

Staff Report

TO: Clark County Planning Commission
FROM: Oliver Orjiako, Director
PREPARED BY: Matt Hermen, AICP, Planner III
DATE: November 15, 2018
SUBJECT: CPZ2018-00021 AMENDMENT OF COMPREHENSIVE PLAN
AND ZONING MAPS TO REMOVE URBAN HOLDING OVERLAY–
PHASE 2

PROPOSED ACTION

Three property owners are requesting the removal of the urban holding overlay on the comprehensive plan and zoning maps for six properties identified by account numbers 181581000, 181548000, 181466000, 181580000, 181701000, and 181702000. The urban holding removal is associated with a development agreement that will be required to be approved concurrently with this comprehensive plan and zoning map amendments.

BACKGROUND

Six properties are proposed for the removal of the urban holding overlays are identified by the account numbers 181581000, 181548000, 181466000, 181580000, 181701000, and 181702000; a total of approximately 143 acres. Together, the six properties are included in the Mill Creek Planned Unit Development Master Plan, proposed for development by the applicant of this Comprehensive Plan and Zoning amendment, Holt Homes. Two properties are currently vacant without any structures on the land. Properties 181581000, 181548000, 181466000, and 181701000 each have one existing single family residence on the land. The proposed development of the properties would include 606 single family homes and 99 townhomes, generating 657 vehicular trips in the PM peak hour.

The urban holding overlay is placed on property when it is brought into the urban growth boundary. It protects areas from premature land division and development that would preclude efficient transition to urban development or large-scale industrial development. The urban holding overlay is implemented by the Urban Holding-10 (UH-10) zoning overlay district. Removal of the urban holding overlay must be in accordance with the special implementation procedures provided for in Comprehensive Plan Chapter 14, Procedure Guidelines. Designation and removal of the overlay is through a Type IV process.

The Comprehensive Plan identifies criteria that must be met in order to remove the urban holding overlays and authorize the implementation of the underlying urban zone. The county may remove the UH overlays from appropriate areas of sufficient size that the county can collect transportation related data, analyze the cumulative transportation impacts, and address mitigation to these impacts. The urban holding overlay designation may be removed from the subject properties pursuant to Clark County Code 40.560.010(G) upon satisfaction of the following:

- **West Fairgrounds and East Fairgrounds:** Determination that the completion of localized critical links and intersection improvements are reasonably funded as shown on the county 6 year Transportation Improvement Plan or through a development agreement.

The urban holding plan map and zoning overlays were applied to the West Fairgrounds and East Fairgrounds areas in 2004 and 2007 with the expansion of the Vancouver Urban Growth Area. The urban holding overlay was placed on the land because the transportation infrastructure lacked adequate capacity to accommodate urban level development. In 2008, the County approved a circulation plan for the areas that would distribute urban traffic efficiently to regional transportation facilities. In 2016, the Washington State Legislature awarded \$50 Million to the Washington Department of Transportation for improvements at the I-5/179th St. Interchange. The Legislature allocated the \$50 million for the state's biennial budget in 2023-25. The improvements needed on the Clark County's transportation system are identified in the 2015-2035 Comprehensive Plan [Page 296]. This includes NE 179th St. from Delfel Rd. to NE 15th Ave., NE 15th Ave. from NE 179th St. to NE 10th Ave., and the intersection of NE 29th Ave. and NE 50th Ave. at NE 179th St.

The criterion for removing the urban holding overlays in the West and East Fairgrounds neighborhood provides two instruments for reasonably funding localized critical links and intersections improvements: the 6-year Transportation Improvement Program (TIP) or a development agreement. On October 23, 2018, the Clark County Council adopted the 2019-2024 TIP [Exhibit 1]. The TIP identifies prioritized transportation projects and proposed funding for design, property acquisition and construction during the next six years. Projects that are scheduled for completion of construction within the six year TIP are identified as reasonably funded. The projects, identified in the Comprehensive Plan and the previous paragraph, that build additional capacity for urban density development to occur through the removal of the urban holding overlays are not reasonably funded in the 2019-2024 TIP. The TIP is currently forecasting the cost to complete capacity improvements on NE 179th St. from Delfel Rd. to NE 15th Ave. at \$10,387,000, and NE 15th Ave. from NE 179th St. to NE 10th Ave. at \$1,642,000. The two projects, combined, have a shortfall of \$12,029,000, based on the TIP. No funding has been identified for intersection improvements of NE 29th Ave. and NE 50th Ave. at NE 179th St.

