

## Memorandum

### VIA EMAIL

**To:** Joe Turner  
City of Woodland Hearings Examiner

**From:** LeAnne M. Bremer, P.C. on behalf of Logan Partners, LLC (Applicant and Appellant)

**Subject:** Appeal of Determination of Significance (APP 22-001; SEP-22-003): Appellant's Hearing Brief

**Date:** April 19, 2022

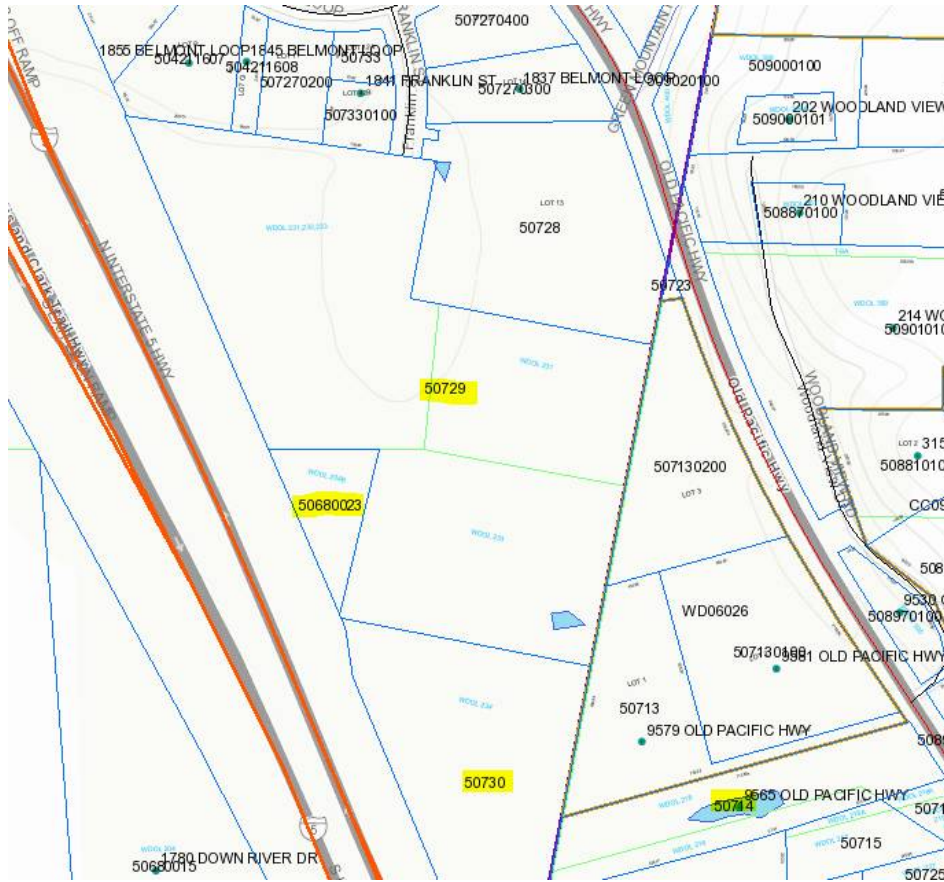
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Logan Partners, LLC timely appealed the City of Woodland's Determination of Significance dated March 8, 2022 (DS), for the Logan's Landing project.

The grounds for the appeal are that the DS is not supported by facts or the law, and the City issued it prematurely before finding the application fully complete. The Appellant realizes that the latter issue, if decided in its favor, may just result in reissuance of the DS, so it requests that the Hearings Examiner find that the DS is not justified in this case, regardless of when it is issued, based on the law and the facts; the Appellant will rely on the arguments in the appeal letter for its procedural (premature issuance) claim and will focus this brief on the substantive issue (the unjustified DS).

### Description of Project

The proposed project is located on tax parcels 50680023, 50714, 50729, and 50730 in the City of Woodland:



The proposed project consists of 8 buildings. Each building will contain 972 square feet of commercial uses and approximately 10,000 square feet of parking on the ground floor. Each building will also include three upper floors of 51 residential units for a total of 408 residential units.

The site is in the Highway Commercial (C-2) zone.

