

**BEFORE THE LAND USE HEARING EXAMINER
OF CITY OF WOODLAND, WASHINGTON**

Regarding an application by Triangle Holdings LLC for) **FINAL ORDER**
approval of a 252 unit apartment complex in the HDR zone)
south of Lewis River Road/SR 503, between Insel and) **File No. SSD-23-001¹**
Gun Club Roads, in the City of Woodland, Washington) **(Lewis River Apartments)**

A. SUMMARY

1. Triangle Holdings LLC (the “applicant”) requests Shoreline Substantial Development, Site plan, Critical Area, and SEPA approval to construct a 252 unit apartment complex on a 25-acre parcel located south of Lewis River Road/SR 503, between Insel and Gun Club Roads. The legal description of the property is Parcel numbers 50650, 506520100, 5065201, 506520300, 506520400, and 506520500, located in Section 18, Township 5 North, Range 1 East of the Willamette Meridian. (the “site”). The site abuts the east, west, and north boundaries of parcel 506520200 which is owned by the City of Woodland. The applicant also requests approval of permits for development of parcel 506520200 as a public park in coordination with the proposed development. In addition, the applicant requests approval of a plat alteration to delete an existing 30 foot road and utility easement near the west boundary of the plat and a 60 foot road and utility easement on the south side of the plat and replace these with a new access and utility easement to provide access to the City park property.

a. Lewis River Road/SR 503 abuts the site to the north, and the North Fork of the Lewis River is south of the site. An underground gas pipeline cuts across the northeast corner of the site within a 75-foot wide easement. There are aboveground facilities associated with the pipeline within a separate parcel abutting Lewis River Road/SR 503 (the “Williams Pipeline parcel”). The site surrounds this parcel on three sides.

b. The northern 11.70 acre portion of the site and abutting properties to the west are zoned HDR (High Density Residential). The southern 13.30 acre portion of the site is zoned FW (Floodway Use). City owned parcel 506520200 is zoned P/Q-P/I (Public/Quasi-Public/Institutional). The property abutting the east boundary of the site is zoned C-3 (Neighborhood Commercial). Properties to the north, across Lewis River Road/SR 503, are zoned LDR-6 (Low Density Residential).

c. The site includes areas within the Residential and Urban Conservancy shoreline designations as outlined within the City of Woodland Shoreline Master Program. This site is also within the mapped FEMA floodplain (the northern portion of the site, adjacent to Lewis River Road/SR 503) and floodway (the southern portion of the site, closer to the Lewis River). The site also contains riparian habitat areas and the buffer of an off-site Category II Riverine Wetland.

¹ This Final Order also addresses CAP-23-001, SPR-23-003, BLA-23-001, and SEP-23-005.

d. The proposed development will consist of 252 apartment units in nine buildings, an office/club house, pool, gazebo, and associated parking and landscaping areas within the northern HDR zoned portion of the site. The applicant will also construct a public pedestrian trail through the southern FW zoned portion of the site and the City park property. As proposed, the trail will extend south along the east boundary of the site, then turn west, cross the City owned parcel 506520200, and terminate near the west boundary of the site. The applicant proposed an additional looped trail within the City park parcel, extending to the north and south of the east-west trail. The applicant will also provide a public access/parking area near the start of the trail, within the HDR zoned portion of the site, to facilitate public use of the trail and proposed City park. The applicant proposed to construct the project in three phases, with the third phase consisting of the City's development of a proposed park on City owned parcel 506520200.

e. The applicant will elevate the development above the 100-year floodplain by excavating roughly 150,000 cubic yards of soil from the southern portion of the site and placing it on the northern portion. As proposed, the development will maintain the existing flood capacity by balancing the volume of cut and fill within the site.

f. The applicant will collect and treat stormwater runoff from all impervious areas on the site prior to discharging it to the Lewis River.

g. Additional basic facts about the site and surroundings and applicable approval standards are provided in the City of Woodland Staff Report dated April 4, 2023 (the "Staff Report"), the first Supplemental Staff Report dated April 10, 2023 (the "First Supplemental Staff Report"), and the second Supplemental Staff Report dated May 2, 2023 (the "Second Supplemental Staff Report").

2. The City issued a Determination of Nonsignificance ("DNS") for the proposed development pursuant to the State Environmental Policy Act ("SEPA"). City of Woodland Hearing Examiner Joe Turner (the "examiner") conducted a public hearing to receive testimony and evidence about the application. City staff recommended the examiner approve the application subject to conditions in the Staff Report and the Supplemental Staff Reports, as modified by the City's June 1, 2023 email. Representatives of the applicant testified in support of the application and accepted the findings and conditions in the Staff Report and the Supplemental Staff Report, as modified, with certain exceptions. 13 persons testified orally about the proposed development. Other persons testified in writing. Contested issues in the case include:

- a. Whether the City provided adequate notice of the application and public hearing;
- b. Whether the existing bank is unstable and poses a hazard;
- c. Whether traffic generated by the proposed development will exceed the capacity of area roads or create a hazard;

- e. Whether the applicant can be required to provide additional transportation improvements to mitigate existing issues;
- e. Whether it is feasible to provide driveway access to the site from Lewis River Road/SR-503;
- f. Whether the applicant can be required to provide an eastbound left turn lane at Insel Road;
- g. Whether traffic from this development will utilize private driveways on the north side of Lewis River Road/SR-503;
- h. Whether this development will limit access and future development on the property west of the site;
- i. Whether the proposed development makes adequate provision for off-street parking;
- j. Whether the proposed development complies with the parking location requirements of SMP 7.2.12.C;
- k. Whether the proposed development provides required public access to the shoreline;
- l. Whether the proposed development makes adequate provision for parks;
- m. Whether a shoreline variance is not required for the proposed development;
- n. Whether groundwater elevations on the site will impact the storage capacity of the stormwater facility;
- o. Whether the applicant is required to fence the stormwater facilities;
- p. Whether the proposed development makes adequate provision for water supply and fire flow;
- q. Whether the proposed drive aisles are adequate to meet fire code requirements;
- r. Whether the proposed excavation and fill on the site will impact the 100-year flood elevation or generate off-site traffic;
- s. Whether development on the site will have prohibited impacts on wildlife and wildlife habitat;
- t. Whether the proposed development will exceed the capacity of schools in the area;

u. Whether the proposed density and dimensions of the development comply with the Code;

v. Whether residents of the proposed development will create a disproportionate increase litter, trespass, and other unlawful activities in the area; and

w. Whether this development can be subjected to Conditions, Covenants, and Restrictions (“CC&Rs”) that apply to surrounding developments in the area.

3. Based on the findings provided or incorporated herein, the examiner concludes that the applicant sustained the burden of proof that the proposed use does or can comply with the relevant approval standards of the Woodland Municipal Code (the “WMC”) and the Shoreline Master Program Policies, provided the applicant complies with conditions of approval recommended by City staff to ensure the proposed use does comply in fact with those standards and policies. Therefore the examiner approves File No. SSD-23-001, CAP-23-001, SPR-23-003, and SEP-23-005, subject to the conditions at the end of this final order.

B. HEARING AND RECORD HIGHLIGHTS

1. The examiner received testimony at the public hearing about this application on April 11, 2023. All exhibits and records of testimony are filed at the City of Woodland. The examiner announced at the beginning of the hearing the rights of persons with an interest in the matter, including the right to request that the examiner continue the hearing or hold open the public record, the duty of those persons to testify and to raise all issues to preserve appeal rights, and the manner in which the hearing will be conducted. The examiner disclaimed any *ex parte* contacts, bias or conflicts of interest. The following is a summary by the examiner of selected testimony and evidence offered at the public hearing.

2. City planner David Lukaczer, city community development director Travis Goddard, Clark/Cowlitz Deputy Fire Marshall Josh Taylor, city consulting engineer Ryan Walters, and city public works director Tracy Coleman testified on behalf of the City.

a. Mr. Lukaczer summarized the Staff Report, the First Supplemental Staff Report, his PowerPoint presentation, and the applicable standards and described the proposed development.

i. He noted that the roughly 25-acre site is currently vacant. The applicant proposes to construct a roughly 29,000 square foot multi-family development consisting of 252 apartment units in nine buildings. The applicant will also construct a pool, clubhouse, playground, gazebo, and open space areas on the site for use by the residents of the proposed apartments. The applicant proposed to construct the development in two phases. The applicant also proposed to obtain permits for a new public park facility on City parcel 506520200 and construct a trail to enhance access to, and facilitate maintenance of, the City property.

ii. The northern portion of the site, adjacent to Lewis River Road/SR 503, is within the 100-year floodplain of the Lewis River, zoned HDR, and designated residential in the City's comprehensive plan. The southern portion of the site is within the floodway and zoned FW. In addition, the southern portion of the site, extending ten feet north of the floodway, is designated riparian habitat, and the 300 foot buffer for an offsite Category II Riverine Wetland extends onto the southern portion of the site. The entire site is within the City's Residential Shoreline Environmental District (SED) and Urban Conservancy SED.

iii. The applicant is required to construct half-width frontage improvements consistent with City and Washington State Department Of Transportation ("WSDOT") standards to the portion of Lewis River Road/SR 503 abutting the site. Condition of approval 28 requires the applicant construct a sidewalk around the Williams Pipeline parcel.

iv. There is an existing six-inch water main and an eight-inch sewer main in Lewis River Road/SR 503 and the applicant will connect the development to these utilities. The applicant will be required to provide an analysis demonstrating that adequate fire flow requirements can be met and the applicant is responsible for implementing any upgrades needed to ensure compliance.

v. Proposed 'Building J' intrudes into the required 20-foot front setback. The applicant is required to modify the site plan to comply with setback requirements.

vi. The Code requires 405 parking spaces for the number and type of apartment units proposed with this development. The applicant proposed to provide 476 parking spaces.

vii. The applicant will collect and treat stormwater runoff from all impervious areas within a proposed stormwater treatment wetland south of the proposed parking lot. The Washington Department of Ecology ("ECY") expressed concerns that the stormwater facility may conflict with the shoreline. However, the City determined that this facility is permitted by the City's shoreline regulations.

