

File # T3-2022-16220  
9/5/23  
Cottrell CPO  
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**Responding to T3-2022-16220 Staff Report**

The “Staff Report” follows the current Multnomah County zoning code Chapter 39 which includes the following in regards to MUA-20 zoned properties:

**§ 39.7515 APPROVAL CRITERIA.**

*In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria ...*

*(A) ...*

*(G) Will satisfy the applicable policies of the Comprehensive Plan; ...*

*(H) ....*

*(I) In the West of Sandy River Rural Planning Area, the use is limited in type and scale to primarily serve the needs of the rural area.*

*(Ord. 1270, Amended, 03/14/2019)*

**§ 39.7520 USES.**

*(A) Except as otherwise limited in the EFU, all CFU and OR base zones, the following Community Service Uses and those of a similar nature, may be permitted in any base zone when approved at a public hearing by the approval authority...*

*(6) Utility facilities, including power substation or other public utility buildings or uses, subject to the approval criteria in MCC 39.7515(A) through (H).*

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We wish to introduce language from the Multnomah County Comprehensive Plan, adopted September 1, 2016 by Ordinance No. 1235, and effective October 1, 2016. It was last amended with Ordinance 1302, adopted 12/16/21 and effective 6/14/22.

The following is excerpted from page 3-12:

***Multiple Use Agricultural Land***

*County policies for these areas promote agricultural activities and minimize conflicts between farm and non-farm uses but are less stringent than policies in Exclusive Farm Use zones.*

**3.16** *New non-agricultural businesses should be limited in scale and type to serve the needs of the local rural area.*

**Strategy 3.16-1:** *Review the appropriateness of review uses, conditional uses and community service uses in the MUA-20 zone through a public process that involves community stakeholders prior to amending the Zoning Code.*

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In reading these two statutes, it could be said that language from the Multnomah Comprehensive Plan (“Plan”) may be in conflict with the language in the Multnomah Zoning Code (“Code”).

Cottrell CPO’s document contained in *Exhibit I.40 Cottrell CPO Written Testimony rec 8.7.23* details that the costly filtration project has caused PWB to lose the overwhelming majority of East County customers (see departures of Gresham and Rockwood), causing the plant to not serve its surrounding rural community. Once the plant is built, the only PWB customers in East County will be Lusted water district, Pleasant Home, and Sandy, which added together total 6463 customers, or a tiny .95% of PWB’s total customers. This number will only decrease when Lusted water district exits its agreement with PWB which it is planning to do.

In other words, any filtration plant that is sited at Carpenter Lane would not “*serve the needs of the local rural area.*”, as the vast majority of East County residents will not be utilizing PWB’s water from the filtration plant.

The Plan states that non-agricultural businesses in MUA zoned lands should be “limited in scale and type to serve the needs of the local rural area.” The Code omits criteria 39.7515 “I” for Utilities. Letter “I” would have stated that a utility located in the *West of Sandy River Rural Planning Area*, a rural reserve, would have to serve the needs of the local rural area. So the omission of letter “I” for utilities in the Code is potentially in conflict with the Plan.

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Another interpretation would call on 39.7515 “G” of the Multnomah County Code “*Will satisfy the applicable policies of the Comprehensive Plan.*” which must be considered even for Utilities.

As can be seen, the Plan states that in MUA zoned lands “*New non-agricultural businesses should be limited in scale and type to serve the needs of the local rural area.*”

As was detailed above, *Exhibit I.40 Cottrell CPO Written Testimony rec 8.7.23* lays out how the East County sited plant would not be serving water to almost anyone in the surrounding rural area.

So, a Carpenter Lane sited plant would not meet Criteria 39.7515 “G”, because it would not satisfy the applicable policies of the Comprehensive Plan.

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Finally, we want to note that there have been multiple revisions and documents related to 39.7515 and 39.7520 since January 2019, which is about the time that PWB set sights on Carpenter Lane as a possible filtration plant location. Ordinance 1270, Memorandum / Case PC-2018-11006, Ordinance 1302, Ordinance 1309 are some examples. Cottrell CPO has called on Multnomah County Land Use Planning in assisting with unpacking the history around the Code and the Plan.

## **REFERENCES**

[Multnomah County Current Zoning Code](#)

[Multnomah County Current Comprehensive Plan](#)

[Memorandum / Case PC-2018-11006](#)

Ordinance 1270

[Ordinance 1302](#)

[Ordinance 1309](#)