Under WMC 17.36.020, the proposed uses are permitted in the C-2 zone, including a variety of commercial uses and the following:

- 5. Commercial parking lots and garages.
- 25. Retail stores.

29. Used permitted in the C-1 central business district.

Relevant uses permitted in the C-1 central business district include a variety of commercial uses and the following:

10. Dwelling units; provided residential uses are located above a permissible C-1 commercial use and adequate off-street parking is provided pursuant to [Chapter 17.56](#). Lobbies for residential uses on upper floors may be located on the ground floor.
35. Professional and business offices.
37. Public and private off-street parking facilities.

WMC 17.32.020.

The proposed project can comply with all applicable City regulations including regulations related to off-street parking (chapter 17.56 WMC); parking lot landscaping (WMC 17.36.130.O); wetland regulations where there will be no impacts to wetlands or buffers (chapter 15.08 WMC); setbacks (WMC 17.36.070); architectural and design standards (WMC 17.36.130); building and yard maintenance (WMC 17.36.120); streets (Title 12 WMC); sidewalks and street trees (WMC 17.36.130); site screening and buffers (WMC 17.36.130.N); and stormwater/erosion control measures (chapter 15.10 WMC).

The proposed project is subject to a Type II site plan review process.

### **Chronology**

1. The City adopted Ordinance No. 1447 on February 3, 2020. See **Attachment A**. This ordinance specifically changed the use table for C-2 permitted uses to include “29. Uses permitted in the C-1 central business district.” Page 3. The recitals note that “the Woodland City Council has reviewed the following amendments to the WMC and found them to be acceptable and appropriate.” Page 1.

2. The Appellant filed its pre-application with the City for a project fully project consistent with the C-2 zoning regulations on June 1, 2021. Exh. 53.
3. The Appellant and City staff participated in the pre-application conference on June 17, 2021. *Id.*
4. Four days after the pre-application conference, the City adopted a moratorium on June 21, 2021 in Ordinance No. 1486 (Exh. 42), and the City held its required public hearing on the moratorium on August 2, 2021. Exh. 44.
5. The City adopted Ordinance No. 1491 on September 7, 2021 affirming Ordinance No. 1486. Given this moratorium, the City refused to process Appellant's application. Exh. 44.
6. The moratorium expired by its terms on December 21, 2021 ( 6 months from the City's adoption of Ordinance No. 1486).
7. The Appellant then submitted its application on or around January 24, 2022. *Testimony of Ed Greer.*
8. The City adopted a new moratorium on January 26, 2022 in Ordinance No. 1500 at a special council meeting. **Attachment B.**
9. The City issued a Not Fully Complete letter for Appellant's project on February 4, 2022. Exh. 23.
10. The City issued the Determination of Significance on March 8, 2022. Exh. 29.
11. The Appellant filed a submittal with the City addressing all Not Fully Complete items on March 14, 2022. *Testimony of Ed Greer.*
12. The City determined the application to be complete in a letter dated March 23, 2022. Exh. 40.
- 13.

### City's Stated Reasons for Issuing a DS

In the DS, the City listed the following as requiring further study in an EIS. At the outset, it bears emphasizing that the issue in this appeal is not whether the fully complete application meets applicable criteria and what the appropriate mitigation is for the project, but whether there is sufficient evidence in the record for the City to determine the City's development regulations will provide the necessary environmental analysis and mitigation measures without the need for an environmental impact statement. *See legal analysis below.*

The Appellant's response follows each item listed by the City in the DS as needing further study:

- Earth - 1.h. Erosion and impacts of earth affecting wetlands. Wetland delineation and project analysis is needed.

**Response:** The Appellant submitted a detailed *Jurisdictional Wetland Delineation Report for Logan's Landing* prepared by Schott & Associates, Inc. dated February 2022 (Exh. 22). The wetlands and buffers are mapped in Figure 6A-D. The Appellant also submitted a detailed *Critical Areas Report for Logan's Landing* prepared by Schott & Associates dated March 2022 with reference to WMC 15.08 (Exh. 26). The key finding in this report is that "No impacts to non-exempt wetlands or buffers are proposed as part of the project." Page 9.

