

CLARK COUNTY
STAFF REPORT

DEPARTMENT/DIVISION: Environmental Services / Policy & Planning / Legacy Lands Program

DATE: December 3, 2013

REQUEST: Authorize the Chair of the Board of County Commissioners to release a Deed of Right for 5.5 acres comprised of 5.2 acres of Assessor's Parcel Serial No. 152586-000 (the entire parcel is 88.15 acres) and 0.3-acre Assessor's Parcel Serial No. 102283-000. Authorize the Chair of the Board of County Commissioners to accept a Deed of Right from the City of Vancouver over 5.5 acres comprised of 2.02-acre Assessor's Parcel Serial No. 152595-000 and 3.48 acres of Assessor's Parcel Serial No. 152589-000 (the entire parcel is 8.83 acres) at such time as the City accepts the deed to the property.

CHECK ONE: Consent Hearing Chief Administrative Officer

BACKGROUND: The City of Vancouver acquired AP #152586-000 and AP #102283-000 in 1994 with County Conservation Futures funds. An intergovernmental agreement was executed February 7, 1994, to enable transfer of funds and a Deed of Right granted to the County executed on November 23, 1994, by the City as a condition of receiving Conservation Futures funding for the acquisition (see Attachment "A"). The County's interest in the property is via the Deed of Right dedicated to the County by the City. The Deed of Right assures that the land acquired will remain in conservation use in perpetuity, consistent with the purposes of the Conservation Futures Fund. The Board of County Commissioners must consent to any use inconsistent with the intended purpose of the property acquisition. The Deed of Right further states that such consent is contingent upon the City finding a replacement property of equal monetary value and like conservation value in order to assure the integrity of the County's conservation investment.

Firestone Pacific Foods is proposing a land exchange with the City of Vancouver at South Vancouver Lake to facilitate expansion of an adjoining fruit packing facility. This is a high priority economic development opportunity for the City. The Columbia River Economic Development Council is also working with Firestone Pacific Foods to facilitate the proposed expansion. The properties proposed for exchange, shown on Attachment "B", include AP #152595-000 and a portion of 152589-000 (a total of 5.5 acres in Firestone ownership) and AP #102283-000 and a portion of AP #152586-000 (a total of 5.5 acres in City ownership). Both the public and private land proposed for exchange are in berry production.

Findings:

- Market value of properties proposed for exchange has been determined to be of equivalent value through a fair market appraisal. Valuation conclusions have been supported by an appraisal review.
- Parties to the exchange have agreed to an acre for acre exchange of land.
- Lands to be exchanged are immediately adjacent and of equivalent natural resource value.
- Lands that will come into City ownership will meet the goals and objectives of the Conservation Futures Program.
- The release only applies to the 5.5 acres of land subject to the proposed land exchange to Firestone Pacific Foods. This release shall in no way modify or extinguish the Deed of Right dedicated to the County November 23, 1994, over that portion of Assessor's Property Tax Parcel Number 152586-000 not affected by the land exchange (approximately 82.95 acres).
- The City Planning Commission has recommended that the City Council approve Comprehensive Plan and Zoning changes that would enable the food processing facility to be established on the property proposed to be acquired by Firestone through the exchange. The staff report to the Planning Commission is Attachment "C".

Conditions:

- The City approves parcel boundary line adjustments that accurately reflect the land exchange.
- The City executes a Deed of Right to the County over the conveyance parcel from Firestone Pacific Foods upon acceptance of the deed.

ES13-036



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COMMUNITY OUTREACH: Firestone Pacific Foods initiated the land exchange as the initial step in a sequence of steps to be completed if the fruit packing plant expansion is to occur. All steps must be successfully completed in order for the exchange to move forward and the plant to be constructed.

The following steps need to be completed:

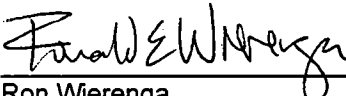
- The Board of County Commissioners approves the release of the Deed of Right for the 5.5 acres of land acquired with Conservation Futures Funds (consideration of this action is the purpose of this staff report). Staff is recommending that any such release be conditioned to require that the City execute a Deed of Right to the County over the property to be acquired by the City in order to protect the County's conservation investment. City has indicated this an acceptable condition. Attachment "D" is a draft of the release of the Deed of Right for the 5.5 acres to be exchanged by the City. Attachment "E" is a draft of the Deed of Right to the County that the City is expected to execute over the 5.5 acres to be exchanged by Firestone Pacific Foods.
- Boundary line adjustments to affected parcels are approved to accurately reflect the properties to be exchanged. Boundary line adjustments will be conditioned upon the approval of City Comprehensive Plan and Zoning designations that allow establishment of the food processing facility.
- Vancouver City Council must declare the City-owned property to be exchanged to Firestone Pacific Foods a surplus property and approve the land exchange.
- City Council must approve the Comprehensive Plan and Zoning changes.
- Upon completion of the foregoing actions, City and Firestone shall transfer, by deed, title to the exchanged properties.
- Once the City has accepted the Deed to the exchanged Firestone property, City shall execute and record a Deed of Right to the County over the acquired property.

BUDGET AND POLICY IMPLICATIONS: There are no fiscal implications. The Deed of Right stipulates that Clark County shall approve any conversion only upon conditions where the contracting party can assure it will acquire substitute properties which are of equal or greater value at the time of conversion, which, to the extent feasible, are equivalent in usefulness and location, and which also meet the goals and objectives of the Conservation Futures Program.

FISCAL IMPACTS: Yes (see Fiscal Impacts Attachment) No

ACTION REQUESTED: Authorize the Chair of the Board of County Commissioners to release a Deed of Right for 5.5 acres comprised of 5.2 acres of Assessor's Parcel Serial No. 152586-000 and 0.3-acre Assessor's Parcel Serial No. 102283-000. Authorize the Chair of the Board of County Commissioners to accept a Deed of Right from the City of Vancouver over 5.5 acres comprised of 2.02-acre Assessor's Parcel Serial No. 152595-000 and 3.48 acres of Assessor's Parcel Serial No. 152589-000 at such time as the City accepts the deed to the property.

DISTRIBUTION: Please forward a copy of the approved staff report to Environmental Services Administration.



Ron Wierenga
Resource Policy and Planning Manager



Don Benton
Environmental Services Director

APPROVED: Dec. 3, 2013
CLARK COUNTY, WASHINGTON
BOARD OF COMMISSIONERS

SR 245-13

(PTL/RW/bt)

Enclosures: Attachment "A" - Deed of Right executed November 23, 1994 and Intergovernmental Agreement executed February 7, 1994
Attachment "B" - Graphic depicting parcels proposed for exchange
Attachment "C" - City of Vancouver Planning Commission Report dated September 12, 2013
Attachment "D" - Draft Release of Deed of Right for land currently owned by City
Attachment "E" - Draft Deed of Right for land to be acquired by City

MEMORANDUM

TO: Mayor Bruce Hagensen

FROM: Ted Gathe, City Attorney *T. Gathe*

SUBJECT: Deed of Right- Dugan Estate Purchase

DATE: November 23, 1994

B. T. G.
Attached for your signature is a Deed of Right. This document is required by the terms of the Interlocal Agreement, also attached, which was entered into between the City and Clark County through which the City acquired the former Dugan Estate property in the Vancouver Lake Lowlands using Conservation Future Monies.