Because the TIP does not ensure reasonable funding for the critical links and intersection improvements, a development agreement (DA) providing that ensurance is necessary for urban holding to be lifted. The DA would need to obligate one or more developers and/or the County to either build or finance the critical links and intersection improvements for urban holding to be lifted and urban development to proceed. The draft DA associated with this proposal seeks to remove the urban holding overlays, reserve transportation capacity for the future development of the six specific parcels, contribute financially to Clark County transportation projects and to provide certain improvements to increase the transportation capacity in the immediate area of the six parcels.

GENERAL INFORMATION

Parcel Numbers: 181581000, 181548000, 181466000, 181580000, 181701000, and 181702000

Location: The 6 parcels are located west of NE 50th Avenue, north of NE 179th Street, south of NE 192th Street and west of Whipple Creek.

Area: Approximately 143 acres

Owners: Birchwood Farms LLC
Zilke Wilfred & Zilke H Marjorie
Zilke Wilfred N Trustee
Webb Gary F Trustee

Exiting Land Use: 181581000, R1-7.5, Urban Low Density Residential, Developed - SFR
181548000, R1-7.5, Urban Low Density Residential, Developed - SFR
181466000, R1-7.5, Urban Low Density Residential, Developed - SFR
181580000, R1-7.5, Urban Low Density Residential, Undeveloped
181701000, R1-7.5, Urban Low Density Residential, Developed - SFR
181702000, R1-7.5, Urban Low Density Residential, Undeveloped

SUMMARY OF PUBLIC INVOLVEMENT PROCESS

A draft of the proposed changes to the Comprehensive Growth Management Plan 2015-2035 Map and zoning map were sent to the Department of Commerce on May 21, 2018 in compliance with RCW 36.70A.106. A Notice of Determination of Non-Significance and SEPA Environmental Checklist were published in the Columbian newspaper on October 18, 2018. Property owners within 300 feet of the proposal were mailed a notice of the planning commission public hearing on October 30, 2018. A legal notice was published for the Planning Commission hearing on October 31, 2018. Two signs were posted at the location of the proposal, informing the public of the proposal, date and time of the Planning Commission's public hearing and instructions for obtaining further information. All public comments are included in the Planning Commission Hearing binder.

APPLICABLE CRITERIA, EVALUATION AND FINDINGS

CRITERIA FOR COMPREHENSIVE PLAN MAP CHANGES [CCC 40.560.010(G)]

- A. ***The proponent shall demonstrate that the proposed amendment is consistent with the Growth Management Act (GMA) and requirements, the countywide planning policies, the Community Framework Plan, Clark County 20-Year Comprehensive Plan, city comprehensive plans, applicable capital facilities plans and official population growth forecasts.***
[CCC40.560.010(G)(1)].

Growth Management Act (GMA)

The GMA goals set the general direction for the county in adopting its framework plan and comprehensive plan policies. The GMA lists thirteen overall goals in RCW 36.70A.020 plus the shoreline goal added in RCW 36.70A.480(1). The goals are not listed in order of priority. The GMA goal that applies to the proposed action is Goal 12.

Goal 12 speaks directly to public facilities and services to “ensure that those public facilities and services necessary to support development shall be adequate to serve the

development at the time the development is available for occupancy and use without decreasing current service levels below established minimum standards.” [RCW 36.70A.020(12)].

As part of the requirement to develop a comprehensive plan, jurisdictions are required to establish level-of-service standards (LOS) for arterials, transit service, and other facilities. [RCW 36.70A.070(6)(a)] This introduces the concept of concurrency in the GMA, which requires that needed public facilities and services be in place, or officially planned and scheduled to be put into place, concurrent with new development. This concept requires cities and counties to establish explicit levels of service, or minimum threshold measures, to determine if particular service is adequately provided.

The urban holding overlays applied to subject properties exist due to the transportation infrastructure lacking adequate capacity to accommodate urban level development. New development applications which cause the minimum levels of service to be exceeded will not be approved unless improvements are made to correct the deficiency or unless corrective measures are scheduled and funded to occur within a locally established time frame, up to a maximum of six years. The GMA requires that at a minimum level-of-service standards be adopted for transportation.