No further study is necessary. The Appellant fully complied with the submittal requirements for a wetland delineation and critical areas report, and must comply with WMC 15.08 addressing potential critical area impacts. The City's critical areas ordinance, coupled with the reports the Appellant submitted, provide a complete and sufficient basis for the City's review of the project's critical area impacts.

- Water - 3.a. Surface water - Impacts to wetlands and drainage systems. Flood control and conveyance infrastructure.

**Response:** This is addressed above. In addition, while the proposal and most of the City of Woodland is within a 100-year flood plain, it is protected by a levee. FEMA maps the area as a reduced flood risk due to the levee. **Attachment C.** City flood-related regulations are found in WMC 15.08.500 and chapter 14.40 WMC.

- Water - 3.c. Water Runoff - Stormwater management and conveyance infrastructure.

**Response:** The Appellant submitted a *Preliminary Stormwater Assessment* dated July 14, 2021 prepared by Windsor Engineers. According to this report:

The proposed stormwater facility is in the northerly portion of the site. Stormwater will be collected from catch basins along Franklin Street and piped to the stormwater facility, properly treated, and detained, then released to the existing facility adjacent to the north. Additional stormwater swales will be constructed to collect runoff from the surface parking areas.

This report also noted that the City's engineers were consulted for input on the stormwater system. No fatal flaws were identified indicating that stormwater cannot be adequately managed according to the preliminary assessment and concept plan. Further, the project is subject to all of federal, state, and local regulations related to stormwater quality and quantity management, including the City's regulations in chapter 15.12 WMC.

- Land and Shoreline Use - 8.a. - Effects to adjacent properties.

**Response:** West of the site is I-5; north: C-2; east and south: Light Industrial. All proposed buildings are more than 100 feet from any commercial or industrial zone, except the easterly corner of Building F, at a 60-foot distance. There are no abutting residential zones. Required landscaping, screening of trash areas, and non-impact lighting will be provided. See revised Narrative (Exh. 33).

- Land and Shoreline Use - 8.h. - Full identification of critical areas and analysis of impacts.

**Response:** This has been completed.

- Land and Shoreline Use - 8.i. - Effects of the development on the achievement of zoning and comprehensive plan compliance including the ability to comply with the Growth Management Act.

**Response:** The proposed uses are permitted under the zoning code and the comprehensive plan designation. Planning decisions cannot be revisited during project review. *See legal analysis below.*

In addition, the Woodland Comprehensive Plan, Chapter 3, Table 3-1, page LU-16 notes that in 2016 there were 1,933 existing housing units and that the total housing units in 2036 are projected to be 3,225 units. As the revised narrative notes, the Appellant's planning consultant, based on trends and recent projects, estimated that the total

housing units in 2024 will be 2,518 units. The project is phased with full build-out, including 408 residential units, occurring by 2033, and is well within the projection for housing units for 2036. The project narrative also lists a number of comprehensive policies furthered by this proposal, the lack of high density residential zoning, and the provision of nearly 8,000 square feet of retail spaces in support of the project. It is not the case, as the City states in the DS, that the Comprehensive Plan does not anticipate the proposed uses.

In the Oak Village Apartments case (**Attachment F**), the City made the following key findings for 186-unit apartment complex, which also support the Logan Landing's project:

**Finding 97:** The Housing Needs Assessment finds that multifamily housing (20+ Units), accounts for only 6% of Woodland's current housing stock.

**Finding 98:** Woodland's Comprehensive plan adopted a goal of 25% multifamily housing units and 75% single family housing units. According to the Housing Needs Assessment, only 22% of housing units are multifamily (6% 3-4 units, 10% 5-19 units, 6% 20+ units).

**Finding 99:** According to Woodland's Housing Needs Assessment (2021), over 65% of dwellings have three or more bedrooms while the average household size is 2.94 people. The greatest increases in housing units between 2010 and 2018 were in 4-bedroom and 5-bedroom housing units. More one-two bedroom housing units are needed.

**Finding 100:** The applicant proposes constructing 1-2 bedroom apartments, which are currently needed based on the findings of the Housing Needs Assessment.

**Conclusion:** The proposal meets goals set in the Comprehensive Plan and helps meet needs identified in the Housing Needs Assessment.