viii. The applicant will construct pervious trails within the site to allow public access to the park on City owned parcel 506520200 as well as public access to the shoreline. The applicant originally proposed to construct a basketball court within the park. However, ECY determined that this improvement would require approval of a shoreline variance. Therefore, the applicant removed that portion of the park project from the proposal. The City may seek approval to construct this and other park improvements in the future. He requested the examiner add a condition of approval 9.g requiring the applicant provide a minimum three-foot wide pedestrian path to the shoreline.

ix. The applicant will excavate roughly 150,000 cubic yards of soil from the southern portion of the site, within the floodway, and place it on the northern portion of the site in order to elevate the development above the 100-year floodplain. The applicant will maintain the existing flood storage capacity by balancing the volume of cut

and fill on the site. He requested the examiner add a condition of approval requiring the applicant provide a “no net rise” certification from an engineer.

x. The applicant will replant the excavated portion of the floodway to replace and enhance the existing riparian habitat. The existing vegetation on the site consists of a mix of herbaceous shrub and forest. The applicant will replant the disturbed areas with native vegetation to create a more diverse shrub and forest cover that will improve the habitat value of the site.

xi. The applicant will be required to pay school, fire, park, and traffic impact fees to mitigate the impact of the development on these services.

xii. He noted a typographical error on page 12 of the Staff Report. The last sentence of the first paragraph should be amended to read “A condition of approval has been added that the annual (or semi-annual, as designated by the proposed monitoring plan) monitoring report shall be provided to the City of Woodland Community Development Department each time ~~it is built~~ a periodic report is written and an updated Critical Area Report and Mitigation plan shall be provided with final engineering noting this.”

xiii. Section 7.2.12.C.3 of the City’s Shoreline Master Program (“SMP”) requires that parking facilities be located on the landward side of the use. However, it is not feasible to comply with this requirement in this case as the entire site is located within the floodplain or floodway. Locating the parking lot entirely north of the proposed buildings would shift the development south into the floodway as well as increasing the amount of impervious surface area on the site.

xiv. Subsection 8.6.5.D of the Woodland SMP and RCW 90.58.143 provide that approval of this shoreline application will be valid for five years from the effective date of the approval, with the opportunity for a single one-year extension. He requested the examiner add a condition of approval to that effect.

xv. He requested the examiner modify condition 24 to require the applicant to submit an archeological report “prior any land disturbing activities.”

xvi. The applicant will be allowed two driveways accessing Lewis River Road/SR 503 unless the applicant provides a third shared access with the existing church east of the site. The City will review the access driveways through the final engineering review process to ensure the driveways do not interfere with the existing Gun Club Road intersection.

xvii. The applicant performed the traffic counts used in the traffic study in June of 2022.

xviii. The applicant will be required to obtain approval from Clark/Cowlitz Fire and Rescue (the “Fire District”) prior to final approval. The Fire District can condition the development to ensure adequate emergency vehicle access and maneuvering.

b. Mr. Goddard requested the examiner add a subsection to proposed condition of approval 4 to require the submittal of periodic reports as discussed on page 12 of the Staff Report.

i. The shoreline of the Lewis River has migrated south as land as accreted on the north bank of the river. Therefore, although the site is within the mapped shoreline, the actual shoreline is roughly 100 feet south of the site due to changes in the alignment of the river.

ii. Testimony about the City's population is incorrect; the City has not achieved its projected 2043 population. The City's current population is 6,575 people and the projected population growth for the City's 20-year comprehensive plan is 9,300. The projected 2043 population is 11,000. The City currently does not have enough land to accommodate the projected population growth even if all existing residential land within the City developed at maximum density.

iii. The location of the City park site, within the floodway and shoreline, limits the type of park improvements that can be provided and may preclude the park altogether. Permanent structures are prohibited in the floodway. Picnic tables and similar portable improvements may be allowed, as they can be removed in the event of a flood. The City is currently reviewing whether such improvements are allowed. Paved pathways may be allowed in the floodway but not in the shoreline. The applicant is not required to build the park. They offered to do so as a benefit to the City. The City is reviewing the feasibility of developing a park on its property.

c. Mr. Taylor argued that the Fire District has the authority to impose conditions of approval as necessary to ensure compliance with the Fire Code.

i. The Fire Code requires a minimum 26-foot drive aisles to provide aerial access to the proposed three-story buildings. The applicant's site plan shows a 24-foot wide drive aisle. This must be increased to 26 feet. The Fire District will ensure compliance with that requirement.

ii. The Fire District delegates to the public water purveyor and city engineering staff to determine compliance with minimum fire flow requirements.

iii. The applicant will be required to provide a vehicular connection between Phases 1 and 2 of the development to allow for fire access. The applicant can install a gate or other barriers approved by the Fire District to restrict the driveway to emergency vehicle access if desired.

d. Mr. Walters testified that the site currently meets water pressure requirements based on hydrant tests. However, the City's water system plan shows a capital improvement plan to replace the six inch water mains with 12-inch mains between the E. Scott roundabout and the northwest corner of the site. The plan indicates that these improvements are intended to address "fire flow inadequacies" for future development. Since the site includes the majority of developable land affected by the planned

improvement, it appears that development on this site is expected to create the need for larger water mains to meet fire flow requirements. Installing larger water mains is only one option for the applicant. Another option is for the applicant to provide an analysis of potential water system improvements that would ensure compliance with fire flow requirements for the site. Upsizing the existing six-inch water mains on Insel and Gunclub Roads to eight-inch mains might provide sufficient capacity for this development.

e. Ms. Coleman agreed with Mr. Walters that six-inch water mains are not adequate to serve the proposed development. Fire hydrant tests are inadequate to demonstrate fire flows. The applicant should be required to provide a hydraulic analysis demonstrating compliance with fire flow requirements. The City can increase water rates if needed to fund improvements. But the applicant is required to fund improvements that are needed as a result of the development.

i. She noted that the applicant submitted a revised site plan with a proposed right-in/right-out only access near the west boundary of the site, aligned with Insel Road. (Exhibit AA). The City will work with WSDOT and the applicant regarding improvements to Lewis River Road/SR 503. All developments are required to construct half-width frontage improvements on public streets abutting the development as necessary to bring the street into compliance with current City standards.

ii. The applicant will pay impact fees to the City to mitigate this development's impact on transportation, parks, schools, and fire services.

iii. The City is aware of the congestion and "stacking" issues on Lewis River Road/SR 503 at Insel and Gun Club Roads. A center left-turn lane would help mitigate those issues, but there is insufficient right-of-way available to provide such a turn lane at Insell Road.

iv. The proposed City park is not needed to meet the recreation needs of the future residents of the proposed development. The applicant will provide a club house, pool, playground, and open space areas on the site to fulfill serve the residents of the site. The applicant agreed to assist the City in developing its existing park property as part of this development, removing noxious weeds and invasive species, constructing a pedestrian path through the park, and providing public parking on the site for park users. The City will not reduce the applicant's Park Impact Fees to offset the cost of such improvements. However, the City may use some of the impact fees paid by this and other developments in the City to fund further improvements to the park.

v. The park is located within the shoreline and floodway, which limits the types of development allowed. The proposed bark chip path is allowed in the shoreline. An asphalt path would require approval of shoreline variance.

3. Attorney Steve Morasch, engineer Travis Johnson, testified on behalf of the applicant.

a. Mr. Morasch accepted the findings and conditions in the Staff Report and First Supplemental Staff Report, as modified, with certain exceptions. He requested the examiner hold the record open to allow the applicant to address issues raised at the hearing.

i. The applicant would like to utilize the existing trail network on the site for the proposed trails accessing the park and river, as that would reduce impacts to the shoreline and wetland buffer. The applicant will discuss that issue with staff during the open record period.

ii. He argued that locating the parking facilities entirely on the north side of the site as required by SMP 7.2.12.C.3 would not alter the developments impact on the shoreline.

iii. A Shoreline Variance or Shoreline Conditional Use Permit is not required for the stormwater facility proposed on the site. The proposed stormwater facility is a “low impact development” utilizing filter strips and bioretention for treatment. Section 6.7.b of the Shoreline Master Program requires that “stormwater management structures including ponds, basins, and vaults” be located outside of shoreline jurisdiction and habitat buffers. The proposed stormwater facility will not utilize ponds, basins, and vaults. It is a “low impact development” facility, which SMP 6.7.b encourages within the shoreline. The applicant will landscape the stormwater facility to ensure that it blends with and will not alter the character of the shoreline.

(A) Note 5 of SMP Table 7-1 requires a Shoreline Conditional Use Permit (“SCUP”) for “utilities” defined as “Gas or oil transmission lines greater than 6 inches in diameter, electrical transmission lines greater than 50kv, and structural utility buildings, such as pump stations, electrical substations, dams, or other facilities...” The proposed stormwater facilities are not included in this list nor are they similar to any of the listed uses. Other utilities that are accessory to a permitted development are allowed.

iv. The applicant will modify the driveways accessing Lewis River Road/SR 503 as requested by WSDOT, providing an intersection aligned with Insel Road at the western end of the development. A third access near the east boundary of the site is needed to provide public access to the City park property. A joint access shared with the church property east of the site is only feasible if the church agrees.

v. He objected to condition 28, which requires frontage improvements that “[m]atch those of other local developments (Quail Meadows)...” The applicant will provide frontage improvements consistent with current Code requirements and transition those improvements as necessary to align with existing off-site improvements on abutting properties.

vi. He noted a typographical error in condition 4.a of the Staff Report. This condition should be modified to require landscaping and street trees along the site’s frontage on Lewis River Road/SR 503.

vii. Condition 5.b requires that the applicant “comply with water supply backflow and cross-connection requirements...” There are no cross-connections required for this development. Therefore, that portion of the condition should be deleted.

viii. Condition 5.a may require the applicant to upgrade existing water mains to provide adequate fire flow. The City is requiring the applicant to construct capital improvement WM.4 of the City’s water plan, the cost of which may exceed \$1 million and would greatly exceed the roughly proportional impact of the development on the need for public water. The City must resolve this issue prior to preliminary plat approval rather than delaying this determination to the final engineering review stage. The City has the burden of proof to demonstrate proportionality. The proposed development complies with Fire Code requirements, based on the memorandum from the applicant’s engineer.

