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**BEFORE THE LAND USE HEARINGS OFFICER
FOR MULTNOMAH COUNTY, OREGON**

Regarding an application by Ben Schonberger for)	<u>FINAL ORDER</u>
approval of permits for a sewer line and pump station)	
to serve the existing Sam Barlow High School located)	T3-2019-11560
at 5105 SE 302 nd Avenue in Multnomah County, Oregon)	(Barlow Sewer)

A. FINDINGS AND CONCLUSIONS

1. The applicant, Ben Schonberger, requests approval of Conditional Use (CU), Design Review (DR), and Significant Environmental Concern for Water Resources (SEC-wr) Permits for construction of a sewer line and pump station within the SE Lusted Road right-of-way. The sewer line will serve the existing Sam Barlow High School located on a 37.27-acre parcel at 5105 SE 302nd Avenue; also known as tax lot 100, Section 18, Township 1 south, Range 4 east of the Willamette Meridian; also known as Multnomah County Assessor Parcel R994180780. Additional basic facts about the site and surrounding land and applicable approval standards are provided in the Staff Report to the Hearings Officer (the "Staff Report"), incorporated herein by reference.

2. Multnomah County Hearings Officer Joe Turner (the "hearings officer") held a duly noticed public hearing on June 14, 2019, to receive and consider public testimony in this matter. The record includes a witness list, materials in the casefile as of the close of the record, and an audio record of the hearing. At the beginning of the hearing, the hearings officer made the declaration required by ORS 197.763. The hearings officer disclaimed any *ex parte* contacts, bias or conflicts of interest. The following is a summary by the hearings officer of selected relevant testimony offered at the hearing.

3. County interim planning director Adam Barber testified on behalf of the County and summarized the Staff Report. The applicant, Ben Schonberger, accepted the findings and conditions in the Staff Report without exceptions and waived his right to submit a final argument. No one else testified orally or in writing. The hearings officer closed the record at the end of the hearing and announced his intention to approve the application, subject to the conditions in the Staff Report.

4. County staff recommended that the hearings officer approve the application based on the findings and conclusions and subject to conditions of approval recommended in the Staff Report. The applicant accepted those findings and conditions without objections. No one disputed the findings in the Staff Report. The hearings officer agrees with those findings, conclusions and conditions and adopts the findings in the Staff Report as support for this Final Order.

5. Based on the findings and discussion provided or incorporated in this Final Order, the hearings officer concludes that the applicant sustained the burden of proof that the proposed development does or will comply with the applicable criteria of the Multnomah County Code, provided development that

occurs after this decision complies with applicable local, state, and federal laws and with conditions of approval warranted to ensure such compliance occurs in fact. Therefore the application should be approved subject to such conditions.

B. ORDER

In recognition of the findings and conclusions contained herein, and incorporating the Staff Report and public testimony and exhibits received in this matter, the hearings officer hereby approves T3-2019-11560 (Barlow Sewer), subject to the following conditions of approval:

CONDITIONS OF APPROVAL

1. A Construction Permit shall be issued by the County Engineer prior to commencement of construction (MCRR 18.200).
2. An Erosion and Sediment Control Permit shall be issued by County Land Use Planning prior to commencement of construction (MCC 39.4325(J)).
3. Prior to construction, the Water Resource Area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as otherwise allowed by county permits. Such markings shall be maintained until construction is complete (MCC 39.5800(E)(7)).
4. Site mitigation within the Water Resource area shall include removal of any non-native species and reseeding with native grass seed, both activities occurring within an area totaling no smaller than 1,100 square feet (MCC 39.5800(F)(2)). Mitigation shall occur as illustrated on plan sheet C300 and additional mitigation necessary to meet this condition of approval shall occur within degraded or marginal areas as close as possible to the middle fork of the Beaver Creek drainage located west of the pump station (MCC 39.5800(F)(2)(d)).

DATED this 20th day of June, 2019.

A handwritten signature in dark ink, appearing to read 'Joe Turner', is written over a horizontal line.

Joe Turner, Esq., AICP
Multnomah County Land Use Hearings Officer