Page 24-25. See also the Housing Needs Assessment in **Attachment G**, which notes many desirable benefits to smaller housing units, including affordability, lower utility bills, income opportunity, more choices, inclusivity. Page 11.

- Land and Shoreline Use - 8.k. - Mitigation opportunity analysis.

**Response:** All project impacts can be fully mitigated through compliance with existing laws and regulations or appropriate conditions of approval.



- Land and Shoreline Use - 8.1. - Compatibility analysis.

**Response:** There will be no unmitigated impacts to surrounding properties. See above.

- Housing- 9 - Effects of 408 housing units not considered in the Comp Plan, Sewer Plan, and Water Plan.

**Response:** That issue is partially addressed above. As to sewer and water needs, the City's Comprehensive Plan does note that the projected 20-year ERUS are 6,188 for sewer (CF-64), and for water, the plan projects a need to serve 874 multi-family residential units by 2032 (CF-69). Thus, the plan does anticipate growth in the City and the corresponding need for water and sewer infrastructure to serve that growth, exactly what the Growth Management Act requires. RCW 36.70A.070(1) and (3). As projects are proposed, it then must be determined whether capacity exists for that project and if not, what improvements are necessary to provide that capacity. This type of project-level analysis is conducted for nearly every proposed project without the need for an EIS. *See recent decisions on other projects approved by the City below.*

- Recreation -12 -Effects of the development on existing facilities and the ability to maintain levels of service. Pedestrian and multi-modal transportation connectivity.

**Response:** Circulation and pedestrian connectivity are noted on the Preliminary Site Plan (Exh. 27) and in the revised Narrative (Exh. 33).

- Transportation -14 -Traffic impacts and system wide analysis including the 20-year capacity analysis for Exit 22, traffic signalization along Old Pacific Highway. Cross-circulation. Access by emergency vehicles and school bus access. Multi-modal transportation. Multi-use paths and ADA accessibility. Analysis of the proposed improvements and their impacts to the system.

**Response:** The Applicant submitted a Traffic Impact Analysis dated March 2022 prepared by Heath & Associates that includes an analysis of existing conditions, future traffic conditions, project trip generation, and existing and forecasted 2025 PM Peak Hour level of service. No additional study is required in order for the City to assess impacts and consider if mitigation or conditions of approval are warranted.

- Public Services -15 -Effects of the development on the provision of all public services including impacts to levels of service.



**Response:** The Applicant has submitted all required studies to allow the City to analyze and determine whether the project can be served with existing infrastructure and services, and if not, what mitigation is necessary. There is nothing further to study in an EIS.

- Utilities -16 -Effects of the development on the provision of utilities.

**Response:** The Appellant has submitted a Preliminary Utility Plan. Exh. 27. There are no known deficiencies in public infrastructure. If the City determines that deficiencies do exist, then they could be conditioned in the Staff Report and Decision.

- Per WMC 15.04.160 -Effects of the development on employment, economy, quality of life, and neighborhood cohesion.

**Response:** This language is taken from the City code regarding the contents of the EIS and is prefaced by "The following additional elements as determined by the responsible official on a case by case basis, may be considered a part of the environment for the purpose of EIS content, but do not add to the criteria for threshold determinations or perform any other function or purpose under this article." As stated, the City must first determine whether a DS is lawfully justified without regard to the elements in WMC 15.04.160. The City has failed to clear this first hurdle.

Lastly, the Appeal Staff Report does not contain any analysis on why the project's impacts are significant, and cannot be mitigated through application of development regulations, other than conclusory statements that they are significant. Exh. 51.

### **Determination of Significance: Requirement for an Environmental Impact Statement**

The City issued the DS requiring an Environmental Impact Statement (EIS) for the project. The City can only require an EIS for proposals for legislation and other major actions having a probable significant, adverse environmental impact. WAC 197-11.360. Each of the key words are defined in the SEPA regulations:

**Major action** means an action that is likely to have significant adverse environmental impacts. "Major" reinforces but does not have a meaning independent of "significantly" (WAC [197-11-794](#)). WAC 197-11-764.

**Probable** means likely or reasonably likely to occur, as in "a reasonable probability of more than a moderate effect on the quality of the environment" (see WAC [197-11-794](#)).