Finding: Adequate transportation infrastructure, water service and sewer utilities are direct services needed for urban level development. The proposed comprehensive plan and zoning map amendments to remove the urban holding designation for approximately 143 acres will allow for a greater demand on the public facilities that serve more intense urban development. Clark Public Utilities and Clark Regional Wastewater District have demonstrated in the adopted Comprehensive Growth Management Plan that they have sufficient capacity to provide water and sewer service to the 143 acre area. The draft DA, which is processed concurrently with the urban holding overlay removals, thoroughly assessed the transportation infrastructure needed to serve the contemplated development in a Transportation Impact Analysis. The draft DA states, “to increase the County’s ability to fund and construct certain transportation improvements in the area which will provide systematic benefits in excess of the impacts that will be created through implementation of the Master Plan, Holt agrees to accelerate the manner in which Holt or a successor in interest to the Property would pay Transportation Impact Fees (TIFs).” The draft DA requires the developer to pay TIFs prior to plat approval, in order to accelerate the funding necessary to construct the needed capacity infrastructure improvements. TIFs are normally paid at the time of building permits. The amount of TIFs estimate based on the conceptual Master Plan is \$2,890,468, which is approximately \$9 million less than the “cost to complete” the necessary improvements identified in the 2019-24 TIP. The advance payment of TIFs does not ensure that the critical links and intersection improvements are reasonably funded.

Community Framework Plan

The Community Framework Plan (Framework Plan) provides guidance to local jurisdictions on regional land use and service issues. The Framework Plan encourages growth in centers, urban and rural, with each center separate and distinct from the others. The centers are oriented and developed around neighborhoods to allow residents to easily move through and to feel comfortable within areas that create a distinct sense of place and community. The Community Framework Plan policies applicable to this proposal include the following:

Goal 6.0 notes “the need for capital facilities to accommodate expected growth and establish policies to ensure that these facilities are available when development is occupied and to provide for the extension of public utilities to new development in a timely manner.” [Framework Plan, page 18] The following capital facilities and utilities policies apply to the proposed action:

6.1.0 Major public and private expenditures on facilities and services (including libraries, schools, fire stations, police, parks and recreation) are to be encouraged first in urban and rural centers.

6.1.1 Establish level-of-service standards for capital facilities in urban and rural areas. [Framework Plan, page 18].

These framework plan policies are implemented by Clark County Code 40.350.020 Transportation Concurrency Management System. The purpose of this section is to - establish levels of service for arterial and transit routes and ensure that such standards are met or reasonably funded before new development is approved.

Finding: The standards implemented in the Transportation Concurrency Management System are used to forecast projects that will be needed to serve future population growth. The transportation projects are identified in Comprehensive Plan’s Capital Facilities Plan (CFP). CFP projects that are associated with urban development in the urban holding overlay must be reasonably funded in the County’s TIP or through a development agreement for the urban holding overlays to be removed. This requirement ensures that transportation facilities are available when development is occupied. Clark County’s 2019-24 TIP does not demonstrate that the projects needed to serve urban development associated with this proposal are reasonably funded. The draft DA does not ensure that construction, or identified financing that reasonably funds the necessary improvements, are completed.

Countywide Planning Policies (CWPP)

The GMA, under RCW 36.70A.210, requires counties and cities to collaboratively develop Countywide Planning Policies (CWPP) to govern the development of comprehensive plans. The WAC 365-196-305(1) states “the primary purpose of CWPP is to ensure consistency between comprehensive plans of counties and cities sharing a common border or related regional issues. Another purpose of the CWPP is to facilitate the transformation of local governance in the urban growth areas, typically through annexation to or incorporation of a city, so that urban governmental services are primarily provided by cities and rural and regional services are provided by counties.”

Policy 6.0.3 states, “Public facilities and utility services shall be planned so that service provision maximizes efficiency and cost effectiveness and ensures concurrency.” [Comprehensive Plan, page 182].

Policy 6.0.12 states, “The county shall work with the state, each municipality and special districts to identify future needs of regional and statewide public facilities. This will ensure countywide consistency and avoid duplications or deficiencies in proposed facilities.” [Comprehensive Plan, page 183]

Finding: The public facilities needed to serve urban development have been coordinated with applicable state agencies, schools, service and utility providers. The public facilities needed to serve the urban development have been identified in the County’s Comprehensive Plan and

the service providers Capital Facility Plans. The proposed amendment is consistent with policies in the Community Framework Plan and the Countywide Planning Policies.

