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VIA E-MAIL
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Mr. Denny Egner
Planning Director
City of Milwaukie
6101 S.E. Johnson Creek Boulevard
Milwaukie, Oregon 97206

Subject: North Clackamas School District—Lake Road Fields Transportation
Demand Management Plan

Dear Denny:

Thank you for working with the District on its Transportation Demand Management Plan ("TDMP") for the Lake Road Fields. As you know, the District's Community Service Use ("CSU") application for modifications to the Lake Road Fields was approved on July 18, 2018 (the "CSU Decision"). As part of that decision, the City Council found that the applicable approval criteria had generally been met for the fields modifications, but added a condition of approval requiring the District to submit a TDMP in order to "limit parking-related impacts to surrounding properties." Since that decision, the District has been working diligently on the TDMP, including coordination with staff and interested neighbors. The District has revised the TDMP several times to address comments and concerns by both neighbors and staff. The District has committed substantial resources to the preparation of the TDMP and has committed to a number of physical improvements, as well as ongoing communication and enforcement measures to ensure that parking-related impacts on surrounding properties are mitigated to the extent practicable. A summary of those improvements and measures is attached. The purpose of this letter is to express the District's concern regarding a new condition that staff is proposing for the TDMP approval that would require the District to go through a new CSU process for the TDMP within a year of the TDMP being approved through this current process. The District believes that such a condition is unwarranted, especially under the current circumstances.

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The CSU Decision contains negotiated conditions of approval that all parties were aware of. This awareness includes the District, staff, the City Council, and neighbors. The TDMP condition in the CSU Decision requires, among other things, that "[w]ithin two years of approval of the TDMP, the Applicant shall meet with City planning staff in a meeting open to the public and noticed to adjoining property owners to review the Applicant's compliance with and the effectiveness of the TDMP." The TDMP condition was not appealed. It is a condition that the District, and apparently City Council, believed made sense. Along with the two-year check-in requirement, the TDMP condition of approval required other communication be opened and maintained with neighbors of the Lake Road Fields property. In response, the TDMP includes five such communication channels, including channels that were not required by the CSU Decision.

Given the totality of communication channels that the District has committed to, the District believes that the original two-year meeting requirement continues to make sense and should be adhered to. Instead, staff is proposing a new condition of approval based on a presumption that the District's TDMP will fail. This presumption leads to a requirement that, regardless of how things are actually working, the District must submit for a new CSU approval and go through a Type III process to retain the approval it had just received earlier in the year. There are several problems with this. First, it is inconsistent with the original condition contained in the CSU Decision—a final land use decision that cannot be collaterally attacked in a later proceeding. Second, the presumption behind it, i.e., the TDMP will fail, is completely speculative and ignores all of improvements and measures contained in the TDMP. Third, the District has stated that it does not expect that every aspect of the TDMP will work perfectly from the first day, which is why there are numerous communication channels built into the plan. The District expects any bugs to get worked out given the means provided in the TDMP.

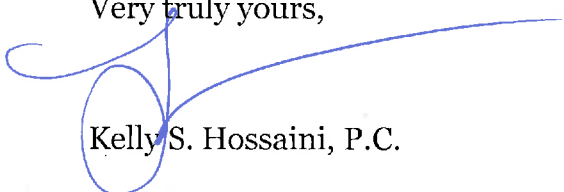
The fourth reason the proposed condition is unwarranted is that the cost of embarking on yet another CSU approval on the heels of a previous approval is a substantial burden on the District and requires the unnecessary diversion of public funds that could be better spent elsewhere. From mid-July 2018 to the present, the District has spent approximately \$73,000 preparing and revising the TDMP and associated application materials, as well as meeting with neighbors and staff. The District expects to spend an additional \$17,000 to get through the January 8, 2019, planning commission hearing. This does not include the cost to the District of its related employee time. The District, then, expects to spend at least \$90,000 to obtain an approval from the planning commission for the TDMP. The District understands

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that these costs are, for the most part, necessary to meet application requirements. What the District does not understand, however, is why it should plan to spend that money all over again in less than a year¹ based on what amounts to staff presumptions that the TDMP will not be successful and that the District will not implement the plan in good faith.

As it stands, the proposed condition works an automatic penalty on the District's TDMP approval that cannot be avoided and that will unnecessarily divert District resources from other projects. As noted above, the District expects to spend \$90,000 on the TDMP process. The District will also spend over \$415,000 for physical improvements to the Lake Road Fields parking lot and the Milwaukie/El Puente Elementary School parking lot to mitigate parking issues. The District has acted in good faith throughout this process and intends to continue to do so. The District believes that it has met the applicable approval criteria and requests that its TDMP should be approved without the proposed condition requiring a new Type III process.

Very truly yours,



Kelly S. Hossaini, P.C.

cc: Mr. David Hobbs
Mr. Brett Kolver

¹ The proposed condition requires that a public hearing be held within one year of the TDMP approval. To get to a public hearing within that one-year timeframe will require several months of advance work on the part of the City and the District, including a neighborhood meeting, a 30-day completeness period, etc.