(A) The City is relying on WAC 246-290 as the basis for this condition. However, that rule is not a fire flow requirement that applies to this development. This provision only applies to Group A public water purveyors. It does not apply to this development. The City is concerned about the need to serve future development in the area. However, the City has a variety of options for funding such improvements. Condition 5.a should be deleted.

ix. The Fire Code only requires a 26-foot drive aisle width when the distance from grade to where the ladder hits the roof is 30 feet or more. As proposed, that distance will be less than 30 feet, so a 26-foot drive aisle is not required.

b. Mr. Johnson responded to issues raised at the hearing.

i. The reference to “truck storage and repair facilities” on pages 4-5 of the applicant’s stormwater report (Exhibit O) is an accidental carryover from a prior report. He proposed to submit an updated report during the open record period.

ii. No groundwater was encountered on the site in borings and excavations between 9 and 15 feet below the existing ground level. Therefore, groundwater will not impact the capacity of the proposed stormwater facility.

iii. The applicant will modify the development to provide a driveway access to Lewis River Road/SR 503 aligned with existing Insel Road as requested by WSDOT. However, it is not feasible to provide a full-access driveway, as it is not feasible to construct the required 100-foot eastbound right turn lane at this intersection, given its location near the west boundary of the site. Construction of a turn lane at this location would impact three neighboring properties. The western driveway will be limited to right-in/right-out only movements.

iv. As shown on the revised plans, the applicant will provide a full-access intersection to the east of Insel Road, just west of the Williams Pipeline parcel. This intersection will include the required east-bound right turn lane. A westbound left-turn lane is not required for this development, based on the applicant’s traffic analysis. The applicant originally proposed to provide a westbound turn lane, but a turn lane at the

relocated access would conflict with the existing eastbound turn lane at the Gun Club Road intersection.

v. The proposed development will meet or exceed minimum fire flow requirements of 1,500 gpm at a residual pressure of 20 psi. Based on fire hydrant testing, the existing system is more than adequate to meet fire flow requirements. After the applicant demonstrated compliance with fire flow standards, the City changed its requirement to require compliance with the pressure and velocity requirements of Sections 6.2.5 and 6.2.6 of the Washington State Department of Health Water System Design Manual. Section 6.2.4 requires compliance with fire flow, which the applicant will meet. The minimum distribution system pressure and velocity requirements of Sections 6.2.5 and 6.2.6 only apply to Group A water system providers. This not a fire flow requirement. These maximum pressure and velocity requirements only apply during peak demand times, not during fire flow.

4. Monica Rehm argued that the City must address existing traffic and congestion problems before approving this development. It sometimes takes 30 minutes to make a left turn from Hillshire Drive onto Lewis River Road/SR 503. Lewis River Road/SR 503 provides the only exit from town. The night prior to the hearing it took her 1.5 hours to drive home from Safeway due to a landslide closing the I-5 freeway and the state patrol routing freeway traffic through town. SR-503 provides the only evacuation route in the event of an emergency such as a wildfire or dam failure and congestion on this roadway could significantly delay evacuation times. Schools are overcrowded. Water and utility bills are increasing. This development will make things even worse.

5. John Kenwisher argued that this development will impact water pressure for existing residents. 1.5 parking spaces per unit is insufficient to accommodate parking demand generated by the proposed development. Construction on top of fill should be prohibited. The river could change course in the future, eroding the filled areas on the site. It is difficult to access I-5 under existing conditions. Additional traffic generated by this development will make congestion even worse. Traffic volumes are much higher in the summer months, when people are using the Lewis River for recreation. It will be impossible to access the site without an eastbound left turn lane.

6. Donna Butler argued that ten-percent of the parking spaces on the site should be for electric vehicle charging. She questioned why the applicant is not required to provide a left turn lane on Lewis River Road/SR 503. She questioned where the school bus stop serving the site will be located and whether students will be required to cross Lewis River Road/SR 503 or buses will enter the site.

7. Bernice Waskas argued that area roads cannot accommodate additional traffic generated by the proposed development. The applicant should be required to pay to mitigate the impacts of the proposed development. The day before the hearing it took her four hours to get home from Vancouver and her children were stuck on their school bus due to the landslide.

8. Joe Listek argued that the proposed development will cause his property west of the site to become landlocked due to increased traffic and congestion. The proposed

driveway on the west end of the site will preclude access to future development on his property, as it is not feasible to provide access to his property in compliance with the intersection spacing requirements of the Code. Emergency vehicles cannot turn onto his property from Lewis River Road/SR 503 under existing conditions. They had to access his property from River Rock Lane. However, the City recently closed that access, allowing placement of boulders and trees between the road and his property. River Rock Drive is six feet higher than his property, which precludes access to his property. Congestion on Lewis River Road/SR 503 created by the additional traffic from this development will preclude emergency access to the area. He argued that the Supplemental Staff Report incorrectly describes the portion of the site abutting his property as an easement.

9. Zarena Doar argued that the City failed to provide adequate public notice regarding the proposed development. The sign posted on the site is too small to read from the road. The City scheduled the hearing during working hours, which limits many resident's ability to attend the hearing. The City posted the wrong starting time for the hearing on the City Council website, listing the hearing starting at 12:00 p.m. rather than 9:00 a.m.

10. City council member Terry Hall noted that Lewis River Road/SR 503 is "an old country road." WSDOT is responsible for maintaining the surface of the road, but the City is responsible for any improvements such as curbs, gutter, sidewalks, streetlights, etc. The City cannot afford to fund such improvements. Therefore, it must rely on developments to provide them. Without development, the road cannot be improved.

11. Austin Kryger argued that residents of the site will pull out of the site driveway directly into his circular driveway on the north side of Lewis River Road/SR 503, increasing the wear and tear on his driveway. He questioned whether the proposed public parking on the site will be reserved for non-resident users of the City park. He questioned how the City will such parking restrictions. He opined that it will require more than 150,000 cubic yards of fill to bring the site level with Lewis River Road/SR 503. Currently the site is six to ten feet lower than the road. Trucks bringing fill to the site will have a significant adverse impact on Lewis River Road/SR 503 and surrounding residents. He argued that the applicant is ignoring the fire code by refusing to upgrade water mains to meet fire flow requirements.

12. Darcy Billingsly questioned the applicant's phasing plan, the cost of the proposed park permits, when those permits will be issued, who will fund the improvements, and who will maintain the park. She noted that the proposed wood chip path is not ADA accessible. She questioned what the operating hours of the park and whether the park parking will be gated and whether residents of the site will be prohibited from using on-site parking spaces that are reserved for park users. She argued that the park will only serve as an amenity for residents of the site, not for the City as a whole.

13. Mayor Will Finn responded to neighbors' testimony.

a. A citizen donated the 10-acre park property to the City for use by City residents. However, the parks location within the floodplain and floodway limits the type

of development that can occur at the park. Applicable regulations may preclude many standard park amenities, including restrooms.

b. Lewis River Road/SR 503 is subject to WSDOT jurisdiction. The City tried to modify the roadway to improve safety for pedestrians and bicyclists, but WSDOT denied the proposed changes. WSDOT must be involved in the discussion of this development and the safety of the proposed accesses and improvements and it is up to the applicant to ensure compliance with applicable regulations.

14. WSDOT development review planner Dylan Bass noted that Lewis River Road/SR 503 is subject to WSDOT jurisdiction. WSDOT must review and approve all improvements to this roadway. But approval of driveway access is within the City's jurisdiction.

15 Whitney Rabb argued that the applicant can be required to dedicate land for parks or build park improvements if the proposed development will have a demonstrated impact on the need for such park facilities. The City has not achieved its goal expressed in the park plan to have two new City parks by 2020. Only able bodied persons will be able to utilize the proposed bark chip trail to access the park. Park improvements on this site should not be used to offset the applicant's park impact fees.

a. The applicant should be required to provide an eastbound left turn lane on Lewis River Road/SR 503 at Insel Road. Turn lane warrants are met at this location under existing conditions and traffic from this development will add additional traffic on Lewis River Road/SR 503, which will increase the need for a turn lane. Traffic backups caused by vehicles waiting to turn left onto Insel Road will create a hazard. Numerous accidents have occurred on Lewis River Road/SR 503.

b. Parking demand on the site is likely to exceed capacity. Therefore, residents of the site are likely to park on public streets on the north side of Lewis River Road/SR 503. Pedestrians crossing this road as they travel between their vehicle and residence will create a hazard. There are no crosswalks on this road.

c. Construction traffic should be regulated to avoid school traffic unless all construction vehicles and equipment are required to park on the site.

d. She questioned when the applicant performed the traffic counts used in the transportation analysis; whether they occurred when school was in session.

e. The landslide on I-5 demonstrates the need for additional transportation infrastructure in the City, as there are no alternative east-west routes through the City.

16. Mike Rosenbalm noted that the applicant should be required to pay its proportionate share of public improvements but broader issues must be addressed by the City Council.

17. At the end of the hearing the examiner held the record open subject to the following schedule:

a. For two weeks, until 5:00 p.m. April 25, 2022, for anyone to submit new written testimony and evidence;

b. For a third week, until 5:00 p.m. May 2, 2022, for anyone to respond to the testimony and evidence and evidence submitted during the first week; and

c. For a fourth week, until 5:00 p.m. May 9, 2022, for the applicant to submit a final written argument, without any new evidence.

18. The examiner issued an Order dated May 25, 2023, reopening the record for the limited purpose of allowing all parties to further address the water and sewer capacity and fire flow issues and allow the City to clarify its recommended condition of approval on that issue. Pursuant to the applicant's request, the record in this case closed at 5:00 pm. June 9, 2022.

C. DISCUSSION

1. City staff recommended approval of the application, based on affirmative findings and subject to conditions of approval in the Staff Report. The applicant accepted those findings and conditions with certain exception.

2. The examiner concludes the Staff Report and two Supplemental Staff Reports identify the applicable approval standards for the application in the WMC and SMP and contain affirmative findings showing that the proposal does or can comply with those standards, provided that the applicant complies with the conditions of approval included in this Final Order. The examiner adopts the affirmative findings in the Staff Report and Supplemental Staff Reports as his own, except to the extent they are inconsistent with the following findings.