Comprehensive Growth Management Plan 2015-2035 (2016 Plan)

The 20-year Comprehensive Growth Management Plan contains many policies that guide urban form and efficient land use patterns. The most relevant goals and policies applicable to this application are as follows:

“Goal: Ensure that necessary and adequate capital facilities and services are provided to all development in Clark County in a manner consistent with the 20-year Plan.”

6.1.1 Continue to plan for and provide capital facilities and services as necessary to support development consistent with the 20-year Plan and coordinate and facilitate the planning and provision of such facilities and services by other public or private entities.

6.1.5 Assist and facilitate the siting of capital facility and service infrastructure in a manner consistent with the 20-year Plan, through appropriate land use planning and development review policies and procedures.” [2016 Plan, page 184].

Finding: The Comprehensive Plan identifies criteria that must be met in order to remove urban holding zoning and authorize the implementation of the underlying urban zone. The county may remove the UH overlay from appropriate areas of sufficient size that the county can collect transportation related data, analyze the cumulative transportation impacts, and address mitigation to these impacts. The urban holding overlay designation may be removed from the subject properties upon a determination that the completion of localized critical links and intersection improvements are reasonably funded as shown on the county 6 year Transportation Improvement Plan or through a DA. The DA associated with these proposed map amendments requires the identification of financing to fund off site mitigation. The estimated TIFs to be collected from the development of the subject properties total \$2,890,468, and the DA identifies no other source of funding for the required transportation infrastructure. The 2019-24 TIP estimates the cost to complete the necessary improvements at \$12,029,000. The associated draft DA does not ensure that the necessary transportation improvements will be reasonably funded.

Conclusion: The proposed amendment does not meet Goal 12 of the Growth Management Act, the Community Framework Plan, Countywide Planning Policies and the Comprehensive Plan. The DA associated with this map amendment does not ensure that public facilities will be in place to serve development at the time the development is available for occupancy and use without decreasing current service levels below established minimum standards, as required by the GMA in RCW 36.70A.070(6)(a).

B. The proponent shall demonstrate that the designation is in conformance with the appropriate locational criteria identified in the Clark County Comprehensive Plan and the purpose statement of the zoning district. (See 40.560.010G(2) and 40.560.020G(2).)

Finding: The urban holding overlay protects areas from premature land division and development that would preclude efficient transition to urban development or large-scale industrial development. The urban holding overlay is implemented by Urban Holding-10 (UH-10) and Urban Holding-20 (UH-20) zoning overlay districts. The removal of the urban holding

Comprehensive Plan and Zoning overlays is located within the Vancouver Urban Growth Area. The urban holding overlays were placed on the properties due to the inadequate capacity of the transportation infrastructure to accommodate urban level development. The DA associated with this map amendment does not ensure that the transportation infrastructure will be in place to serve urban development connected with this proposal.

Conclusion: The Clark County Comprehensive Plan requires special implementation procedures for removal of the urban holding overlays in the West and East Fairgrounds neighborhoods. The subject properties (181581000, 181548000, 181466000, 181580000, 181701000, and 181702000) are in East Fairgrounds neighborhood. The completions of localized critical links and intersection improvements are not reasonably funded as shown on the county 6-year Transportation Improvement Plan or through the proposed draft DA. The proposal is not in conformance with the locational criteria identified in the Comprehensive Plan for removing the urban holding overlay designation.

C. The map amendment or site is suitable for the proposed designation and there is a lack of appropriately designated alternative sites within the vicinity. (See 40.560.010.G(3))

Finding: The map amendment proposes to remove the urban holding overlays. The urban holding designations were placed on the subject properties to protect areas from premature land division and development where adequate infrastructure or services are not in place. The removal of urban holding is suitable when the localized critical links and intersection improvements are completed or reasonably funded as shown on the county 6 year Transportation Improvement Plan or through a DA. The draft DA proposed to provide advance payment of TIFs to construct the transportation improvements. The estimated TIFs to be collected from the development of the subject properties total \$2,890,468, and the draft DA identifies no other source of funding for the required transportation infrastructure. The 2019-24 TIP estimates the cost to complete the necessary improvements at \$12,029,000. The associated draft DA does not ensure that the necessary transportation improvements will be reasonably funded.

Conclusion: The associated draft DA requires the developer to financially contribute to the needed infrastructure that meet the development demands of properties 181581000, 181548000, 181466000, 181580000, 181701000, and 181702000. The financial contribution offered by the draft DA do not reasonably fund the critical links and intersection improvements. Criterion C is not met because the site is not suitable for removing urban holding without the infrastructure improvement being reasonably funded.