Probable is used to distinguish likely impacts from those that merely have a possibility of occurring, but are remote or speculative. This is not meant as a strict statistical probability test. WAC 197-11-782.

**Significant** means a reasonable likelihood of more than a moderate adverse impact on environmental quality. WAC 197-11-782.

**Impacts** are the effects or consequences of actions. WAC 197-11-752.

WAC 197-11-330 gives guidance to local jurisdictions in making threshold determinations including consideration of whether a proposal to a significant degree will:

- (i) Adversely affect environmentally sensitive or special areas, such as loss or destruction of historic, scientific, and cultural resources, parks, prime farmlands, wetlands, wild and scenic rivers, or wilderness;
  - (ii) Adversely affect endangered or threatened species or their habitat;
  - (iii) Conflict with local, state, or federal laws or requirements for the protection of the environment; and
  - (iv) Establish a precedent for future actions with significant effects, involves unique and unknown risks to the environment, or may affect public health or safety.
- WAC 197-11-330(3)(e).

There is no evidence of any of the above factors existing in this case supporting the DS. There will no impacts to sensitive lands, the project is within an urban area zoned for dense development, and existing regulations will ensure the environment is adequately protected.

Recently, the Washington Supreme Court noted that the Washington Department of Fish and Wildlife considers an action to have a significant adverse environmental impact “if a review of the scientific literature, including any existing regulatory documents, including prior EISs, supplemented by data analysis and consultation with experts,” suggests that the proposal will “produce a more than moderate adverse effect.” *Wild Fish Conservancy v. Washington Dep’t of Fish & Wildlife*, 198 Wash. 2d 846, 502 P.3d 359, 373 (2022).

Other examples of projects that required an EIS include:

- Asphalt manufacturing plant. *Kiewit Const. Grp. Inc. v. Clark Cty.*, 83 Wash. App. 133, 135, 920 P.2d 1207, 1209 (1996).
- A new county landfill site. *Solid Waste Alternative Proponents v. Okanogan Cty.*, 66 Wash. App. 439, 440, 832 P.2d 503, 504 (1992).
- Expansion of a sockeye salmon hatchery. *Glasser v. City of Seattle*, 139 Wash. App. 728, 732, 162 P.3d 1134, 1136 (2007).
- Proposed barge-loading facility for the transportation of large quantities of sand and gravel off island from its adjacent upland mine. *Pres. Our Islands v. Shorelines Hearings Bd.*, 133 Wash. App. 503, 509, 137 P.3d 31, 34 (2006), as amended (May 15, 2007).
- Thoroughbred racetrack in Auburn, Washington. *Citizens All. To Protect Our Wetlands v. City of Auburn*, 126 Wash. 2d 356, 358, 894 P.2d 1300, 1302 (1995).
- A new electrical transmission line and substation. *Gebbers v. Okanogan Cty. Pub. Util. Dist. No. 1*, 144 Wash. App. 371, 374, 183 P.3d 324, 325 (2008).
- A mass burn incinerator near Spokane International Airport. *Citizens for Clean Air v. City of Spokane*, 114 Wash. 2d 20, 23, 785 P.2d 447, 449 (1990).

These are examples of the types of projects that would merit an EIS. Logan’s Landing is not in the same league.

Adequate environmental review and protection can occur absent an EIS. The court in *Moss v. City of Bellingham*, for instance, explained that the option of a Mitigation Determination of Significance reduces the likelihood for EISs:

Appellants contend that *Norway Hill* mandates an EIS for large subdivisions, regardless of mitigation measures. However, when *Norway Hill* was decided in 1976, the mitigated DNS (MDNS) process did not yet exist. The MDNS has its roots in *Hayden v. City of Port Townsend*. In *Hayden*, the Washington Supreme Court upheld a DNS issued after officials worked with the project proponents and government agencies to remedy environmental deficiencies in the proposed plan. Although there was nothing in SEPA or its regulations expressly authorizing this process, the court deemed it “eminently sensible” and stated that:

[w]here it is feasible, it appears reasonable to resolve potential environmental problems before a formal application is made for a

building permit. The pertinent question is whether environmental factors were adequately considered before a final decision was made.