3. The examiner finds that the public was provided adequate notice and opportunity to comment on this application.

a. The City published notice of the hearing in the Reflector, the City's official paper of record, on March 8, 2023, and posted notice on the site, at least ten-days before the hearing as required by WMC 19.06.070.A. In addition, the City posted notices on the City's website and at the police station, and made at least three public announcements of the hearing at duly advertised City Council meetings. (Exhibit AB at 5).

b. The Code does not specify a particular size or design for posted notice and the notice posted on the site was consistent with the City's standard notice sign.

c. The City's agenda software inadvertently posted a notice on the City Council website that listed an incorrect start time for the hearing. (Zoar testimony and Exhibit 6 at 7). The notice was in place for roughly 24-hours prior to the hearing. (Exhibit AB at 5). The examiner finds that this error did not prejudice any parties' right to participate in the hearing. There is no evidence that anyone failed to attend the 9:00 a.m.

hearing as a result of the incorrect notice that was posted on the City Council website. The public was well represented at the hearing and in the written record and residents testified clearly and succinctly regarding issues of concern to them. In addition, the examiner held the record open after the hearing to allow all parties an opportunity to submit additional evidence.

d. It is the City's standard practice to schedule land use hearings during the day. Members of the public who are unable to attend the hearing can submit written testimony prior to the hearing and, as noted above, the examiner held the record open after the hearing to accept additional testimony and evidence in this case.

4. The examiner finds, based on the analysis in the applicant's traffic study (Exhibit R) that traffic generated by this development will not exceed the capacity of area roads or create a hazard. The City's engineering staff agreed with the applicant's analysis, with some exceptions discussed below. Neighbor's unsupported concerns are not sufficient to overcome the expert testimony of the engineers for the applicant and the City.

a. This development will generate an average of 1,698 additional vehicles on Lewis River Road/SR-503. That includes 101 new vehicle trips during the a.m. and 129 trips during the p.m. peak hours. (Table 1 of Exhibit R). That additional traffic will be perceptible and will generate additional congestion and delays in the area. Traffic from this development will increase the a.m. peak hour traffic by roughly 13.3-percent and p.m. peak hour traffic by 10.8-percent at the intersection of Lewis River Road/SR-503 and Insel Road.² (Exhibit R, Figures 1 and 5). However, this additional traffic will not exceed the City's adopted Level Of Service ("LOS") standards. All intersections within the study area will continue to operate at LOS D or better. LOS D is the City's adopted minimum standard for intersection LOS.

b. This section of Lewis River Road/SR 503 does not pose an unusual risk of crashes, despite the lack of an eastbound turn lane at Insel Road. Opponents noted that "numerous accidents" have occurred on this road. However, based on the applicant's traffic study, none of the intersections had a crash rate greater than 0.25 crashes per million entering vehicles (C/MEV), well below the City's "action level" of 1.0 C/MEV. (Exhibits R at 10 and AI at 2). As Opponents noted, some accidents are not reported. But there is no evidence that the intersections included in the analysis have a higher than usual rate of unreported accidents. Increased traffic volumes increases the overall risk of crashes. But there is no evidence that this roadway poses an unusual hazard.

c. There is no evidence that traffic from this development will conflict with log truck traffic on Lewis River Road/SR 503. The applicant's traffic study specifically considered impacts to "heavy vehicles," which includes log trucks, and did not identify any specific hazards related to those vehicles. (Exhibit R at 24-39).

² Based on Figure 1 of the traffic analysis, Lewis River Road/SR-503 at Insel Road carries 633 vehicles during the a.m. peak hour and 994 vehicles during the p.m. peak hour. Based on Figures 5a and 5b of the traffic analysis, this development will generate an additional 84 a.m. and 107 p.m. peak hour trips. This equates to a 13.3-percent increase in traffic during the a.m. peak hour and a 10.8-percent increase during the p.m. peak hour. The percentage increase at the Gun Club Road intersection was lower.

d. The traffic counts used in the analysis were performed on Tuesday June 21, 2022. (Exhibit R at 24).

e. The applicant is only required to consider and plan for normal traffic operations. The applicant is not required to plan for and accommodate unusual conditions such as the landslide that closed the I-5 freeway and routed freeway traffic through the City. This type of traffic emergency will create significantly increased congestion and delays. But such events are unusual and infrequent and it is not this applicant's responsibility to plan for and accommodate for such events.

f. Construction on this site will cause a temporary increase in traffic on Lewis River Road/SR 503. The City Code and state law regulate construction activities, including construction vehicle access, road closures etc. The City will inspect the site during construction to ensure ongoing compliance with applicable requirements. Compliance with these regulations will not eliminate all potential impacts. However, the examiner finds that, while such impacts may occur, they are not significant enough to require specific limitations on construction other than those imposed by State law and the County Code. Such impacts are temporary, while construction is occurring, and are merely one of the inconveniences of living in a developing urban area.

i. The applicant proposed to fill the northern portion of the site in order to elevate the residential buildings above the 100-year floodplain. The applicant will excavate fill from the southern portion of the site and place it in the northern portion in order to maintain a balance of cut and fill volumes. Trucks transporting this fill will remain within the site, moving between the cut area in the south and the fill area in the north without impacting area roads.

g. Increased traffic and congestion generated by this development will not significantly increase emergency vehicle response times. As noted above, all affected intersections will continue to operate above the City's minimum LOS D. In addition, reasonable drivers will pull to the sides of the road and stop when emergency vehicles activate their lights and sirens, allowing the emergency vehicle to pass.

5. The applicant will mitigate for the traffic impacts of the proposed development by constructing frontage improvements (curb, sidewalk, streetlights, etc.) along the site's frontage on Lewis River Road/SR-503. As Council Member Hall noted, the City cannot afford the cost of constructing such improvements itself. The City must rely on developments to provide some needed road improvements. In addition, this and other developments in the City will pay Traffic Impact Fees ("TIFs") which the City can use to fund other transportation improvements in the City. However, this development cannot be required to remedy all existing traffic conditions. The need for further improvements is created by all of the development in the City, not just the traffic generated by this development, and the cost of such improvements must be borne by all.

a. Proposed condition of approval 28 requires frontage improvements that "[m]atch those of other local developments (Quail Meadows)..." However, the City failed to provide any authority for requiring that the applicant vary from the adopted City

standard for frontage improvements for this roadway. The applicant is required to construct frontage improvements consistent with current City standards and transition those improvements to meet existing improvements on abutting properties. Condition 28 should be modified to that effect.

6. The examiner finds that it is feasible to provide driveway access to the site from Lewis River Road/SR-503. However, the location and design of such access requires additional City review and approval.

a. The applicant originally proposed three driveways from the site to Lewis River Road/SR-503: a full access driveway in the western third of the site, a right-in/right-out only driveway west of the Williams Pipeline parcel, and a full access driveway near the east boundary of the site. (Exhibit A). The City and WSDOT objected to this plan, arguing that the applicant should be required to provide a full-access western driveway aligned with Insel Road. The City and WSDOT also objected to the proposed eastern access as it may conflict with the church driveway/Gun Club Road intersection with Lewis River Road/SR-503. They recommended the applicant delete the eastern driveway or provide a shared driveway with the adjacent church property, (Staff Report at 38 and Exhibits T, U, and V).

b. At the hearing the applicant submitted a modified plan showing a right-in/right-out only driveway near the west boundary of the site, aligned with Insel Road, a full access driveway west of the Williams Pipeline parcel, and a potential eastern driveway shared with the church east of the site, aligned with Gun Club Road. (Exhibit AA). However, this access plan does not allow for the required right-turn deceleration lane approaching the western driveway. (Exhibit AL).

c. The applicant submitted another modified plan during the open record period. This plan proposes two driveways: a full access driveway west of the Williams Pipeline parcel and a right-in/right-out only access near the east boundary, roughly 30 feet west of the intersection of the church driveway/Gun Club Road intersection with Lewis River Road/SR-503. The applicant proposed an eastbound right turn/deceleration and westbound center turn lane at the full-access driveway. (Attachment 7 of Exhibit AH). The applicant also agreed to provide a center acceleration lane between the site access and Insel Road. (Exhibit AL at 1).

i. The City and WSDOT generally agree with the location and design of the western, full access, driveway shown in Attachment 7 of Exhibit AH, as modified by Exhibit AL. However, they object to the eastern right-in/right-out only driveway, unless it is combined with the church driveway and aligned with Gun Club Road. The City and WSDOT continue to support a western driveway aligned with Insel Road. In addition, they note that the proposed eastern driveway will provide the only public access to the City park property and the shoreline. Limiting this driveway to right-in/right-out only driveway will limit such access by prohibiting drivers from accessing the park and shoreline from eastbound Lewis River Road/SR-503 exiting onto westbound Lewis River Road/SR-503. (Exhibit AK and Attachment 1).

ii. In response to the City and WSDOT's concerns the applicant proposed to relocate the eastern right-in/right-out only driveway access further west to comply with intersection spacing and allow for barriers to prevent left turn movements. (Exhibit LT at 3-4). The applicant did not provide plans illustrating this revised access and did not address the City's concerns that limiting this access to right-in/right-out only would limit public access to the park and shoreline.

d. The examiner finds that it is not feasible to provide driveway access to the site that aligns with Insel Road, as the westernmost access to the site will create the need for an eastbound right turn lane and there is insufficient right-of-way to construct such a turn lane at an intersection aligned with Insel Road; right-of-way needed for this turn lane would extend offsite onto property the applicant does not own, making it infeasible to provide the needed right-turn lane. Therefore, condition 26 should be modified as proposed by the applicant (Exhibit AL at 3), deleting the requirement for an access aligned with Insel Road while authorizing the City and WSDOT to review and approve the final access location and design.

e. The examiner finds that the proposed eastern right-in/right-out only access shown in Exhibit AH, Attachment 7 cannot be approved for the following reasons:

i. The proposed driveway does not meet intersection spacing requirements; the proposed access is roughly 30 feet west of the intersection of Gun Club Road and the existing church driveway with Lewis River Road/SR-503. Vehicles making a right turn out of the site could conflict with vehicles making left turns out of the church driveway or Gun Club Road;

ii. It is not feasible to install physical barriers to preclude left turn movements from this driveway without interfering with the operation of the Gun Club Road/church driveway/Lewis River Road/SR-503 intersection; and

iii. The proposed right-in/right-out only access limits public access to the City park and shoreline.

f. It may be feasible to relocate the eastern driveway to comply with intersection spacing requirements and allow for barriers to preclude left turn movements. However, this will not address the City's concerns that limiting this driveway to right-in/right-out only access will limit the public's access to the City park and shoreline. As discussed in the Staff Report, the applicant is required to provide parking for the park. In addition, it appears that limiting the park access to right-in/right-out only would reduce the scope of the City's existing easement as the current easement 30-foot wide access and utility easement would allow construction of a full access intersection onto Lewis River Road/SR-503. Limiting access to the City park property to right-in/right-out only would modify the easement and therefore, require City approval. The applicant does not have unilateral authority to modify the existing easement and reduce this potential access.

g. Therefore, the examiner finds that the applicant should be required to provide a full access driveway shared with the existing church property east of the site and aligned with Gun Club Road or allow the public to use the full-access driveway

proposed near the center of the site to access the park, unless the City agrees to an alternative access arrangement. The City must approve the location and design of all driveways accessing Lewis River Road/SR-503. The conditions of approval should be modified to that effect.