D. The plan map amendment either; (a) responds to a substantial change in conditions applicable to the area within which the subject property lies; (b) better implements applicable comprehensive plan policies than the current map designation; or (c) corrects an obvious mapping error. (See 40.560.010G(4)and 40.560.020H(3).)

Finding: The 20-year Comprehensive Plan policies require the provision of capital facilities to support development. The associated draft DA, which is concurrently processed with this map amendment, requires the improvement of transportation infrastructure. The infrastructure

improvements that are needed to serve the urban development are not reasonably funded through the associated draft DA.

Conclusion: The plan map amendment does not better implement the applicable comprehensive plan policies with the concurrent approval of the draft DA. The draft DA does not reasonably fund the critical links and infrastructure improvements necessary to serve the proposed development. Criterion D is not met.

E. Where applicable, the proponent shall demonstrate that the full range of urban public facilities and services can be adequately provided in an efficient and timely manner to serve the proposed designation. Such services may include water, sewage, storm drainage, transportation, fire protection and schools. Adequacy of services applies only to the specific change site. (See 40.560.010G(5) and 40.560.020H(4).)

Finding: The urban holding overlays are in effect due to the lack of adequate public facilities to serve urban development on the subject site. Water, sewage, storm drainage, fire protection and school facilities to serve the subject properties have been identified in the Comprehensive Plan's Capital Facilities Plan. The applicant's traffic study demonstrates that offsite infrastructure would be necessary to mitigate the direct impacts of the contemplated development. The applicant proposes, through a DA, to make advance payment of TIFs to reasonably fund the critical links and infrastructure improvements necessary to serve the proposed urban development. The contribution of advanced payment of TIFs does not provide enough financial capital to reasonably fund the needed public facilities.

Conclusion: The applicant has identified the necessary transportation improvements necessary to serve the proposed development. The same transportation improvements are identified in the County's 20-year Capital Facilities Plan and the 6-year Transportation Improvement Program (TIP). The estimated TIFs collected from the development of the subject properties is \$2,890,468. The 2019-24 TIP estimates the cost to complete the necessary improvements at \$12,029,000. The proponent has not demonstrated that the full range of urban public facilities can be adequately provided to remove the urban holding overlays. Criterion E has not been met.

RECOMMENDATION AND CONCLUSIONS

Based on the information presented in this report, staff recommends that the Planning Commission forward a recommendation of **DENIAL** of the proposal to remove urban holding overlays on the subject property to Clark County Councilors.

The following table lists the applicable criterion and summarizes the findings of the staff report for CPZ2018-00021. The Planning Commission findings will be added to the table after public deliberation at the Planning Commission hearing scheduled for this application.

COMPLIANCE WITH APPLICABLE CRITERIA		
Criterion for Policy/Text Amendments	Criteria Met?	
	Staff Report	Planning Commission Findings
A. Consistency with GMA, Countywide Policies, Community Framework Plan, & Comprehensive Plan	No	
B. Conformance with Locational Criteria	No	
C. Site Suitability and Lack of Appropriately Designated Alternative Sites	No	
D. Amendment Responds to Substantial Change in Conditions, Better Implements Policy, or Corrects Mapping Error	No	
E. Adequacy/Timeliness of Urban Public Facilities and Services	No	
Recommendation:	Denial	

EXHIBIT 1

DEVELOPMENT AGREEMENT

When Recorded, Return to:

Randall B. Printz
Landerholm, Memovich, Lansverk
& Whitesides, P.S.
P.O. Box 1086
Vancouver, WA 98666-1086

ABOVE SPACE RESERVED FOR RECORDING INFORMATION

DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”) is entered into by and between Clark County, a Washington Municipal Corporation (the “County”) and Holt Homes, (“Holt”) and shall be effective as of the last signed date below.