Four years after *Hayden*, the MDNS process was “embraced by the SEPA Rules and reined in by process requirements” with the promulgation of WAC 197–11–350. Commentators have stressed the potential for abuse, contending that the MDNS permits agencies to dispense with EIS preparation on the basis of “illusory commitments.” Not surprisingly, though, the MDNS has found favor with courts and decision makers as “conducive to efficient, cooperative reduction or avoidance of adverse environmental impacts.” Therefore, to the extent that *Norway Hill* can be read to mandate an EIS for every large subdivision, regardless of attempts to mitigate the impacts prior to permitting, it is no longer good law.

*Moss v. City of Bellingham*, 109 Wash. App. 6, 20–21, 31 P.3d 703, 711 (2001) (Footnotes omitted).

In another case, the court of appeals concluded that based on a record similar to the record in this case, an EIS would not be justified:

First, as noted in the trial court's unchallenged finding of fact 4.3, here the application and required environmental checklist were supplemented with additional information that was made part of the record and discussed (1) the expected traffic to be generated by the two proposed uses in addition to the prior uses approved along with the Unclassified Public Use Permit (UPUP); (2) the available water, sewage and electrical services; (3) the allowable residential use density on the property; (4) the proposed users' business operations and need for a site on the island; and (5) the island's current residential real estate market and other available light manufacturing sites.

*Murden Cove Pres. Ass'n v. Kitsap Cty.*, 41 Wash. App. 515, 524–25, 704 P.2d 1242, 1248 (1985)

Here, the application contains all of the required submittal items that are designed to provide to the City the information necessary to evaluate the proposal including its environmental impacts. The applicant's response to the Not Fully Complete letter and resulting Fully Complete Determination demonstrate the thoroughness of the submittal. EISs need only analyze the reasonable alternatives and probable adverse environmental impacts that are significant. WAC 197-11-402(1). EISs are not needed if the environmental information, including technical studies, are already included in the application.

It is also noteworthy that there are no Washington appellate cases where a court has reviewed a requirement for an EIS for an ordinary project, outright permitted by the zoning regulations, with no impact on sensitive lands, where regulations exist to address and mitigate project impacts, suggesting that the City's action in this case is completely out of the ordinary and wholly unwarranted.

### **Growth Management Act – State Environmental Policy Act Integration**

In addition to the MDNS tool available in lieu of an EIS, there is further support for reversal of the DS. In 1995, the legislature found that GMA comprehensive plans and development regulations address a wide range of environmental subjects and impacts, and often provide environmental analysis and mitigation measures for project actions “without the need for an environmental impact statement or further project mitigation.”<sup>1</sup> Further, the legislature found that these “existing plans, regulations, rules, or laws provide environmental analysis and measures that avoid or otherwise mitigate the probable specific adverse environmental impacts of proposed projects should be integrated with, and should not be duplicated by, environmental review under chapter 43.21C RCW.” *Id.*

Accordingly, under GMA, in RCW 36.70B.030(2), the City must determine during project review whether its applicable regulations are determinative of the:

- (a) Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned unit developments and conditional and special uses, if the criteria for their approval have been satisfied;
- (b) Density of residential development in urban growth areas; and
- (c) Availability and adequacy of public facilities identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by chapter [36.70A](#) RCW.

If so, then the City may not reexamine these matters during project review. RCW 36.70B.030(3) (“During project review, the local government or any subsequent reviewing body shall not

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<sup>1</sup> Section 201 of the Integration of Growth Management Planning and Environmental Review Act (Engrossed Substitute House Bill 1724).

reexamine alternatives to or hear appeals on the items identified in subsection (2) of this section, except for issues of code interpretation”). The above items are addressed in the City’s regulations and plans. The C-2 zoning regulations permit the proposed uses. In particular, less than 2 years ago, the City made a policy decision to allow C-1 uses in the C-2 zone, including upper story residential uses. The proposed density is consistent with City regulations and the goals of GMA in concentrating density in urban areas, and requiring a variety of residential densities and housing types. RCW 36.70A.020. The capital facilities element of the City’s Comprehensive Plan envisions increased demands on public infrastructure and services as a result of the planned growth, including commercial and residential growth. There has been no showing that, as conditioned, the project cannot be adequately served.