Please return the Deed to me after signature. Thanks.

RECEIVED

NOV 23 1994

City Attorney's Office

City of Vancouver

DEED OF RIGHT

The Contracting Party, City of Vancouver, for and in consideration of monies coming in whole or in part from the Conservation Futures Account, as established by Chapter 3.24 of the Clark County Code, and in fulfillment of terms contained in the Interlocal Agreement identified below, conveys and grants to Clark County, Washington, individually and as the representative of all the people of Clark County, the right to use the real property described below forever for those purposes described in the Interlocal Agreement signed by the Contracting Party on the 7th day of February, 1994, and by Clark County on the 14th day of December, 1993, and which is entitled Interlocal Agreement. Project No. PK 93-161D.

The Contracting Party will not make or permit to be made any use of the real property described in this Deed, or any part of it, which is inconsistent with those chapters of the Clark County Code and Revised Code of Washington that govern the use of Conservation Futures Funds, or any use which is inconsistent with the purposes and improvements as described in the Contracting Party's grant application at the time of funding approval, unless the Board of Clark County Commissioners consents to the inconsistent use. Clark County Shall approve any such conversion only upon conditions where the Contracting Party can assure it will acquire substitute properties which are of equal or greater value at the time of conversion, which, to the extent feasible, are equivalent in usefulness and location, and which also meet the goals and objectives of the Conservation Futures Program.

The real property covered by this Deed is described in Exhibit "A", attached hereto, and is incorporated by this reference.

This Deed shall in no way modify or extinguish the functions of the Contracting Party under the terms and conditions set forth in the aforementioned Interlocal Agreement.

DATED this 23 day of November, 1994.


MAYOR BRUCE HAGENSEN

Approved as to form:


Ted H. Gathe, City Attorney

STATE OF WASHINGTON)

:ss:

County of Clark)

I certify that I know or have satisfactory evidence that Bruce E. Hagensen (name of signer) is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as Mayor of the City of Vancouver, a general partnership, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: 11-23-94

Marie E. Day
Residing at: Vancouver
My appointment expires: 1-15-95

H:\ATHG\INTERDEED.AGR

APPENDIX A INTERLOCAL AGREEMENT

A.01 PURPOSE

This agreement sets forth the terms and conditions by which Clark County, Washington, shall provide funds from its Conservation Futures Account, pursuant to RCW 84.34.210 and Chapter 3.24 of the Clark County Code, to the city/town of Vancouver, hereinafter identified as the Contracting Party, for the purpose of acquiring fee simple or lesser interest in open space, farm land, or timber land, as such are defined in RCW 84.34.020.

A.02 AUTHORITY

This interlocal agreement by and between Clark County, Washington, and the Contracting Party is authorized by Chapter 39.34 of the Revised Code of Washington.

A.03 PROJECT DESCRIPTION

The Contracting Party's application to Clark County is part of this contract. The application is the Contracting Party's notification of its intent to implement and manage this project in conformance with local and state goals and objectives. The project to be assisted is summarized from the Contracting Party's application as follows:

South Vancouver Lake (Dugan Estate). This project comprises four contiguous parcels, totaling 130 acres, near the south end of Vancouver Lake. The property lies north of La Frambois Road, east of the BPA transmission lines, and west of Fruit Valley Road.

A.04 FUNDING OF PROJECT

The total cost of the property to be acquired under terms of this agreement is estimated by the Contracting Party to be \$1,586,000; the Contracting Party has requested that Clark County pay \$1,586,000, or 100% percent of the total estimated project cost.

Clark County recognizes, however, that this estimate, while made in good faith, may or may not represent fair market value as determined by standard professional appraisal procedures.

Clark County agrees to pay \$1,586,000, or 100% percent of the total estimated project cost, or the same percentage amount of fair market value whichever is less.

Fair market value shall be determined utilizing professional appraisal procedures as set forth in the Conservation Futures Acquisition Manual. The cost of the appraisal and related administrative costs as outlined in the Acquisition Manual shall be paid by the County.

In the event fair market value exceeds the Contracting Party's estimated project cost, the Board of County Commissioners, at its discretion, may increase the approved funding allocation to cover fair market value of the property to be acquired. A written request to this effect should be submitted by the Contracting Party to the Manager of the Clark County Parks Division, acting as representative of the Board of Commissioners. The request shall include a copy of the appraisal report and appraisal review. The Parks Manager shall notify the Contracting Party of the Board's decision within thirty days of the receipt of the request, or as soon thereafter as is practicable.

A.05 LAND ACQUISITION COSTS EXCEEDING FAIR MARKET VALUE

Clark County considers a reviewed and approved appraisal to be an acceptable estimate of property value. The negotiation between a willing seller and a willing buyer may set a price that is higher than the appraisal, and this marketplace value may be considered along with the appraised value in establishing the reasonable limits of assistance.

If the Contracting Party believes that the negotiation price is a better indication of market value yet it is higher than the appraised value, a detailed and well-documented statement of this difference must be submitted, together with a formal request for a cost increase.

This statement must explain why the appraisal did not reflect the true value and what steps the Contracting Party took to establish the true value through acceptable appraisal technique.

A.06 STATEMENT OF DIFFERENCE IN VALUE

If the property is to be purchased for less than the approved fair market value, a letter from the seller must be submitted that acknowledges that the seller was aware of the approved fair market value and that the seller's decision to sell at less than fair market value was made of his/her own free will.

A.07 REAL PROPERTY ACQUISITION PROCEDURES

The Contracting Party agrees to comply with the terms and intent of the Conservation Futures Acquisition Manual.

The Contracting Party shall designate an "Acquisition Specialist" to assist Clark County with the acquisition of the subject property. A list of this individual's qualifications and credentials relating to real property acquisition shall be provided to the Clark County Parks Manager, or his designee, to assure the designated acquisition specialist is qualified to participate. If the Contracting Party wishes Clark County to manage all acquisition procedures, it shall so notify the Manager of the Clark County Parks Division.

A.08 CONTINGENCIES

The duty of Clark County to pay out funds under this contract depends on:

- A. Strict compliance by the Contracting Party with the terms of this contract, and
- B. The availability of funds in Clark County's Conservation Futures Account.

A.09 ACQUISITION PERIOD

The Contracting Party shall have one year from notification of funding approval by the Board of Clark County Commissioners to complete the project. The term of this project shall run from 1/1/94 to 1/1/95.

The Board of County Commissioners may extend the acquisition period at its discretion. To secure an extension, the Contracting Party shall send written notice to the Manager of the Clark County Parks Division, acting as representative of the Board of Commissioners, at least thirty days prior to the end of the acquisition period. The notice shall state the need for an

extension and explain the reasons for the request. The Parks Manager shall notify the Contracting Party of the Board's decision within thirty days of receipt of the request, or as soon thereafter as is practicable.

Any project that has not been completed within the acquisition period, and for which no extension has been granted, shall be considered withdrawn and allocated funds shall become available for other projects.

The Contracting Party agrees to notify the Manager of the Clark County Parks Division of any circumstances or events during the acquisition period (such as an owner indicating he is no longer a willing seller) which will cause the termination of efforts to acquire the subject property.

The Contracting Party, on forms provided, will advise Clark County at least once every three months of their progress.