RECITALS

A. **WHEREAS**, Holt, owns or controls real property in Clark County (the “Property”); and,

B. **WHEREAS**, Holt and the County would like to further plan for the development of the Property with a unique an innovative design and a wide range of residential densities, advance funding for transportation improvements, predictable infrastructure and regulations; and,

C. **WHEREAS**, Holt and the County want to enable the Property to develop in a manner consistent with the Master Plan attached hereto as Exhibit B and incorporated by reference herein; and under the land use and development standards currently applicable to the Property (unless otherwise provided for in the Master Plan) and to allow for substantial environmental review to occur prior to development of the Property, including analysis of transportation impacts, recognizing that the State Environmental Policy Act encourages advanced environmental review and discourages piecemeal review; and,

D. **WHEREAS**, the County is a Washington Municipal Corporation with land use planning and permitting authority over all land within its corporate limits; and,

E. **WHEREAS**, the County has the authority to enter into Development Agreements pursuant to RCW 36.70B.170 which provides:

The Legislature finds that the lack of certainty of the approval of development projects can result in a waste of public and private resources escalate housing costs for consumers and discourage the commitment to comprehensive planning which would make maximum efficient use of resources at the least economic cost to the public. Assurance to a development project applicant that upon government approval the project may proceed in accordance with existing policies and regulations, and subject to conditions of approval, all is set forth in a development agreement, will strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic cost of development; and,

F. **WHEREAS**, for purposes of this Agreement, “Development Standards” includes, but is not limited to all of the standards listed in RCW 36.70B.170(3) and,

G. **WHEREAS**, the County and Holt recognize that the development of the Property may take as long as ten years to fully build out; and because of that, there is increased need and desire for long term predictability; and

H. **WHEREAS**, the County and Holt wish to provide such increased predictability to both Holt and the County on these issues through the implementation of this Agreement and its attendant Master Plan;.

NOW, THEREFORE, based on the foregoing Recitals, the parties agree as follows:

AGREEMENT

1. Development Agreement

This Agreement is a Development Agreement to be implemented in accordance with RCW 36.70B.170 through RCW 36.70B.210. It shall become a contract between Holt and the County upon the County’s approval by ordinance or resolution following a public hearing as provided for in RCW 36.70B.170, and execution by all parties, subject to the provisions of Section 2 below.

2. Effective Date and Duration of Agreement

This Agreement shall take effect upon the Effective Date and shall terminate ten years thereafter; provided that, any time periods specified in this Agreement shall be tolled pending any appeals of this Agreement or any city, state or federal land use decisions entitling Holt to commence or complete development of the Property. In recognition of the need for the Board of County Councilors to make a formal finding declaring that the improvements needed to create transportation capacity sufficient to accommodate the trips generated by the Master Plan are reasonably funded; and in recognition that removal of the current Urban Holding overlay zone must also occur

before development of the Property may occur, the Parties agree that the Urban Holding designation for the Property shall immediately occur upon, but not sooner than, the Board of County Councilors declaration that the improvements needed to create transportation capacity sufficient to accommodate the trips generated by the Master Plan are reasonably funded

3. Vesting

Any land use application submitted with respect to the Property during the term of this Agreement, shall be vested to the zoning, building and land use regulations applicable to the Property on the Effective Date, including any development standards that are identified in the Master Plan attached hereto as Exhibit B and incorporated by reference herein. Any land use approvals granted under the pendency of this Agreement shall expire on the dates provided for in the applicable development regulations of the County in effect at the time of this Agreement, or at the expiration of this Agreement, whichever date occurs later in time.

4. Conceptual Master Plan

Attached as Exhibit “B” and incorporated by reference herein, is a master plan for the Property (the “Master Plan”). The design of the Master Plan is unique and innovative through its “front loading” of transportation mitigation, its blending and transitioning of density both within and outside of the Property, its provisions for trails and open space (in excess of 15% of the Property area) and the trails’ and open space’s relationship to, protection of and integration with existing critical areas on the Property. The Master Plan provides for a variety of housing types and lot sizes. The Master Plan will provide the Parties with predictability regarding certain aspects of the future development of the Property, including access locations on to public streets and any associated offsite improvements related to transportation. Future development of the Property shall be generally consistent with the Master Plan. It is contemplated by the parties that due to the number of years it will likely take the project to fully build out, changing market conditions, future urban growth boundary expansion considerations and other factors, this Agreement may need to be amended in the future. Nothing in this Agreement shall be construed to prevent the Parties from mutually agreeing on zoning for the Property or a portion thereof that is different from the currently existing zoning. While nothing contained herein shall be construed to obligate either party to amend the Master Plan, it is recognized that future evolution of the County may warrant consideration of such issues.