In addition to the authority in GMA, under SEPA (RCW [43.21C.240](#)), the City must determine during project review whether the requirements for environmental analysis, protection, and mitigation measures in its development regulations and comprehensive plans adopted under chapter [36.70A](#) RCW, and in other applicable local, state, or federal laws and rules provide adequate analysis of and mitigation for the specific adverse environmental impacts of the project action to which the requirements apply. If so, then the following applies:

In these situations, in which all adverse environmental impacts will be mitigated below the level of significance as a result of mitigation measures included by changing, clarifying, or conditioning of the proposed action and/or regulatory requirements of development regulations adopted under chapter [36.70A](#) RCW or other local, state, or federal laws, *a determination of nonsignificance or a mitigated determination of nonsignificance is the proper threshold determination.*

RCW 43.21C.240(1) [emphasis added].

Lastly, to underscore the point even more, the statute states that if the City’s plans and development regulations adequately address a project’s probable specific adverse environmental impacts, the City cannot impose additional mitigation under SEPA during project

review. Project review must be integrated with environmental analysis under this chapter. RCW [43.21C.240](#)(3).<sup>2</sup>

Finally, a threshold determination of a SEPA responsible official is accorded substantial weight. RCW 43.21C.090. Even after giving this weight to the City's threshold determination in this case, there is no support for the DS.

### **Other Projects in City not requiring an EIS**

Given the timing of the first moratorium (4 days after the pre-application conference) and the issuance of a DS, the Appellant believes the City is targeting this project and improperly using its powers to prevent it from going forward because it believes that the proposal does not carry out its vision for the City's commercial districts. This is evident by the language used in the first moratorium ordinance. Exh. 42. City staff also argues that the entire purpose of the moratorium and code amendment process is to evaluate the impact of potential impacts as mandated by SEPA. Exh. 51, page 7. This is *not*, however, a correct use of a project level SEPA – wielding a DS as a weapon to stop or delay a project while the City can adopt new code. The proposed project must be evaluated for its impacts against existing development regulations and measures designed to mitigate those impacts.

In short, the City is improperly using its legislature powers to stop or hinder a project fully allowed by current regulations.

Requiring an EIS on top of the moratorium applicable to just this project, and not for other recent projects, further drives the point home. The City issued DNSs for these recent projects:

- Belmont RV (SEP 20-016): proposal for 72 full-utility hookup RV sites, and accessory structures on 3.69 acres. **Attachment D**.
- Oak Village Apartments (SEP 21-006): proposal for an eight building (186 unit) medium density residential apartment complex on an approximately 12-acre site with Oregon

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<sup>2</sup> "If a county, city, or town's comprehensive plans, subarea plans, and development regulations adequately address a project's probable specific adverse environmental impacts, as determined under subsections (1) and (2) of this section, the county, city, or town shall not impose additional mitigation under this chapter during project review. Project review shall be integrated with environmental analysis under this chapter."



white oak, wetlands, and Burris Creek. **Attachment E.** Specifically, the applicant is required to mitigate for its critical area impacts. The City also found a number of environmental impacts but concluded “[a]s conditioned, the project can comply with the SEPA comment imposed by staff.” Page 24.

- **Kirkland Light Industrial & Business Park (SEP 21-003):** proposal is for three buildings totaling approximately 36,500 square feet with associated parking, access lanes, landscaping and utilities, including water, sanitary sewer and storm water systems. **Attachment F.** For this project, the City noted in the decision that sewer capacity is limited but also stated that “[o]ff-site improvements to the City’s sewer system may be needed in order to accommodate the additional flows generated by the proposal,” a typical condition of approval. There was no requirement to do further study in an EIS

Each of these cases have similar impacts to the proposal, and in the case of Oak Village Apartments, it will have more impacts on critical areas (where there will be none with Logan’s Landing). Yet, the City did not require DSs for these projects and is unfairly singling out Logan’s Landing for further, unnecessary environmental review in the form of a required environmental impact statement.

For the reasons stated above, the Appellant respectfully requests that the Hearings Examiner require the City to withdraw the DS as not supported by the facts or the law.

cc: Travis Goddard  
Frank Randolph  
Logan Partners, LLC  
Ed and Judy Greer