7. The examiner finds that the applicant cannot be required to provide an eastbound left turn lane at Insel Road. A turn lane is warranted at this intersection under existing conditions. (Exhibit R at 9). However, the City failed to demonstrate that the cost of constructing a turn lane at this location is roughly proportional to the impact of this development. As discussed in Exhibit AL, a condition of approval requiring construction of such a turn lane is an exaction for which the City must bear burden of proving that there is an essential nexus between the need for the turn lane and the impact of the development and that the cost of the turn lane is roughly proportional to impact of the development.

a. There is an essential nexus between the impact of the development and the need for this turn lane. The development will not contribute any left turn movements to this intersection. However, as Ms. Coleman noted, it will increase the volume of westbound vehicle trips through the intersection, generating 64 new westbound trips during the a.m. peak hour and 40 new trips during the p.m. peak hour. Although the increase is small, a roughly 1.7-percent increase in conflicting westbound p.m. peak hour trips, it will reduce the number of gaps available for left turn movements.

b. However, the City failed to demonstrate that the need for this turn lane is roughly proportional to the impact of this development. As the applicant notes, the existing right-of-way west of the site is inadequate to accommodate the required turn lane. (Coleman testimony and Exhibit AL). The applicant does not own the property necessary to accommodate the turn lane and the applicant does not have condemnation authority necessary to acquire the right-of-way. Even if the owner of the adjacent property were willing to sell the necessary right-of-way, the cost of acquiring the land would exceed the minor impact of the development on the need for the turn lane. Therefore, condition of approval 40 proposed in Exhibit AK is not warranted.

8. There is no support for Mr. Kryger's concern that residents will exit the site driveway and enter his circular driveway on the opposite side of Lewis River Road/SR 503, as this maneuver would not benefit drivers leaving the site in any way. Reasonable drivers will turn left or right onto Lewis River Road/SR 503, as that provides the most direct route to destinations in the region.

9. The examiner understands Mr. Listik's concerns about access to his property west of the site. It is difficult for emergency vehicles to turn off of Lewis River Road/SR 503 into Mr. Listik's existing narrow driveway. However, the proposed development will not alter Mr. Listik's existing driveway in any way. This is an existing issue that the applicant is not required to remedy. If and when Mr. Listik or some future owner chooses to redevelop Mr. Listik's property access can be provided by the extension of River Rock Drive. This roadway is currently at a higher elevation than Mr. Listik's property, but future development on Mr. Listik's property will likely require placement of fill to

elevate the development above the 100-year floodplain, which will allow for extension of this existing roadway.

10. The examiner finds that the proposed development makes adequate provision for off-street parking. WMC 17.56.050(E)(2) requires the applicant to provide 405 parking spaces to serve the proposed apartment development.³ The applicant has proposed to provide 476 parking spaces, 17-percent more than the Code requires. Some of the additional parking spaces will be reserved for the public use to access the City park and on-site shoreline trail. However, the majority will be available for residents of the site and their guests. The City has no authority to require additional parking beyond the minimum requirements of the Code.

a. The applicant agreed to identify some of the extra parking spaces on the site, including ADA spaces, as public parking for persons using the park and shoreline trail. The applicant will install signs identify the specific spaces. (See Condition 10.c). The applicant will also install signs near the site entrance noting the public's right to, and hours of, access. The City will review the propose parking and signage through the final site plan review process. The City will be responsible for enforcement of the hours of operation as it is with other public parks.

b. Although the applicant is providing more parking than the Code requires, demand for parking may exceed the supply during peak times. Therefore, some residents or guests may park on streets in the neighborhoods north of the site. On-street parking is not reserved for the owners of adjacent properties. It is available to all members of the public for any legal use on a first come/first served basis.

c. The applicant is not required to install a marked crosswalk to facilitate pedestrians crossing Lewis River Road/SR-503. Gun Club Road aligns with the driveway of the church east of the site, creating an "intersection area" as defined by RCW 46.04.220 and an unmarked "crosswalk" as defined by RCW 46.04.160, where pedestrians may legally cross the street. WAC 132E-16-040(1) requires that oncoming drivers stop for such pedestrians. The examiner finds that this unmarked crosswalk provides a safe crossing for persons to access the site.

d. WAC 51-50-0429(2) requires that ten-percent of the parking spaces on the site be provided with electric vehicle charging infrastructure. In this case, that equates to 48 electric vehicle charging spaces, including one ADA accessible charging space. This is required by Condition 21.a.

11. The examiner finds that the proposed development complies with the parking location requirements of SMP 7.2.12.C, which provides:

³ WMC 17.56.050(E)(2) requires a minimum one and a half parking spaces for every one- or two-bedroom unit, and two parking spaces for every three or more bedroom unit. The applicant is proposing 198 one- and two-bedroom units and 54 three-bedroom units. Therefore, the applicant is required to provide 306 parking spaces: $(198 \times 1.5) + 54 \times 2 = 297 + 108 = 405$.

- C. Parking facilities are not a preferred use and shall be allowed only where necessary to support an authorized use. Parking facilities accessory to a permitted use shall be:
1. Set back as far as possible from the OHWM and outside shoreline jurisdiction where feasible;
 2. Located outside of critical areas and associated buffers where feasible; and
 3. Located on the landward side of the proposed development or use.

a. The proposed apartment development is a permitted use in the Residential shoreline designation. Parking facilities are necessary to support this authorized use. Therefore, the application complies with SMP 7.2.12.C.

b. The entire site is within the shoreline. Therefore, it is not feasible to locate the parking areas outside shoreline jurisdiction. The parking is proposed as far as possible, roughly 700 feet, from the OHWM of the river. As discussed below, it is not feasible to locate all of the parking areas further north. Therefore, the application complies with SMP 7.2.12.C.1.

c. All parking facilities are located outside of critical areas and associated buffers, in compliance with SMP 7.2.12.C.2.

d. All parking facilities are “Located on the landward side of the proposed development or use,” in compliance with SMP 7.2.12.C.3.

i. WMC 17.08.845 defines “use” as “[t]he purpose or activity for which the land, or building thereon, is designed, arranged or intended...”

ii. WMC 17.08.232 defines “development” as, among other things, “Any activity, other than a normal agricultural or forestry activity, which materially affects the existing condition of land or improvements, such as: 1. Substantial excavation or deposit of earth or other fill...” “substantial excavation or deposit” means the movement of more than fifty cubic yards of earth or other fill, occurring within any twelve-month time period...”

iii. The Code does not define the term “landward.” Therefore, the word should be given its “common and ordinary meaning... To determine the plain meaning of an undefined term, we may look to the dictionary.” *Estate of Hazelwood v. Bremerton Ice Arena, Inc.*, 166 Wn.2d 489, 210 P.3d 308 (2009). (Internal citations omitted). The dictionary defines “Landward” as “to or toward the land.” “Landward.” *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/landward>. Accessed 24 May. 2023. Therefore, the examiner finds that SMP 7.2.12.C.3 requires that the “development or use” must be located between the parking area and the river.

iv. The examiner finds that the “use” in this case is the proposed apartments, as that is “[t]he purpose or activity for which the land, or building thereon, is

designed, arranged or intended...” WMC 17.08.845. However, the “development” includes the roughly 150,000 cubic yards of excavation proposed on the southern portion of the site, placement of that fill in the northern portion of the site, and construction of the apartments and other improvements on the site, including the proposed stormwater facilities south of the apartments, as well as the frontage improvements within the Lewis River Road/SR-503 right of way.

v. As the courts have noted, the term “or” may be used to indicate an “inclusive disjunctive” where one or more unlike things can be true, citing the dictionary example of “wolves [or] bears are never seen in that part of the country.” *Lake v. Woodcreek Homeowners Ass'n*, 169 Wash.2d 516, 528, 243 P.3d 1283, 1289 (2010). However, “or” may also be used to indicate an “exclusive disjunctive” where one or the other can be true, but not both, citing the dictionary example of “will you have tea [or] coffee.” *Id.* In this case the examiner finds that the City Council intended to use the inclusive disjunctive form of “or,” as parking may be located landward of the development or the use or both.

vi. The examiner finds that this provision does not require that parking areas be located landward of all development on the site, as such an interpretation would result in a nonsensical result. As noted above, the term “development” includes required frontage improvements on the north boundary of the site. It is impossible to locate parking areas landward of the frontage improvements located on the north boundary of the site. Therefore, the examiner finds that SMP 7.2.12.C.3 only requires that all parking areas be located “landward” of some portion of the “development.” Based on the applicant’s site plans, the majority, but not all, of the parking is located “landward” of the use (the apartments) but all of the parking is located “landward” of the most riverward portion of the development, the proposed excavation and stormwater facilities. Therefore, the examiner finds that the application complies with SMP 7.2.12.C.3.