The Clark County Parks Division shall review all easements, restrictions, and other encumbrances that appear in the preliminary title insurance policy to assure that they do not impact, to an excessively negative degree, the Conservation Futures purposes for which the land is to be acquired. Clark County will not release funds for land purchases until this requirement is met.

A.10 DURATION OF INTERLOCAL AGREEMENT

This agreement shall remain in effect in perpetuity, except as otherwise provided for in the "Acquisition Period" section of this agreement.

A.11 RELATIONSHIP OF PARTIES

The Clark County Board of Commissioners imposed the Conservation Futures levy to provide a reliable and predictable funding source to help acquire interest in open space, farm land, timber land, and certain classifications of park property. This project, however, is the project of the Contracting Party and not Clark County. The purpose of this agreement is to provide the Contracting Party monetary assistance, which will enable it to complete the project described herein. Clark County will not acquire any ownership interest in the subject property by virtue of this agreement, nor will Clark County assume any responsibility for improving or managing the property.

The Contracting Party shall be responsible for the management of this project within the terms and conditions of this agreement. Furthermore, Clark County shall not become party to any contract between the Contracting Party and others by reason of having entered into this agreement.

A.12 OTHER ORGANIZATIONS

No separate legal or administrative entity shall be created by this agreement.

A.13 PERFORMANCE

The Contracting Party agrees to manage the subject property in a manner consistent with the legislative declarations and objectives set forth in RCW 84.34.010-020 and RCW 84.34.200-250 and in Chapter 3.24 of the Clark County Code. Moreover, the Contracting Party recognizes that boards of county commissioners are the only legislative authority empowered to impose the Conservation Futures Levy and that the Board of Clark County Commissioners, having done so, has the responsibility to assure proper use and administration of the Conservation Futures Fund and has a corresponding interest in the management of all properties acquired with the fund. Therefore the Contracting Party shall operate and maintain the subject property as follows:

- A. The property and any improvements to the property shall be kept safe and clean.
- B. The Contracting Party shall make reasonable effort to control nonconforming uses, such as hunting in wildlife preserves and sanctuaries.
- C. Sanitation and sanitary facilities shall be maintained in accordance with applicable state and local public health standards.
- D. The Contracting Party shall submit to the Manager of the Clark County Parks Division any plans for improving the subject property to assure statutory compliance. This does not apply to routine maintenance. Improvements that may be allowed under terms of the statute, the plans for which, in any event, should be submitted to the Manager of the Parks Division, include but are not limited to picnic tables, viewpoints, rest areas, docks, benches, boat launches, restrooms, and parking lots. Work shall not commence without written approval from the Manager of the Clark County Parks Division. Though Clark County shall be given

the opportunity to review plans for improvements, this should not be construed to mean that Clark County shall participate in the funding of improvements.

E. The Contracting Party shall submit to the Manager of the Clark County Parks Division any proposals for lease-back agreements, as provided in RCW 84.34.210, easements, rights-of-way, or other conditions or restrictions which limit the use of or alter the character of the subject property. Any such proposal shall be reviewed for statutory compliance and consistency with proposed plans and uses as stated in the Contracting Party's grant application at the time of funding approval. The Contracting Party shall not conclude any such agreement without written consent of the Manager of the Clark County Parks Division.

F. The property shall be kept open for public use at reasonable hours and times of year. Clark County recognizes, however, that appropriate hours may vary considerably depending on the type of interest that has been acquired, and the existence of leaseback or other agreements that might properly limit public access.

G. The property shall be open for the use of all segments of the public without restriction because of the race, creed, color, sex, religion, national origin or residence of the user.

H. Roads, trails, tables, benches, and other improvements shall be kept in reasonable repair throughout their estimated lifetime, so as to prevent undue deterioration that would discourage public use.

I. The Contracting Party should operate and maintain the facility in accordance with all applicable federal, state, and local laws and regulations.

A.14 USER FEES AND CHARGES

User or other types of fees may be charged in connection with areas that are the subject matter of this contract, provided that the fees and charges are commensurate with the value of recreation services or opportunities furnished and are within the prevailing range of public fees and charges within the state for the particular activity involved.

A.15 CONVERSION

The Contracting Party for and in consideration of monies coming in whole or in part from Clark County's Conservation Futures Fund, shall dedicate the property to be acquired under

terms of this agreement in perpetuity for the public's use and enjoyment and to promote the purposes of Conservation Futures.

The Contracting Party will not make or permit to be made any use of the real property described in this agreement, or any part of it, which is inconsistent with those chapters of the Clark County Code and Revised code of Washington that govern the use of Conservation Futures funds, or any use which is inconsistent with the purposes and improvements as described in the Contracting Party's grant application at the time of funding approval unless the Board of Clark County Commissioners consents to the inconsistent use. Clark County shall approve any such conversion only upon conditions where the Contracting Party can assure it will acquire substitute properties which are of equal or greater value at the time of conversion, which, to the extent feasible, are equivalent in usefulness and location, and which also meet the goals and objectives at the Conservation Futures Program.

A.16 REMEDIES

In the event the Contracting Party fails to comply with any or all of its obligations under this agreement, Clark County stipulates that specific performance shall be the remedy preferred by Clark County.

The remedy of specific performance shall not be the sole remedy and does not serve to exclude any and all other remedies available to Clark County. Clark County may choose to exercise any and all other remedies available together with, or as an alternative to, specific performance, at the option of Clark County.

A.17 REPORTS AND INSPECTIONS

The Contracting Party, in cooperation with the Clark County Parks Division, shall prepare a final report upon completion of this project or its early termination for presentation to the Board of Clark County Commissioners. The report shall include a final accounting of all expenditures and a description of the work accomplished. If the project is terminated early, the report shall provide a full explanation of the reasons for not completing the project. The Contracting Party also agrees to provide interim status reports during the acquisition period as may be requested by the Manager of the Clark County Parks Division.

Property and improvements acquired under terms of this agreement shall be available for inspection by the Manager of the Clark County Parks Division, or his designee, upon request. As a matter routine, Clark County shall conduct an on-site inspection approximately once a

year to assure that the property is being operated, maintained, and used in accordance with this Contract.

A.18 ASSIGNMENT

This agreement shall not be assignable in whole or in part by the Contracting Party except with the express written consent of the Board of Clark County Commissioners.

A.19 HOLD HARMLESS

The Contracting Party agrees to defend and hold harmless Clark County, Washington, the Board of Clark County Commissioners and any employees thereof from any and all suits at law or equity or claims or demands, or any loss of any nature, including but not limited to costs and attorneys' fees, suffered, or alleged to be suffered, on the premises, or arising out of use, improvements, operation, or management of the subject property.