5. Effect on Fees or Charges

As provided for in RCW 36.70B.180, during the term of this Agreement, the development standards provided for in this agreement, (not otherwise consented to by Holt), shall not be subject to unilateral amendment, or amendment to zoning ordinances, development standards, or regulations, or a new zoning ordinance or development standard or regulation adopted after the effective date of this Agreement. Provided, however, that the vesting granted by this Agreement shall not apply to impact fees, taxes, permit application fees or utility connection charges, which shall be determined or calculated consistent with the County's provisions applicable on the date such fee, charge or tax is triggered. As provided for in RCW 36.70B, the County reserves the right to impose new standards or changes in development regulations to the extent required by a serious threat to public health and safety.

6. SEPA

Pursuant to the State Environmental Policy Act (SEPA), piecemeal environmental review is to be discouraged. As such, the Parties wish for SEPA review to be accomplished as part of the Agreement for as many of the Property's potential adverse environmental impacts as can be reasonably analyzed, based upon current information contained within the SEPA checklist submitted with this Agreement, including, but not limited to, the traffic study, GIS data as to the general presence of wetlands on some portions of the Property and off site storm water impacts. This review is done under the Consolidated Review provisions of SEPA. The SEPA checklist attendant with this Agreement identifies various potential adverse impacts including transportation, parks, wetlands sewer, water and storm water. The Checklist also identifies a variety of technical reports or information that provide a basis for the proposed mitigation or partial mitigation of these impacts. It is the intent of this Agreement and its attendant SEPA process, to have the County issue a Threshold Determination (as that term is utilized in RCW 43.21C) on the identified conceptually proposed impacts of the development of the Property. Uses and impacts that are identified at future stages of the development, i.e., preliminary plat approval or PUD approval, that have been previously analyzed through this or other SEPA processes, shall not be re-analyzed; provided the future identified adverse impacts are substantially similar to and of the same or less intensity as those previously analyzed under this or other SEPA processes. Any probable significant adverse environmental impacts of the Property's future proposed development that have not been analyzed under the SEPA process attendant with this Agreement or previously through some other lawful SEPA process, shall be undertaken at the time of such future development.

7. Transportation

Kittelson and Associates Transportation Engineers and the County have analyzed the transportation impacts of the full development (based upon a conceptual set of future uses and square footages) of the Property as identified in the traffic study. Based upon the conceptual set of uses, the Property at full development will increase the existing number of PM peak hour trips on the transportation system by ___ trips. Based upon Kittelson's and the County's analysis, the future development of the Property shall be conditioned upon the mitigation measures and timing of construction as provided for in Exhibit "C", which is attached hereto and incorporated herein. The Property shall be vested during the term of this Agreement with ___ PM peak hour and ___ average daily trips and no additional off site transportation mitigation or analysis will be required during the term of this Agreement; provided however, that in the event Holt proposes uses or intensities of uses that would cause the total number of PM Peak or Average Daily trips to exceed the number of trips analyzed as part of this Agreement, then the County may require additional transportation analysis and lawful mitigation for those increased trips. The transportation vesting provided for in this Section shall be subject to the mitigation measures and the timing provided for in Exhibit "C". Some of the transportation improvements may be on the County's Transportation Capital Facility Plan. Holt or successor in interest to the Property, upon construction

of such qualifying transportation improvement, shall receive Transportation Impact Fee Credits, but only if such improvements are eligible for Credits under the County's applicable Capital Facilities Plan and Transportation Impact Fee programs.

8. Threat to Public Health

Nothing in this Section shall preclude the County from requesting information on the potential adverse environmental impacts associated with a specific land use application that have not been previously analyzed as required under the State Environmental Policy Act.

9. Miscellaneous

a. Failure by either party at any time to require performance by the other party of any of the provisions hereof shall in no way affect the parties' rights hereunder to enforce the same, nor shall any waiver by the party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

b. This Agreement shall be construed with, and governed by, the laws of the State of Washington. The parties agree to venue in the Superior Court for Clark County, State of Washington, to resolve any disputes that may arise under this Agreement.

c. If any portion of this Agreement shall be invalid or unenforceable to any extent, the validity of the remaining provisions shall not be affected thereby.

d. Binding on Successors and Recording: This Agreement is assignable and shall run with the land and be binding upon and insure to the benefit of the parties, their respective heirs, successors and assigns. This Agreement shall be recorded.

e. Each of the recitals contained herein are intended to be, and are incorporated as, covenants between the parties and shall be so construed.

f. This Agreement may only be amended by mutual agreement of the parties.

CLARK COUNTY,

HOLT HOMES

By _____

By _____

Title _____

Title _____