12. The proposed development provides required public access to the shoreline.

a. The applicant is proposing a residential development of more than four (4) dwelling units. Therefore, SMP 6.5.A.1.c requires the applicant to provide “public access” to the shoreline.

b. “Public access” is defined as “Physical and/or visual approach to and along the shoreline available to the general public.” SMP 2.0. The public access provisions “are intended to protect the ability of the general public to reach, touch, and enjoy the water’s edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.” SMP 6.5.A.1. However, such access must be “Located and designed to be compatible with the natural shoreline character, to avoid adverse impacts to shoreline ecological functions, and to ensure public safety.” SMP 6.5.B1.a.

b. The goal of the public access provisions is to “Increase the general public’s ability to safely enjoy the publicly owned shorelines in the City of Woodland and ensure that public access will not encroach upon the rights of private property owners

and will not adversely affect fragile natural areas.” SMP 4.6.1. SMP 4.6.2 provides the following policies regarding public access to the shoreline:

- a. Public access should be provided consistent with the existing character of the shoreline and with consideration of opportunities and constraints for physical and visual access, as well as consideration of ecological functions and public safety.
- b. Public access to and along the water's edge should be available throughout publicly owned shoreline areas, although direct physical access to the water's edge may be restricted to protect shoreline ecological values.
- c. Future developments and redevelopments shall not adversely affect existing public access and should provide new opportunities for the public to reach, touch and enjoy the water's edge.
- d. Locate, design, and maintain public access development in a manner that enhances the natural environment.
- e. As opportunities and funds arise, purchase, or otherwise make available to the public, shoreline properties if their value for public use merits such action.
- f. Existing highway and road corridors along shorelines should better accommodate public access to the shoreline and provide safe overcrossings to shoreline public access facilities.
- g. Coordinate with local, state, and federal agencies to ensure shoreline public access is consistent with regional parks recreation, open space and trails plans.
- h. Respect and protect private property rights when considering public access in development.

c. The proposed development will provide public access in the form of “visual approach to and along the shoreline” and opportunities “[t]o view the water and the shoreline from adjacent locations” via the proposed trails on the site and within the City park property. The applicant cannot provide physical access to the water, as the site does not abut the Lewis River. In addition, there is a roughly 300-foot wide Category II Riverine Wetland located between the site and the river, which also precludes access to the water. A trail through the wetland to the water would impact the ecological values of the wetland and adversely this affect fragile natural area. SMP 4.6.2.b provides that “[d]irect physical access to the water's edge may be restricted to protect shoreline ecological values.”

13. The applicant proposed to provide roughly 0.55 miles of pedestrian trails within the site. The primary trail consists of a 20-foot wide gravel access drive/trail extending south from the parking lot along the east boundary of the site before turning west to intersect the City park property. The applicant proposed to extend this pathway through the park and onto the western portion of the site as an eight-foot wide gravel path, ending in a loop near the west boundary of the site. The applicant also proposed to

create an eight to ten-foot wide wood chip path within the City park site.⁴ This path is proposed as a loop extending to the north and south of the east-west gravel path. Portions of the southern wood-chip path extend into the buffer of the offsite Category II Riverine Wetland. The entire gravel trail and the northern loop of the wood-chip path will be located outside of the wetland buffer. (Exhibit A at 5).

a. Appendix B, subsection 5.5.J of the SMP lists uses permitted in wetland buffer areas. Subsection 5.5.J.2 allows “Walking paths or trails located within the outer 25% of the buffer area” and only “When demonstrated that there is no feasible location outside of the buffer...”

b. The examiner finds that the portion of the wood-chip trail extending beyond the outer 25-percent of the buffer area is prohibited. The fact that the proposed trail alignment will increase access to the shoreline and reduce impacts to the buffer are irrelevant. The plain language of this section of the SMP prohibits trails within wetland buffers unless there is no feasible location outside of the buffer. When there is no feasible location outside of the buffer, trails are only allowed within the outer 25-percent of the buffer. The plain language of the Code prohibits any trails extending beyond the outer 25-percent of the buffer.

c. The examiner finds that the portion of the wood-chip path south of the east-west gravel, extending into the wetland buffer is unnecessary and may be deleted. The proposed east-west gravel path and the northern loop of the wood-chip path provide required public access to the shoreline in a location entirely outside of the wetland buffer. Therefore, the southern loop within the buffer is prohibited because there is a feasible location outside of the buffer for public access to the shoreline. Condition of approval 9.g should be modified to that effect.

d. Although the proposed southern loop would enhance public access to the shoreline by providing a longer trail length and enhanced views of and proximity to the river, the shoreline policy of SMP 4.6.2.a requires that such access must be balanced against the need to protect the ecological functions of the shoreline, which includes the wetland buffer. In this case, the potential environmental impacts to the wetland buffer outweigh the benefits of the southern trail loop.

14. The examiner finds that the proposed development makes adequate provision for parks. By paying park impact fees, the proposed development adequately provides for parks as a matter of law. The applicant will also provide a pool, gazebo, playground club house and open space on the site to accommodate the recreational needs of residents of the site. The applicant also proposed certain improvements to the City park property as a courtesy to the City. The applicant is not seeking park impact fee credit in exchange for the park improvements or the on-site amenities.

a. The location of the park, in the shoreline and floodway, limit the type of improvements the applicant and the City can provide. Restrooms, basketball courts, and

⁴ The applicant’s site plan (Exhibit A at 5) shows an eight-foot wide path within the park. Exhibit AG describes a ten-foot wide path. Appendix B, subsection 5.5.J.2.a of the SMP allows a maximum ten-foot width for public trails.

other permanent aboveground structures are generally prohibited in the floodway and paved pathways are prohibited in the shoreline. SMP 6.5.B.requires that public access comply with ADA requirements “when feasible.”

b. The City could require developers to dedicate land for parks rather than paying park impact fees. However, parks created through development dedications tend to be small and isolated, as the size of the parks must be proportional to the impact of the particular development. Park impact fees allow the City to aggregate funds from multiple developments to purchase and develop larger contiguous properties in locations where there is the greatest need for parks.

15. The examiner finds that a shoreline variance is not required for this development. The applicant removed the proposed basketball court within the City park property and the proposed stormwater facilities are a permitted use in the shoreline.

a. The City’s SMP allows “Utilities” as a permitted use in Shoreline Environments other than the Aquatic Environment, subject to footnote 5, which provides “Gas or oil transmission lines greater than 6 inches in diameter, electrical transmission lines greater than 50kv, and structural utility buildings, such as pump stations, electrical substations, dams, or other facilities, require a SCUP.” (SMP Table 7-1). The proposed stormwater facilities are not one of the facilities listed in Footnote 5 nor are they similar to any the listed uses. Therefore, the examiner finds that footnote 5 is inapplicable.

b. The examiner further finds that the proposed stormwater facilities are a “utility” that is permitted use in the shoreline environment. SMP 2.0 provides, in relevant part:

Utilities - Services and facilities that produce, convey, store, or process power, water, wastewater, stormwater, gas, communications, oil, and the like. On-site utility features serving a primary use, such as water, sewer, or gas line to a residence, are "accessory utilities" and shall be considered a part of the primary use.

i. The proposed stormwater facilities do not constitute “accessory utilities” as they are not a “[w]ater, sewer, or gas line to a residence...” nor are they similar to any of these uses. The facilities are intended to serve the entire development, not a single residence. However, the stormwater facilities are “utilities” as they are intended to store and process (treat) stormwater.

c. This consistent with SMP 6.7.B, which requires that “[s]tormwater management structures including ponds, basins, and vaults shall be located outside of shoreline jurisdiction and fish and wildlife habitat buffers...where possible.” By implication, “stormwater management structures” are allowed in the shoreline jurisdiction when it is not possible to locate such facilities outside of the shoreline. In this case, the entire site is located within the shoreline. Therefore, it is not possible to locate the stormwater facilities outside of the shoreline and the facilities must be allowed in the shoreline.

16. The examiner finds that groundwater elevations on the site will not impact the storage capacity of the stormwater facility. As discussed in Exhibit AH, the applicant dug additional test pits on the site on April 11, 2023, which is near the end of the rainy season when groundwater will be at its highest. No groundwater was encountered in the test pits, which extended 13 to 14 feet below the ground surface, seven to eight feet deeper than the proposed treatment wetlands.

17. The applicant is not required to fence the stormwater facilities. WMC 15.12.100.C(1) requires fencing around “Stormwater treatment and runoff control facilities located in or adjacent to residential areas...” However, this section provides an exception where “[t]he city waives the fencing requirement due to special circumstances. The City waived the fencing requirement in this case because the stormwater facility is located in the floodway where fencing is prohibited. The stormwater facilities will not pose a significant hazard, as the slopes on the sides of the wetland treatment pond will not prevent anyone who jumped or fell in from climbing out. The examiner finds that the stormwater facilities pose no greater risk of drowning than the nearby Lewis River.

18. The applicant agreed to upgrade the existing six-inch water line along the site’s Lewis River Road frontage to an eight-inch line. (June 1, 2023 email from Luke Sasse). The City concluded that this improvement is sufficient to ensure the long-term feasibility of the water system serving the proposed development and is proportional to the development’s impact on the general water system. A hydraulic study is not required and condition of approval 41 should be deleted. (June 1, 2023 email from Mr. Lukaczer).

19. The examiner finds that the proposed drive aisles are adequate to meet fire code requirements. As discussed in Exhibit AL, Section D105.1 of the International Fire Code (the “IFC”) requires aerial fire apparatus access roads when the eaves of the building are more than 30 feet above grade. The applicant agreed to a condition limiting the height of the building eaves to no more than 30 feet. As conditioned, this standard is met.

20. The applicant proposed to excavate roughly 150,000 cubic yards of soil from the southern portion of the site and place it on the northern portion in order to elevate the residential buildings above the 100-year floodplain. The applicant will balance the volume of cut and fill within the floodplain to ensure that the development results in no net rise in the 100 year flood elevation. The applicant agreed to provide an “no net rise” certification prepared by a professional engineer. A condition of approval is warranted to that effect.

a. Mr. Kryger questioned the applicant’s estimate of the volume of cut and fill required. However, the applicant’s estimates are based on the expert analysis by the applicant’s engineers after analysis of the existing topography of the site. Mr. Kryger failed to provide evidence to support his dispute of the applicant’s estimate.

b. The applicant will be required to place and compact the fill material on the site to ensure that it is stable and capable of supporting the proposed development.

The City will ensure proper compaction and construction through its review of building and engineering permits for this development.

21. Clearing and development on this site will eliminate habitat for wildlife, including birds, deer, and coyotes. But the Code does not prohibit such an effect. To the contrary, it is an inevitable consequence of concentrating new development in the urban area. The applicant will replant the southern portion of the site with a variety of native tree, shrub, and groundcover species, creating higher quality, more diverse wildlife habitat on the site, ensuring that the proposed development results in “no net loss” of habitat function.