A.20 NOTICES

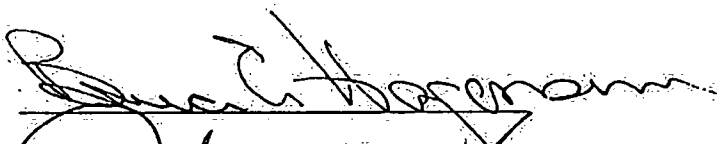
Any notices, requests, consents, approvals, and other communications shall be in writing and shall be deemed to have been sufficiently given for all purposes when delivered or mailed by first class postage or certified mail, postage prepaid, addressed as follows:

A. Notice to Clark County

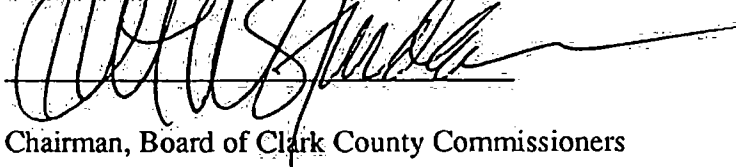
TO: Clark County Parks Division
P.O. Box 9810
Vancouver, Washington 98666-9810

B. Notice to the Contracting Party

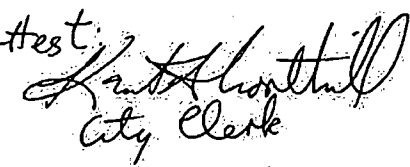
TO: Dan George who serves in the capacity of Parks Dept. Property Mgr. for the Contracting Party and who has been designated as the Contracting Party's liaison officer for the purposes of this agreement, or to such other officer or address as the Contracting Party shall have furnished to the Manager of the Clark County Parks Division in writing.



Mayor, City/Town of Vancouver

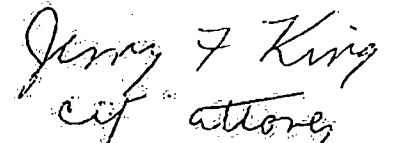


Chairman, Board of Clark County Commissioners

Attest:

City Clerk

APPROVED AS TO FORM ONLY.

ARTHUR D. CURTIS
PROSECUTING ATTORNEY
By 

Approved as to form

City Attorney

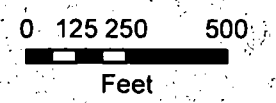
Signed by the Contracting Party on this 9th day of this February, 1994.

Signed by Clark County on this 14th day of December, 1993.

FIRESTONE LAND EXCHANGE

Attachment 'B'

Vicinity
4200 to 4600 blocks
Fruit Valley Road



P.O. Box 1995
Vancouver, WA 98668-1995



www.ci.vancouver.wa.us

Fall 2013 Comprehensive Plan and Zoning Map and Text Amendments Staff Report and Recommendation to the Planning Commission

Report Date: September 12, 2013

Hearing Date: September 24, 2013

Proposal: Comprehensive Plan and Zoning Code Map Amendment. Amend the designation on 5.1 acres at 4611 NW Fruit Valley Rd, serial # 152586000 from Open Space/Vancouver Lake Greenway to Industrial/ IL, and on 5.4 acres of adjacent property at 4318 NW Fruit Valley Rd, serial # 152589000, from Industrial/ IL to Open Space/Vancouver Lake Greenway.

Comprehensive Plan Text Amendments:

- a) Update Policy CD-15 and associated text on pages 1-10 and 1-16 regarding community gardens
- b) Add new Policy PFS-35 regarding public works asset management;
- c) Correct minor errors on pages 3-3, 3-5, and 5-34

Zoning Code Text Amendments:

- a) Correct VMC 20.930.030 reference error as regards non-conforming uses
- b) Update VMC 20.902.020 to clarify greenhouse status, and allow residential accessory buildings to locate nearer to side streets than their associated primary residence;
- c) Update VMC 20.430.040.D to exclude residential portions of mixed developments in the Neighborhood Commercial (NC) zoning district from total building size limits, and increase allowances for individual uses from 3,500 to 5,000 s.f.
- d) Amend VMC 20.410, 20.420 and 20.840 to allow child care centers in residential zones subject to limitations similar to those applying to schools and places of worship.

Recommendation: Forward to City Council recommendation to approve amendments

Proponent: City of Vancouver. Contact staff is Bryan Snodgrass, Principal Planner, 360 487-7946, bryan.snodgrass@ci.vancouver.wa.us

I. BACKGROUND AND REVIEW PROCESS

The Growth Management Act requires proposed Comprehensive Plan amendments to be considered no more than once per year, although zoning amendments may be considered more frequently. For purposes of efficiency, fall 2013 Comprehensive Plan and zoning map and text amendments are presented here in a single staff report, to be reviewed at the September 24, 2013 public hearing.

All proposed changes were developed internally in spring 2013. The proposed Comprehensive Plan and zoning map designation change near Fruit Valley Road was requested by the Vancouver-Clark Parks Department to facilitate a land swap with a private landowner. The proposed text changes to the Comprehensive Plan were requested by the Clark County Food Council, and the City of Vancouver Public Works Department, with specific language developed by the parties and Community and Economic Development staff. Proposed zoning code changes were developed by City staff, including Development Review planners, in some cases in response to recent development proposals or inquiries.

The Planning Commission reviewed the proposed changes at a July 23, 2013 worksession. A SEPA Determination of Non-Significance (DNS) for all the proposed changes was published and distributed on August 5. No SEPA comments or appeals to the determination were received.

Notice of the September 24 Planning Commission hearing for all items was published in the Columbian September 12. For the proposed map change, properties within 500 feet were mailed notice, the site was posted, and representatives of the Fruit Valley Neighborhood Association were notified via email by September 13.

As of September 12 no comments had been received on any of the proposed changes.

II. COMPREHENSIVE PLAN AND ZONING MAP CHANGE

Proposal Summary

The proposed Comprehensive Plan and zoning map change is illustrated in Attachments A and B. Approximately 5.4 acres west of Fruit Valley Road owned by Firestone Properties would be changed from Industrial and IL Comprehensive Plan and zoning designations to Open Space/Vancouver Lake Greenway designations. Approximately 5.1 acres west of Fruit Valley Road owned by the City of Vancouver would be changed in the reverse, from Open Space/Greenway to Industrial/IL. The City property, including 0.3 acres immediately abutting Fruit Valley Road that does not require rezoning, would be exchanged for the Firestone property.

As illustrated in Attachment A, the rezone properties are located in a transitional area between farming and open spaces in the Vancouver Lake Lowlands, and development along Fruit Valley Road. The western property to be rezoned to Vancouver Lake Greenway and transferred to VCPD ownership is undeveloped, and located partially within the Vancouver

Lake Lowlands floodway fringe. It is surrounded by similar undeveloped properties. The eastern property to be rezoned IL and transferred from VCPD ownership abuts the existing Frito Lay complex to the north, Fruit Valley Road to the east, and the existing Pacific Cold Storage facility to the south.

No development proposals are included with the proposed map change. The western property to be changed to Vancouver Lake Greenway zoning is anticipated to remain in open space, rather than be used for active recreational use. The eastern property changed to IL zoning is anticipated to be used for a future expansion of the Pacific Cold Storage facility immediately south.

The proposed map designation changes are intended to be contingent on finalizing the land exchange between the City of Vancouver and Firestone Properties. The property owners are in agreement on the exchange, but finalization involves meeting legal requirements for exchange of City property. Since the City property was originally purchased using Conservation Futures funds administered by Clark County and subject to an Intergovernmental Agreement, County action is also required. These processes have been initiated and are anticipated to be completed prior to final City Council action on the designations, but to ensure linkage staff recommends that the Planning Commission recommendation for the designation changes be stated as contingent on finalization of the land exchange.

