) . The lot is much too small to accommodate a tank of this size. There is no other spot in Portland where a tank of this size exists on a lot so small. In order for TVWD to squeeze in a tank this large, a number of very large trees on the perimeter of the site have to be removed. That is how close to the property line it will come. While the new tank will be setback from the east side a few more feet, the trees will still be removed. As it stands now, the tanks are set close up against a very mature line of trees. The tanks are not as "out in the open" since they are located on the east half of the lot and have complete coverage on that eastside. The new tank will be bumped out and will encompass the west side of the lot as well as the east. It comes so far out that not only will a huge chunk of trees be cut down on the eastside, but the fence will be bumped out to within feet of 62nd Place on the westside. Due to the huge difference in what exists now and what is proposed, I believe it is in violation of PCC 33.815.105A.1.

Finally, given that currently the 2 tanks (1 million gallons combined) are located on the east lot alone (we are actually looking at 2 tax lots here...a west and east lot), the proposed tank of 2 million gallons will straddle both lots. Nothing existed on the west lot before. Objectively, this will significantly lessen the overall appearance of the area. Please find that the proposed tank does significantly alter the residential appearance of my neighborhood and therefore does not meet the conditional use criteria. Please overrule the decision of the Hearings Officer.

Thank you,

Tara Ruhnke

7/13/2011

Moore-Love, Karla

From: Joseph Carmody [joseph.carmody@rodgersinstruments.com]

Sent: Wednesday, July 13, 2011 10:45 AM

To: Moore-Love, Karla

Subject: Testimony for 7/14 appeal

Attachments: City Council hearing.doc

Hello. Attached please find my testimony for the City Council's hearing scheduled for Thursday, July 14th at 3:00. I am unable to attend in person.

If you have a moment and can acknowledge receipt of this, I would appreciate it.

Regards,

Joseph Carmody

--

Joseph Carmody
Director of Human Resources
Rodgers Instruments Corporation
1300 NE 25th Ave.
Hillsboro, OR 97124
503-648-4181
503-681-6508 Fax
Joseph.Carmody@RodgersInstruments.com
www.rodgersinstruments.com

7/13/2011

City Council Clerk (kmoore-love@ci.portland.or.us)
1221 SW Fourth Avenue, Room 140
Portland, OR 97204

July 13, 2011

Re: Case File LU 10-200954 CU AD
PC # 10-145753

Dear Mr. Mayor and City Council Members:

I am unable to appear in person to express opposition to the proposal by Tualatin Valley Water District (TVWD) in the above referenced case that is in front of the City Council on July 14th at 3:00. I am affected by this proposal as a member of the Ash Creek neighborhood and by the fact that my home and property directly adjoin that of TVWD on the northern boundary. I have lived in this home for 17 years.

My objection is based on the size of the proposed replacement tank. The two million gallon tank will at once eviscerate the livability of the neighborhood. No one who has seen the current property can credibly argue that the proposed tank would not destroy our neighborhood's livability. The proposed tank is a behemoth and would dominate the vistas of all who live near it. No amount of landscaping will come close to ameliorating or mitigating the deleterious impact of this monster. It would create a jarringly out-of-place visual appearance incompatible with adjacent residential development.

It is my understanding that an earlier effort by the then-Metzger Water District to add two additional tanks to the two that were in existence then on that property failed. That failure was based on the neighborhood's contention, and the decision makers' concurring opinion, that the Metzger proposal would be incompatible with the neighborhood's livability. Thirty years later, that logic remains valid and should be applied when considering TVWD's more extreme proposal. I ask you to remain consistent with the earlier precedent by denying this application, and thereby maintaining the character and livability of this neighborhood.

The backyard of my property currently receives filtered sunlight through the Sequoia trees on the northern boundary of the property. Installation of the new tank will expand the footprint of the structure such that my back yard will be blotted out from the sun. Instead of having two smaller tanks lined up on a north-south axis, the proposed tank would rise 46 feet and expand considerably farther to the west than do the current structures. This would condemn me, my family and my property to a dreary, dank and moldy future.

While I understand that neighboring home values are not part of the criteria used in deciding whether to approve this proposal, I nonetheless ask you to consider this factor. There can be no dissent from the conclusion that surrounding property values will fall as a result if this proposal is approved. If this massive tank were to be dropped in YOUR

neighborhood, you'd be just as concerned as we are about our ability to sell our homes, and the drop in value that will accompany the proposed installation of the tank. The city of Portland rightly touts its livability as a major attraction. The existing character of our neighborhood now depends upon that very livability being not only a city-wide virtue, but one that applies equally to individual neighborhoods.

I am not against the TVWD, even though we don't use a drop of their water. I acknowledge the need for utilities to locate installations around the city. Heck, I've lived next door to TVWD for a very long time. They've been good neighbors. I even acknowledge their need to build capacity for future demand. But this proposal would change everything. The essence of my objection is that the tank is too big for that location. As an alternative I would propose that the existing tanks be torn down (we all want safe tanks there) and be replaced by a single one million gallon tank which meets existing seismic standards. This would equal the current capacity of the site. TVWD could then look to expand capacity for future demand at another property they own, one which does not obliterate the character and livability of the surrounding homes and neighborhood.

TVWD refers to the station and its operation as "passive." In an operational sense this is true, but the sheer size of the tank ensures that it will be much more than merely passive. I would contend that the massive presence of the tank would create an inanimate omnipresence, radiating its dominance over the entire neighborhood. That hulking and incongruent aesthetic is what will greet every neighbor, every visitor, every single car that motors east up the Garden Home hill; not the current character and charm that now beckons and invites. I implore you to act in defense of our neighborhood by blocking the installation of this tank.

Thank you.

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