22. Neighbors argued that the proposed development will exceed the capacity of schools in the area. The City considered school capacity when it adopted the zoning for this site. The proposed development density is consistent with the current zoning. This development will have an impact on the school district. However, by paying school impact fees, the proposed development adequately provides for schools as a matter of law. Although the schools serving this site may be approaching capacity, the school district is required by law to accommodate students who live there. The district can adjust attendance boundaries and practices as necessary to fulfill student needs.

a. The school district has exclusive jurisdiction to determine the location of bus stops. However, a bus stop on Lewis River Road/SR 503 will not create a hazard as drivers can activate their lights and signage that require oncoming traffic to stop, allowing students to safely cross the street, if needed.

23. The examiner understands residents’ displeasure with the proposed development, but this development was foreseeable and is in the broader public’s interest. The site is located within the city’s Urban Growth Area (“UGA”) and zoned for high density urban development. As large lots are sold, presumably they will be developed to the maximum extent allowed.

a. Even if the proposed development will have an adverse impact on property values --- and there is no substantial evidence to that effect in the record --- protection of property values and consistency with adjoining development are not relevant to the applicable State or City standards.

b. There is no dispute that the proposed development will impact existing views from and the privacy of adjacent residences. What is now largely an open field will be developed with 252 new apartment units in nine three-story buildings. But the Code does not prohibit development from having an impact on views and privacy. The intensity of the proposed development is consistent with the current zoning of the site.

24. The proposed development will attract additional people to the immediate area, which may increase the amount of trespass, litter, vandalism, and other illegal activities. However, there is no substantial evidence in the record that the future residents of this development are any more or less likely to engage in nuisance or illegal activities than other people.

25. It was argued that Conditions, Covenants, and Restrictions (“CC&Rs”) that apply to surrounding developments should be imposed on this development as well. However, CC&Rs are the result of a private agreement. In the absence of specific authority to do so, the City cannot require parties to enter into such an agreement nor enforce them. The examiner has no authority to require CC&Rs for this development except as necessary to comply with the law. No law requires the applicant to adopt CC&Rs that apply to surrounding developments.

a. The proposed development is subject to Code provisions regulating noise, property maintenance, inoperable vehicles, and other “nuisances.”

26. Mr. Listek questioned the easements on the west portion of the site. As shown in the applicant’s preliminary site plan, there is an existing 30-foot wide stormwater easement located roughly 60 feet east of the west boundary of the site. That easement will remain. In addition, as discussed above, there is an existing 30-foot road and utility easement on the west boundary of Parcel 5065201 and a 60 foot road and utility easement on the south boundary of Parcels 5065201, 506520300, 506520400, and 506520500. The applicant proposed to eliminate these existing easements in exchange for a new easements along the east boundary of the site, between the east boundary of the site and the east boundary of the park property, and between the west boundary of the park property and the west boundary of the site for the proposed on-site path. The proposed path will end some distance east of Mr. Listek’s property. The easements will have no impact on Mr. Listek’s property.

27. Mr. Morasch requested the examiner delete that portion of condition 5.b requiring water supply cross-connections, as no cross-connections are required for this development. It appears Mr. Morasch is correct that no “cross-connections” as defined by WMC 13.28.010 are required. However, the examiner finds that it is better to retain this condition in the event cross-connections are included in the final design. If such cross-connections are not required, than the applicant has complied with that portion of this condition.

D. CONCLUSION

Based on the findings and discussion provided or incorporated herein, the examiner concludes that File No. SSD-23-001, CAP-23-001, SPR-23-003, and SEP-23-005 (Lewis River Apartments) should be approved, because the application does or can comply with applicable standards of the WMC, provided it is subject to conditions that ensure timely compliance in fact with the WMC and relevant Shoreline Management Master Program Policies incorporated by reference in the Staff Report and Supplemental Staff Reports.

E. ORDER

The Hearing Examiner APPROVES File No. SSD-23-001, CAP-23-001, SPR-23-003, BLA-23-001, and SEP-23-005 (Lewis River Apartments) Site Plan, SEPA, Critical Areas, Boundary Line Adjustment and Shoreline Substantial Development Permits subject to the following conditions of approval:

CONDITIONS OF APPROVAL

1. The following impact fees have been estimated based on the preliminary application and will be due at time of building permit issuance and are subject to change:
 - a. School District Impact Fees:
 - i. Multi-Family:
 1. One Bedroom Units (Up to 800 SF): \$2,000/Unit x 0 units = \$0.00
 2. Two and Three Bedroom Units: \$5,900/Unit x 252 Units = \$1,486,800
 3. Estimated total School District Impact Fees: \$1,486,800.
 - b. Fire Impact Fees:
 - i. Multi-Family: \$359,352 (\$1,426/unit)
 - c. Park/Recreation Impact Fee:
 - i. Multi-Family: \$209,412 (\$831/unit)
 - d. Transportation Impact Fees:
 - i. Multi-Family: \$130,929.12 (\$519.56/unit)
2. Pay all impact fees when building permits are issued per WMC 3.42.
3. All improvements in the public right-of-way shall be completed in accordance with City of Woodland standards per Title 12.
4. Provide a Final Landscaping plan prepared by a licensed landscape architect alongside civil engineering submittal that meets the following conditions:
 - a. The final landscaping plan shall indicate that street trees will be provided along the Lewis River Road (SR 503) frontage by the applicant and/or their designee.
 - b. All trees identified in the landscaping plan must identify their caliper size at the time of planting measured at four feet above grade.
 - c. All street trees identified on the final landscaping plan must have a caliper measurement of at least two inches at the time of planting.
 - d. Add a note to the final landscaping plan that acknowledges that the property owner is responsible for permanently maintaining on-site landscaping in a neat and orderly condition per WMC 17.20.090 (B).
 - e. Add a note to the final landscaping plan that street trees shall be maintained in a manner consistent with WMC 12.28.060.
 - f. Trees shall be selected from the City's approved street tree list whenever possible. The approved street tree list may be found on the City's website here: <https://www.ci.woodland.wa.us/publicworks/page/street-trees>.
5. Provide a final engineering plan set for Civil review that includes updated utility plan(s) that demonstrates compliance with the following conditions:

- a. Construct proposed utilities in accordance with applicable WMC and upgrade the existing six-inch waterline along applicant's frontage for the development to an eight-inch water line at the time of the development of the first phase.
- b. Comply with water supply backflow and cross-connections requirements of WMC 13.28.
- c. The fire mains shall be public mains with a 15-foot-wide easement to the City.
- d. Pay all water and sewer connection fees and assessments at time of connection.
6. Provide a final engineering plan set for Civil review that includes a final erosion control plan that demonstrates compliance with the following conditions:
 - a. Install and maintain on-site erosion control throughout the duration of construction of the project.
 - b. A fill & grade and NPDES permit will be required.
7. Provide a final stormwater TIR alongside civil engineering submittal that demonstrates compliance with the WMC and engineering standards. Final stormwater TIR shall address the City's comments as outlined within Finding 65 of this report:
 - a. Per Woodland Municipal Code 15.12, the City of Woodland follows the 1992 Puget Sound Manual. If the applicant chooses to utilize the design practices and guidelines in the newer versions of the SWMMWW, all elements of the design for this project must meet the current Ecology manual.
 - b. Ensure the contents of the final TIR includes all information as outlined in Section 15.12.180 of the woodland municipality code.
 - c. Provide conveyance calculations for all storm pipes. The City of Woodland requires the conveyance system to be designed for the 100-year storm event.
 - d. Appendix B, Figure III-1.1 Runoff Treatment BMP Selection Flow Chart shows Enhanced Treatment is not required for this project. Per current SWMMWW, Section III-1.2 Choosing Your Runoff Treatment BMPs Step 5, enhanced treatment is required for Multifamily residential project sites.
 - e. Per the current Ecology manual, flow control is not required for TDAs that discharge directly to, or indirectly through an MS4 to a water listed in Appendix I-A: Flow Control Exempt Receiving Waters. The TDA must be drained by a conveyance system that is comprised entirely of man-made conveyance elements and extends to the ordinary high-water line of the exempt receiving water. The conveyance system between the TDA and the exempt receiving water shall have sufficient hydraulic capacity to convey discharges from the site, and the existing condition from contributing off-site areas.
 - f. Sheet 6/12 of the preliminary plans calls out a wetpond. Sheet 7/12 calls out a stormwater treatment wetland. The TIR provides calculations for a two-cell stormwater treatment wetland. Provide more detail in final design regarding the stormwater treatment for this project.
8. Applicant shall apply for a floodplain development permit alongside building permit submittal and obtain approval of the floodplain development permit approved prior to construction of the proposed multi-family buildings. Application for a floodplain

development permit shall include the following information and documentation presented by a qualified professional:

- a. Elevation in relation to mean sea level, of the lowest floor of all structures;
 - b. Elevation in relation to mean sea level to which any structure has been floodproofed;
 - c. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 14.40.050(B)(2); and
 - d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.
 - e. Applicant shall provide acknowledgement of their project from FEMA.
 - f. Applicant shall provide building and site plans demonstrating compliance with WMC 14.40.050(B)(1)(b).
 - g. Provide a “no net-rise” certification by a registered professional engineer prior to beginning construction on the filled portion of the site.
9. Applicant is responsible for complying with the following conditions of approval related to their critical areas permit:
- a. Mitigation shall be implemented in accordance with the Woodland SMP and shall be implemented as presented within the approved mitigation plan.
 - b. Mitigation shall not be implemented until all applicable land use, shorelines, and building permits are approved and issued, and directly following the identified impact(s) to the shoreline environment (prior to construction of phase 1).
 - c. Applicant shall provide the City with a copy of the monitoring reports outlined within the approved Critical Area Report and Mitigation Plan. The monitoring plan shall be updated to specifically note this requirement. Provide the City of Woodland Community Development Department copies of such reports each time a periodic report is written.
 - d. Applicant shall delineate critical area boundaries present on site in accordance with survey standards.
 - e. Applicant shall identify the outer boundary of critical area buffers on the development site with brightly colored construction fencing and temporary signs prior to any site development.
 - f. Applicant is responsible for recording a deed restriction prior to final project approval stating that limitations to development may exist due to the presence of a critical area and/or buffer. This boundary shall be delineated with some type of permanent means.
 - g. Modify the pathway shown on the final site plan to only run within the outer 25% of the wetland buffer prior to construction, or eliminate the portion of pathway within the wetland buffer.
 - h. Modify the final site plan to remove the proposed basketball court from within the Riparian area and floodway, or apply for and gain approval for a shoreline variance to permit this structure from being constructed within the Riparian Habitat Area.