Review Criteria and Findings

VMC 20.285.060.B Approval criteria for Comprehensive Plan map amendments, and rezones of more than 25 acres

1. *Overall. Proposed amendments reviewed under this chapter shall be approved only if demonstrated by the proponent to be in the public interest, as based on a review of all applicable principals from the following:*
 - a. *How the proposal is more consistent with applicable policies of the comprehensive plan than the existing designation, and*
 - b. *How the proposal is more consistent with each of the following objectives than the existing designation. Consistency is not required where the objective is clearly not applicable to the type of proposal involved.*
 1. *Encourage more intensive development to locate in major urban centers and corridors, particularly downtown Vancouver. Encourage development of distinct neighborhoods served by commercial nodes, and discourage urban sprawl and strip commercial development;*
 2. *Provide development of uses which are functionally integrated with surrounding areas and neighborhoods in terms of local shopping, employment, recreational or other opportunities;*
 3. *Provide development which is compatible and integrated with surrounding uses in terms of scale, orientation, pedestrian enhancements, and landscaping;*
 4. *Conserve or enhance significant natural or historical features;*
 5. *Provide adequate provision of transportation, water, sewer, and other public services;*
 6. *Provide significant family wage employment opportunities and broadening of the Vancouver economy; and*
 7. *Provide for the formation and enhancement of neighborhoods and communities.*

2. *Scope of review. Review and evaluation of proposed comprehensive plan or zoning map changes shall consider both the likely and possible future use of the site and associated impacts.*
3. *Cumulative Impacts. The review of individual comprehensive plan map or policy amendments, other than exceptions noted in 20.285.030, shall also consider the cumulative transportation, land supply, and environmental impacts of other plan amendments proposed within the same annual cycle.*
4. *Required Findings. No amendment to comprehensive plan or zoning maps shall be approved unless the required findings of VMC 20.285.085 have been addressed in the written staff report and the written decision of the review authority.*

Staff Findings: The proposed Vancouver Lake Greenway zoning for the western property and proposed IL zoning on the eastern property are more consistent with the above map amendment approval criteria than the existing designations, because they facilitate development compatible and integrated with surrounding uses. The zone changes allow more intensive industrial development on the eastern parcel abutting Fruit Valley Road and existing development, and open space retention on the western parcel which is surrounded by similar uses.

See page 6 of this report for evaluation of consistency with Comprehensive Plan policies.

This designation change proposal is the only one in the 2013 review cycle, ensuring that there is no compounding of cumulative impacts to local public services, land supplies, economic development or overall community quality of life that is significant on a citywide scale.

VMC 20.285.085 General Rezone Criteria and Required Findings for All Rezones

- A. *The provisions of this chapter shall apply to all rezones, including those involving an amendment to the Comprehensive Plan, except correction of mapping errors. In evaluating proposed rezones, the provisions of this chapter shall be weighed and balanced together to determine which zone best meets those provisions. In addition, the zone purpose, location criteria, and design statements, which describe the intended purpose and design of each designation, shall be used to assess the likelihood that the area proposed to be rezoned would function as intended.*
- B. *No single criterion or group of criteria shall be applied as an absolute requirement or test of the appropriateness of a zone designation, nor is there a hierarchy or priority of rezone considerations, unless a provision indicates the intent to constitute a requirement or sole criterion.*
- C. *Compliance with the provisions of this chapter shall constitute consistency with the Comprehensive Plan for the purpose of reviewing proposed rezones.*
- D. *The most appropriate zone designation shall be that for which the purpose, design statement, and location criteria for the specific zone match the characteristics of the area to be rezoned better than any other zone designation. The following zoning principles shall be considered:*
 1. *The impact of more intensive zones on less intensive zones or industrial and commercial zones on other zones shall be minimized by the use of transitions, physical edges, or buffers, if possible. A gradual transition between zoning categories is preferred.*
 2. *Physical edges and buffers, such as natural features, major traffic arterials and railroad tracks, open spaces, and distinct change in street layout and block orientation may provide an effective separation or transition between different uses and intensities of development.*
 3. *Physical edges, buffers and platted lot lines shall be considered in establishing boundaries.*

4. Boundaries between commercial and residential areas shall generally be established so that commercial uses face away from adjacent residential areas, unless physical edges or buffers (arterial streets, waterways, topographic breaks, mature natural or landscape buffers, etc) provide a more effective separation between uses.

5. Lower Density Residential areas may be rezoned to Higher Density zones only if the applicant demonstrates that the area no longer meets the location criteria for a Lower Density designation or the change is recommended as part of an adopted sub-area plan.

E. Impact Evaluation. The review of a proposed rezone shall consider both positive and negative factors when evaluating land use and environmental impacts, including impacts on public facility and service capacities, in the area of the proposed rezone.

F. The review of a proposed rezone shall include consideration of uses which can reasonably be anticipated based on the development potential of the requested zone, and the nature of the site and surrounding area.

G. Consideration of changed circumstances shall include elements or conditions embodied in the location criteria, and the purpose and design statements, for the relevant zone.

H. Overlay Districts. If the proposed rezone area is located within the boundaries of an overlay district or sub-area plan, the purpose and boundaries of the overlay district or subarea plan shall be considered.

I. An area designated and zoned Lower Density Residential that meets the location criteria of VMC 20.410.025 for such designation, may not be redesignated or rezoned to a Higher Density Residential designation unless the change is to implement an adopted sub-area plan.

Staff Findings: The proposed zoning is more consistent with the above general rezone criteria than current zoning, it facilities development more consistent with surrounding properties, and more clearly establishes transitions in the area from industrial uses to open spaces.

VMC 20.440.025 Industrial Zone Function and Location Criteria.

A. General Criteria:

Increasing industrially zoned land shall be favorably considered when such action will provide additional opportunities for business expansion, retention of manufacturing and other industrial firms, or increased employment, especially employment that adds to or maintains the diversity of job opportunities.

C. IL (Light Industrial) Location Criteria:

The Light Industrial (IL) zone designation is most appropriate in areas generally characterized by the following:

1. Areas that are currently developed with a mix of industrial activity and related or limited commercial uses;
2. Areas that, because of their size, isolation, or separation by another type of zone or major physical barrier (such as a topographic break, major arterial, waterway, or open space) can accommodate more industrial activity without conflicting with the function of nearby commercial and residential activity;
3. Areas with adequate access to the existing and planned arterial street network, such that additional trips generated by increased industrial activity in the area can be accommodated without conflicting with the access and circulation needs of nearby commercial and residential activity.
4. Large parcels of land with generally flat topography;
5. Adequate water, sewer, and fire protection services are available.

Staff Findings: Proposed IL zoning for the eastern parcel meets the Industrial zone locational criteria, since the area is currently developed with a mix of industrial and commercial uses, and the property can accommodate activity, has adequate arterial access and other services, and is flat.

VMC 20.450 Open Space Districts.

Section 20.450.010 Purpose.

Generally. Open space districts are intended to protect, preserve, conserve, and enhance natural areas, greenways, and parks. Together, the open space districts are intended to provide a full range of passive and active uses as well as environmental protection and enhancement for the future use, understanding, and enjoyment of the City and its residents.

Section 20.450.020 List of Open Space Districts.

2. GW-Vancouver Lake Greenway District (Figure 20.450– 2). The Vancouver Lake Greenway District is intended to encourage the preservation of agricultural and wildlife use on land which is suited for agricultural production, and to protect from incompatible uses agricultural areas that are highly valuable seasonal wildlife habitat. The district provides for activities which can be considered accessory only to agricultural, game, or wildlife habitat management, or recreational uses. Nothing in this chapter shall be construed to restrict normal agricultural practices.

Staff Findings: Proposed Vancouver Lake Greenway zoning for the western parcel meets the Open Space definitional criteria, since it facilitates agricultural and wildlife activities

Vancouver Comprehensive Plan Policies

CD-9 Compatible uses

Facilitate development that minimizes adverse impacts to adjacent areas, particularly neighborhoods.

EC-5 No net loss of employment capacity

Restrict zone change for legislative land use approvals that would lessen long term capacity for high wage employment unless accompanied by other changes within the same review cycle that would compensate for the lost capacity or unless the proposed change would promote the long term economic health of the city

EN-1 Environmental protection

Protect, sustain, and provide for healthy and diverse ecosystems.

Staff Findings: Proposed Vancouver Lake Greenway zoning on the western parcel and Light Industrial zoning on the eastern parcel are consistent with applicable Comprehensive Plan policies, as they facilitate development consistent with adjacent uses; ensure no net loss of employment capacity and in fact enhance it by allowing for expansion of the adjacent Pacific Cold Storage facility; and facilitate environmental protection.

III. COMPREHENSIVE PLAN TEXT CHANGES

Proposal Summary

Issue/Section of Plan	Staff Recommendation
<p>1. Community Gardens (Community Development Chapter, pages 1-10, 1-15 and 1-16). The Clark County Food Council recommends developing guidelines for and measuring the extent of community gardens in Vancouver, as called for in current Plan Policy CD-15 (c)</p>	<ul style="list-style-type: none"> • Update Plan Policy CD-15 to read: <i>Assess and promote opportunities for growing food in home of community gardens, with particular emphasis on areas in the vicinity of multi-family or smaller lot single family housing. Consider guidelines for service provision levels</i> • Add new bullet on page 1-16 under Tracking the Comprehensive Plan: <i>As of 2013-25% of all multifamily units and single family units on lots less than 5,000 square feet were located within ½ mile of a public or private community garden identified by the Clark County Public Health Department.</i> • Update explanatory language in Plan text at bottom of page 1-10, left column: <i>The importance of nearby grocery stores or other sources of fruits, vegetables or fresh meat has also been the subject of health studies. Neighborhoods lacking these options have been shown to have higher levels of obesity. Similarly, areas with high concentrations of fast food have been shown to contribute to obesity, particularly in children. Figure 1-4 shows Vancouver "food deserts", areas that are more than ½ mile from the nearest supermarket or smaller source of fresh food. The Vancouver Comprehensive Plan promotes the recruitment and retention of supermarkets or other fresh food stores in areas lacking them, and encourages growing food at home, or in community gardens. <u>Local food growing opportunities increase access to physical activity as well as fresh fruits and vegetables, both of which can reduce rates of chronic disease. Community gardens can also increase community collaboration and neighborhood stability.</u> (Clark County 2011 Growing Healthier Report).</i>
<p>2. Public Works Asset Management (Public Facilities and Services Chapter 5, page 5-58) City Public Works staff requests a plan policy to reflect emphasis on long term management of facilities rather than only responding to growth</p>	<ul style="list-style-type: none"> • Add new Plan policy: <i><u>PFS-35. City transportation, water, sewer and surface water facility assets shall be systematically managed to balance full life cycle costs, performance, risk, and service levels, using best management practices and data.</u></i>
<p>3. Corrections:</p> <ul style="list-style-type: none"> • Housing Chapter footers (pages 3-3 to 3-8) • Park Planning District Map (page 5-34) 	<ul style="list-style-type: none"> • Correct housing chapter footers to use lower case, eliminate reference to draft • Correct boundary numbers within the Park Planning Districts as follows <u>1 6, 2 9, 3 10, 4 11, 5 7, 6 5, 7-8, 8-4, 9 3, 10 2</u>

Review Criteria and Findings

Section 20.285.070 Comprehensive Plan Text Amendments

A. Approval process for Comprehensive Plan text amendments

1. *Initiation. All proposed text amendments to the comprehensive plan shall be developed, submitted and presented by the City staff, based on direction from the City Council, Planning Commission, or the City Manager or designee.*

2. *Private party requests.*

Private parties shall submit a written summary of the amendment proposed to City staff, an indication of why it is needed, and the potential land use impacts if approved, paying all applicable fees.

3. *Process. Text amendments submitted by City staff, including those originated from outside party requests if applicable, shall be scheduled for Planning Commission and City Council, subject to procedural criteria of this chapter, except that staff initiated actions shall not be considered final without council consent. Hearing scheduling shall be determined by City staff based on work program constraints or direction from the City Manager, Planning Commission and/or council. All proposed text amendments to the comprehensive plan will be reviewed concurrently and not more than once per calendar year, except as noted herein.*

B. Approval criteria for Comprehensive Plan text amendments

1. *Proposed plan text changes shall be considered based on the following:*

a. *The proposed change is consistent with the applicable provisions of the Growth Management Act, state and federal law, or other legal mandates; and*

b. *The proposed change is consistent with the applicable provisions of the Community Framework Plan, Countywide Planning Policies, and the Vancouver Comprehensive Plan; and*

c. *The proposed change is necessary to further the public interest based on present needs and conditions.*

Staff Findings: Proposed Comprehensive Plan text changes regarding Community Gardens are consistent with the overall Vancouver Comprehensive Plan, as they update existing policy CD-15(c), by articulating where the policy should be emphasized, adding data to the Plan text indicating recent status, and adding explanatory text on the overall benefits of community gardens. The proposed changes also implement Plan policy CD-15(d), which calls for coordination with Clark County Public Health to better integrate health impacts and land use and public facilities and service planning.

The proposed new Plan Policy regarding Public Works Asset Management better communicates evolving public works considerations, and helps to implement existing policy IM-6, which calls for use of comprehensive plan policy to influence city budget and funding decisions.