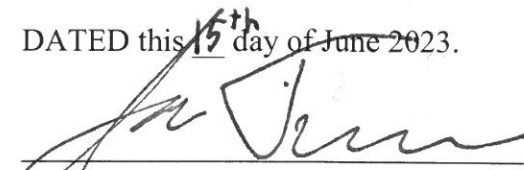
- i. Applicant shall provide an updated Critical Areas Report and Mitigation plan alongside the civil engineering noting that the contractor will be required to use the best management practices from the Washington State Department of Fish and Wildlife should a protected species be discovered on the site during construction. The same statement shall be noted on the provided final site plan.
10. Applicant is responsible for complying with the following conditions of approval related to their shoreline substantial development permit:
 - a. Applicant is responsible for recording an access easement along the public access to the shoreline, including both the pathway and associated parking lot.
 - b. Signage is required to indicate that the public has the right of access, providing hours of access, and all other relevant access. Signage should be at the public Right of Way and be identifiable from the street. Location of proposed signage is required to be included on the final site plan.
 - c. Identify public parking spaces on the final site plan and ensure that signage designating them as public parking spaces is provided at the time of construction.
 - d. Provide a lighting plan demonstrating compliance with the Woodland SMP, demonstrating that lighting will not illuminate nearby properties, public area(s), and/or critical areas, and that the proposed development will prevent glare.
 11. Provide a final photometric plan for both onsite lighting and proposed streetlights alongside civil review.
 12. Building plans shall comply with requirements for anchoring, construction materials and methods as required by WMC 14.40.050(A)(1-5).
 13. Provide final elevations alongside civil review submission that demonstrates compliance with the following land use conditions:
 - a. Provide architectural elevations of any mechanical equipment enclosure(s) providing full dimensions of proposed enclosure.
 14. Provide a final site plan alongside civil review submission that demonstrates compliance with the following land use conditions:
 - a. Modify proposed 'Building J' to demonstrate compliance with a required 20-foot front setback.
 - b. Demonstrates compliance with site distance requirements of WMC 17.20.070(L)(2).
 - c. Identifies the accessory structures attached to both 'Building A' and 'Building B.'
 - d. Identifies that cross-connection meeting CCFR and the City's standards are provided. The two separate parking lots shall be connected and emergency access should be available, however bollards or other access control solutions may be allowed.
 15. Applicant shall apply for, and gain approval of, a boundary line adjustment and/or lot consolidation bringing the proposed development into compliance with the five-foot side setback.
 16. Applicant and/or property owner is responsible for complying with the following conditions during the life of the development. Notes should be added to final site plan that:

- a. Applicant is responsible for applying for a Floodplain Confirmation Letter prior to building permit approval.
 - b. All exterior mechanical devices shall be screened from surrounding properties and streets and shall be operated in such a manner that they do not disturb the peace.
 - c. Front, rear, and side yards must be maintained in such a way that they remain unobstructed and free of debris during construction and throughout occupancy of the premises, outside of any exceptions listing within WMC 17.20.090(E).
 - d. Lighting shall not cast glare on to adjacent properties. Lighting shall not rotate, glitter, and/or flash per WMC 17.46.140.
 - e. Proposed signage will require a separate sign permit and must comply with WMC Chapter 17.52.
 - f. The applicant will be responsible for ensuring that their operation is complying with all performance standards of WMC 17.48 (hazards and nuisances including sound level, vibration, air emissions, smoke, dust, odors, industrial wastes, fire hazards, heat, glare, radioactivity and radio transmitters).
17. Provide architectural elevations of all proposed trash enclosure(s) and specifications of all container(s) proposed, including capacity, dimensions, and height of proposed receptacle, as well as dimensions and height of screening measures proposed.
 18. Provide final photometric plan demonstrating compliance with WMC 17.36.130(Q) and RCW 47.36.180.
 19. Submit site plan to CCFR for review. Include any required revisions with the civil engineering submission. All work subject to field inspection and correction as identified at the time of the on-site inspection; all work shall be compliant with the applicable standards and codes; to include the adopted edition of the International Fire Code and the City's Municipal Code.
 20. Building/construction plans must be submitted to CCFR separately, along with fire alarm and/or fire sprinkler alterations. It is the responsibility of the applicant to comply with any and all conditions placed upon the development by CCFR as the City of Woodland will not approve any proposed development without CCFR approval.
 21. Comply with all comments provided by Townzen & Associates, including demonstrating compliance with the following IBC code sections and conditions:
 - a. IBC Section 429: Electrical Vehicle Charging Infrastructure;
 - i. Forty-Eight EV Spaces are Required;
 - ii. One accessible EV space is required;
 - iii. Identify all EV and Accessible EV spaces on Site Plan;
 - b. IBC Sec 1106.5: For every six or fraction of six accessible parking spaces, at least one shall be a van-accessible parking space.
 - c. WSEC Sec C411: Solar Readiness will only apply to the office/clubhouse for this project.
 - d. All Geotech recommendations and requirements will be required to be implemented into the design of the structures.

22. Applicant is required to install a RPBA (Reduced pressure backflow assembly) on the connection(s) to the City water supply. Call this out on provided utility plan(s) submitted for civil review.
23. It is the applicant's responsibility to comply with the provided comments regarding solid waste management and water quality/watershed resources and/or acquire any relevant permits based on provided comments from the Department of Ecology. Shoreline and critical area(s) comments have been addressed in separate conditions of approval (See Condition # 9).
24. Provide the City and the Washington State Department of Archaeology & Historic Preservation an archaeological Report meeting DAHP's Standards for Cultural Resource Reporting prior to any land disturbing activities.
25. The location, alignment, and design of all driveway access to the site shall be acceptable to the City and WSDOT. The applicant shall modify the access to comply with the following:
 - a. Applicant shall remove the eastern access to the site or provide a shared access with the church property to the west that aligns with Gun Club Road.
 - b. Applicant shall either relocate the western (primary) access to line up with the Insel Road intersection, or find an alternative alignment acceptable to the City and WSDOT. The westernmost access shall include an eastbound right-turn/deceleration lane.
 - c. Applicant shall provide access to parking areas for the park via a full-access intersection that allows in-bound and out-bound left turn movements.
 - d. Install center median curbing or other measures to prevent left turn movements out of the site at the location of any right-in/right-out access point(s).
26. Frontage improvements and sidewalks consistent with applicable City standards shall be provided along the entire frontage of the property, including going around the Williams pipeline property. The applicant shall transition on-site frontage improvements to meet existing improvements on abutting properties.
27. The applicant is responsible for all permits and/or approvals required by WSDOT, including review(s) of right of way dedication, stormwater treatment of runoff in the right of way, street design, and materials utilized. WSDOT design approval is required prior to Civil Approval.
28. The applicant is responsible for submitting their development plans to Northwest Pipelines, LLC for review and approval prior to civil approval.
29. Applicant shall provide the size and dimensions of all trash receptacles proposed alongside civil review application.
30. Applicant is responsible for submitting a revised site plan alongside proposed final civil engineering plan(s) at Civil Review. Civil review packet should include all documents required to document the applicant's compliance with listed conditions of approval, as well as all revised engineering plans reflecting provided engineering comments. The civil review application can be found: <https://www.ci.woodland.wa.us/planning/page/civil-review-submission>.

31. Following final, civil review and engineering approval, submit two (2) copies of full sized and one (1) copy of reduced size (11" x 17") of the approved civil plans (including the final site plan and landscaping plan). In addition, submit an electronic version of the approved plans including AutoCAD and .pdf formats.
32. Applicant shall provide responses acknowledging conditions of approval.
33. No permits and construction pursuant to such permit shall begin or be authorized and no building, grading, or other construction permits and/or use permits shall be issued by the City until 21 days from the date an SSDP was filed with Ecology and the attorney general, or until all review proceedings are completed as were initiated within the 21 days of the date of filing.
34. Construction must commence within two years of permit issuance, or the Shoreline Substantial Development Permit shall be terminated.
35. Shoreline Substantial Development Permit expires in five years unless a request in writing for an extension is provided and approved. An updated phasing proposal demonstrating compliance with a five year expiration of the SSDP.
36. Payment shall be made to the City for any outstanding Professional Consulting Services per WMC 19.02.110.
37. Prior to recording the Declaration altering the Short Plat of Lewis River Tracts recorded at Book 8, Page 53 on November 23, 1994 to delete the 30 foot road and utility easement on the west boundary of the plat and the 60 foot road and utility easement on the south side of the plat, the applicant shall record a new easement in a form and location that is mutually agreed on by the applicant and the City that provides suitable alternative access to the City park land.
38. Per Section D105 of the IFC, the height of the eaves shall not exceed 30 feet above grade unless the applicant widens the fire access roads to 26 feet.
39. Prior to recording the Declaration altering the Short Plat of Lewis River Tracts recorded at Book 8, Page 53 on November 23, 1994 to delete the 30-foot road and utility easement on the west boundary of the plat and the 60-foot road and utility easement on the south side of the plat, the applicant shall record a new easement in a form and location that is mutually agreed on by the applicant and the City that provides suitable alternative access to the City park land.

DATED this 15th day of June 2023.



Joe Turner, AICP
City of Woodland Hearing Examiner

NOTE: Only the decision and the conditions of approval are binding on the applicant as a result of this order. Other parts of the final order are explanatory,

illustrative and/or descriptive. They may be requirements of local, state, or federal law, or requirements which reflect the intent of the applicant, the city staff, or the Examiner, but they are not binding on the applicant as a result of the final order unless included as a condition.

APPEAL

Any person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state pursuant to RCW 90.58.140 may seek review from the shorelines hearings board by filing a petition for review within twenty-one days of the date of receipt of the decision as provided for in RCW 90.58.140(6). WMC 19.08.030.

The portion of this decision approving the site plan application, boundary line adjustment, critical area permit, and SEPA may be appealed to Clark or Cowlitz County superior court within twenty-one calendar days after written notice of the decision is sent. WMC 17.81.150.A.