IV. ZONING CODE TEXT CHANGES

Proposal Summary

Issue and Code Section	Concern	Staff Recommendation
1. Error (VMC 20.930)	In Nonconforming Standards VMC 20.930.030E refers to non-existent (3)(a), should be (2)(a).	Change 20.930.030E reference from (3)(a) to (2)(a)
2. Greenhouses and other small accessory buildings (VMC 20.902)	<ul style="list-style-type: none"> VMC 20.902.020.B states that greenhouses may be constructed as accessory uses, but is unclear if accessory building standards of VMC 20.902.020.A apply. If so, those standards prohibit smaller greenhouses within side yard setbacks. Maximum size standards for accessory buildings not locating in setbacks unclear. Existing 800 s.f. limit in definition section not referenced. 	<p>Delete 20.902.020.B, and modify 20.902.020.A as follows:</p> <p><i>A. Detached accessory buildings: A detached building, accessory to a single family or duplex residence, may be constructed under one of the following criteria:</i></p> <ol style="list-style-type: none"> <i>Overall A detached building accessory to a single family or duplex residence, may be constructed according to the requirements and regulations for a principal building in the zone which it is located, e.g., total lot coverage, setbacks, building height, etc., except the accessory structure shall be located behind the front or side street elevation of the primary structure.</i> <i>Additional Provisions for smaller buildings within setbacks. A detached building, accessory to a single family or duplex residence, may be constructed within the rear and/or interior side setbacks provided:</i> <ol style="list-style-type: none"> <i>The detached accessory structure does not exceed 120 square feet in floor area and used for tool and storage sheds, play houses, or greenhouse and hothouses, and similar uses.</i> <i>No portion of the detached accessory building shall exceed 8' in height above grade, to roof peak.</i> <i>The detached accessory building shall not cover more than 50% of a required rear and/or side yard setback area.</i> <i>The nearest wall of the detached accessory building must be located a minimum of 6' from the wall of any building. Eaves of adjacent buildings must be at least 4' apart.</i> <i>Detached accessory buildings, are subject to the Building Code provisions of Title 17.</i> <i>The detached accessory structure shall be located behind the front or side street elevation of the primary structure.</i>
3. Neighborhood Commercial Zone Maximum Building Size (VMC 20.430.040)	<ul style="list-style-type: none"> VMC 20.430.040D.1 establishes a maximum total building size of 10,000 s.f. in the CN zone. Inclusion of residential uses in this calculation may effectively limit viability of mixed use developments. VMC 20.430.040D.1 also limits each individual use in a building to 3500 s.f. which renders many existing Neighborhood 	<p>Modify 20.930.040.D.1:</p> <p><i>Maximum use shall be no greater than 5,000 3,500 gsf. Maximum building size is limited to 10,000 gsf, excluding residential portions</i></p> <p>{note –35' height limit, 15% minimum landscaping, and buffering and screening requirements would still apply}</p>

	Commercial uses as nonconforming, and may discourage development.	
4. Child Care review process (VMC 20.840 and related provisions of VMC 20.410 and 420)	<ul style="list-style-type: none"> • VMC 20.840.030.C.1 allow Child Care Centers in lower density zones only as part of a Planned Development, which recently triggered unnecessary City Council review of Wee Day Care • VMC 20.840 requirement for CUP for Child Care Centers in both low and high density residential zones is significantly more restrictive than those for schools or government buildings or religious institutions. VMC 20.410.050.C and D and 20.420.050.F permit these outright in residential areas unless they exceed large size thresholds-12 acre lot or 75,000 s.f. buildings for schools, 2 acres/ 30,000 s.f. for churches 	<p>Modify 20.840, 20.410 and 20.420 as indicated in Attachment C to:</p> <ul style="list-style-type: none"> • Retitle section as Child Care Homes and Centers • Allow Child Care Centers to be located similarly to schools, churches and government buildings; allowed outright (but with a Type II process) in low and high density residential zones if consistent with child care standards of VMC 20.840 and if located on lots less than one acre and in buildings less than 10,000 s.f. in size. Larger Child Care Centers require CUP review.

Review Criteria and Findings

Section 20.285.090 Zoning Code Text Amendments

A. Approval process for Zoning Code text amendments

- 1. Initiation. All proposed text amendments to the development or zoning regulations shall be developed, submitted and presented by the City staff, based on direction from the City Council, Planning Commission, or the City Manager or designee.*
- 2. Private party requests. City staff shall submit proposals from private individuals or groups as follows:

 - a. Private parties shall submit a written summary of the amendment proposed to City staff, an indication of why it is needed, and the potential land use impacts if approved. No fees shall be assessed.*
 - b. Staff shall maintain a docket listing of private party requests, and shall provide the listing not less than once per year to the Planning Commission, which shall determine which items shall be further reviewed by staff and submitted as a formal proposal, which shall be deferred to future work programs, and which shall not be considered. Decisions to defer or not consider private requests shall be considered final unless appealed as provided herein.**
- 3. Process. Text amendments submitted by City staff, including those originated from outside party requests if applicable, shall be scheduled for Planning Commission and City Council, subject to procedural criteria of subsections of this chapter, except that staff initiated actions shall not be considered final without council consent. Hearing scheduling shall be determined by City staff based on work program constraints or direction from the City Manager, Planning Commission and/or council. Proposed text amendments to zoning or development regulation amendments which do not include corresponding comprehensive plan changes may be reviewed separately from one another, at any time.*

B. Approval criteria for Zoning Code text amendments

Proposed zoning or development regulation text changes shall be considered based on the following:

- 1. The proposed change is consistent with the comprehensive plan; and*
- 2. The proposed change is necessary to further the public interest based on present needs and conditions.*

Staff Findings: Proposed zoning text changes are consistent with the Vancouver Comprehensive Plan. They allow for appropriate development of greenhouses in residential zones or mixed use buildings in the neighborhood commercial zones, and child care facilities in residential zones, and correct actual proposals or inquires where such uses could not be located or required overly restrictive process to do so. The proposals further Comprehensive Plan Policy CD-14, Connected and Integrated Communities, while maintaining consistency with Policies CD-6, Neighborhood Livability, and CD-9, Compatible Uses.

V. RECOMMENDATION

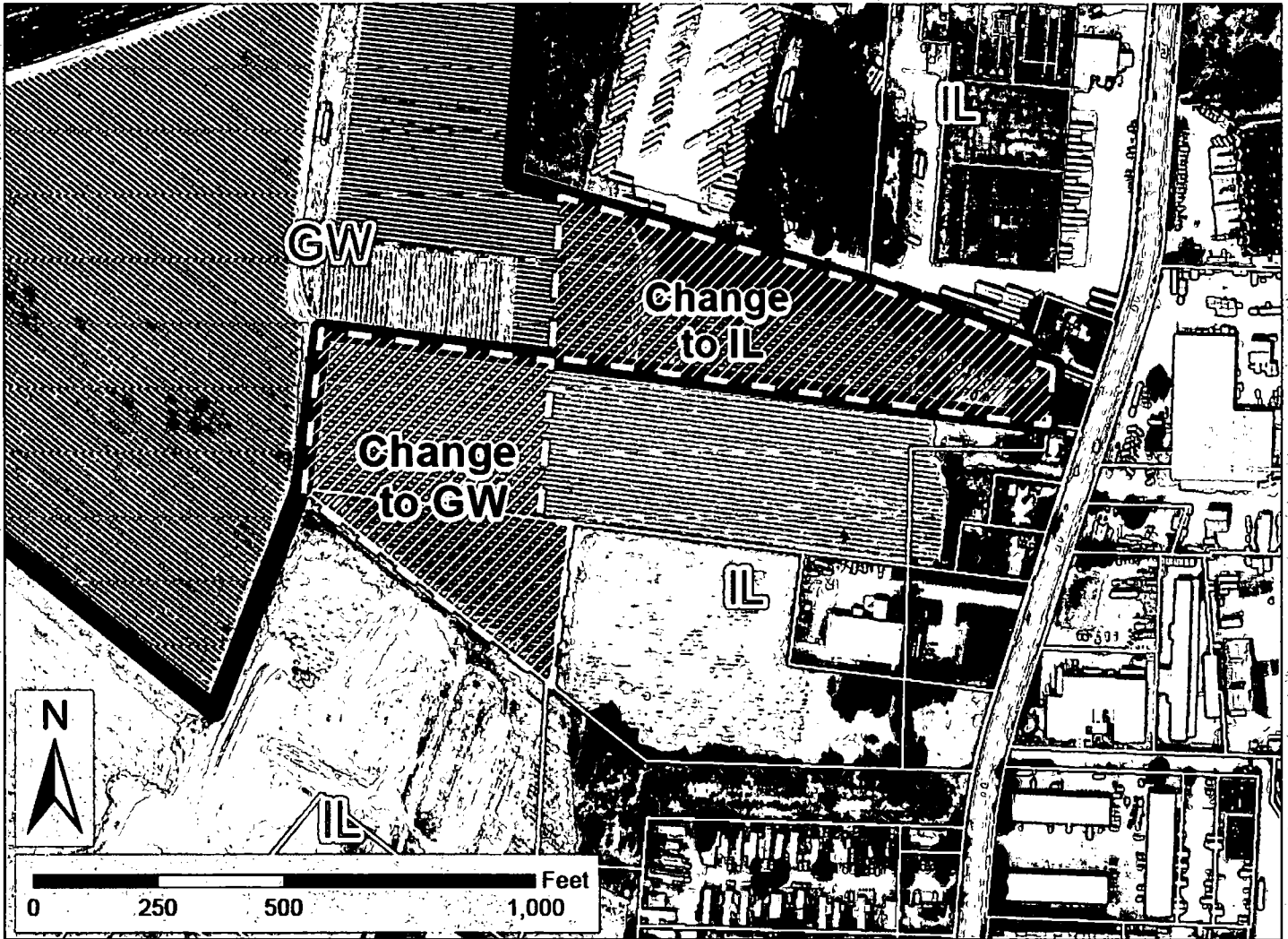
Based on analysis and findings in this report, staff recommends that the Planning Commission forward the following recommendations to the Vancouver City Council:

1. Approval of the proposed Comprehensive Plan and Zone map designation changes, contingent on finalization of a land exchange between the parties
2. Approval of the proposed Comprehensive Plan text changes
3. Approval of the proposed zoning code text changes

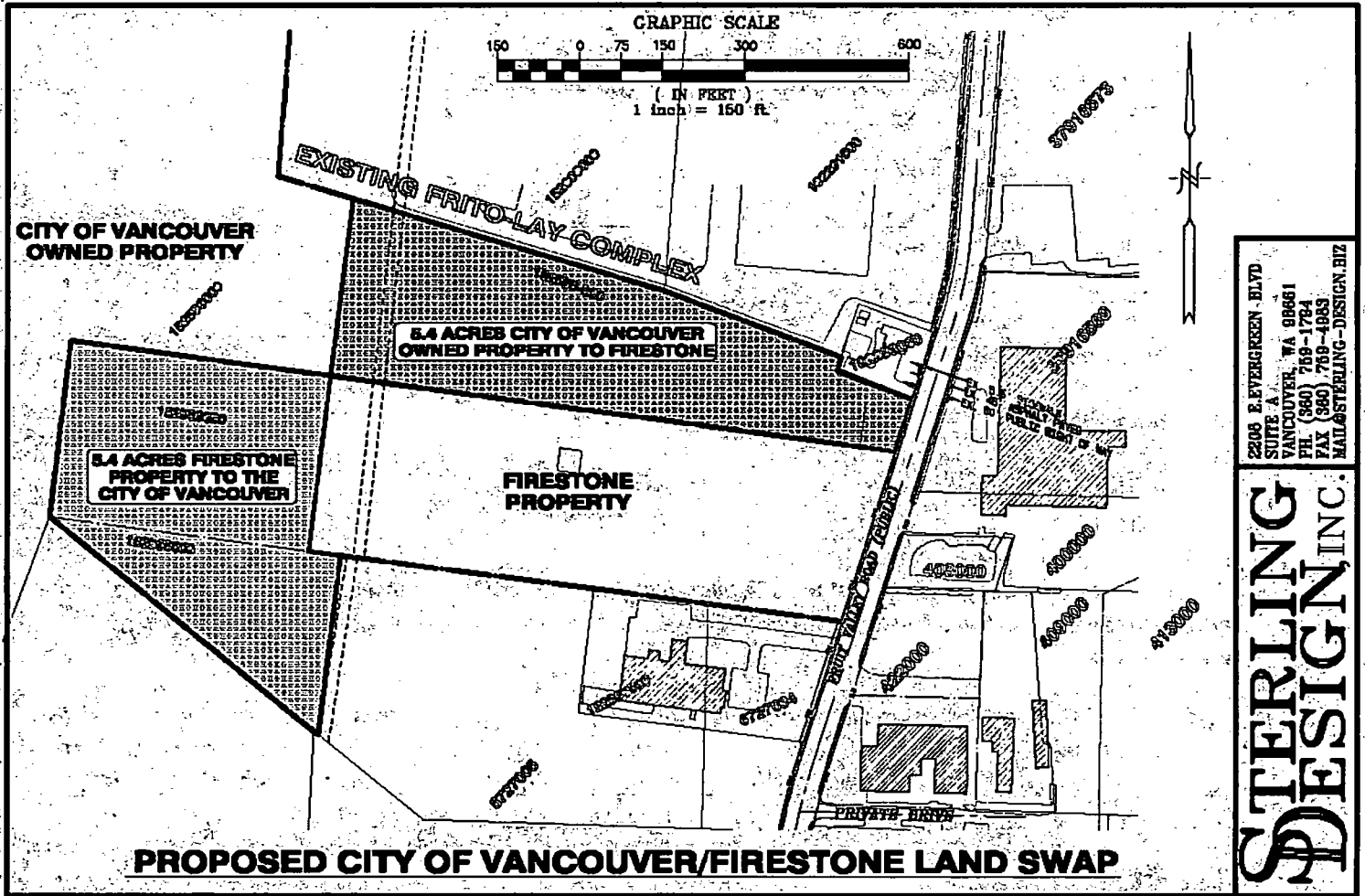
Exhibits:

- A. Comprehensive Plan/Zoning Map Change aerial photograph
- B. Proposed land swap associated with Comprehensive Plan/Zoning Map Change
- C. Proposed zoning code changes for child care centers

ATTACHMENT A – PROPOSED ZONING MAP DESIGNATION CHANGE



ATTACHMENT B – LAND SWAP ASSOCIATED WITH MAP DESIGNATION CHANGE



ATTACHMENT C – PROPOSED ZONING CODE CHANGES FOR CHILD CARE CENTERS

VMC 20.410 LOWER DENSITY RESIDENTIAL DISTRICTS

TABLE 20.410.030 – 1 Lower Density Residential Districts Use Table

Use	R-2	R-4	R-6	R-9
Family Day Care Home	P 8	P 8	P 8	P 8
Child Care Center	C-8 L/C 11	C-8 L/C 11	C-8 L/C 11	C-8 L/C 11
Emergency Services (except ambulance)	L/C 11	L/C 11	L/C 11	L/C 11
Religious Institution	L/C 11	L/C 11	L/C 11	L/C 11
Schools	L/C 11	L/C 11	L/C 11	L/C 11

~~8 Family day care homes for no more than 12 children are permitted when licensed by the State. Child care centers that meet the standards of Chapter 20.840, are allowed as conditional uses in the lower density residential districts.~~

11 Schools, religious institutions, government buildings, fire stations, child care centers and emergency services facilities that meet all of the criteria contained in Section 20.410.050(D) VMC are permitted by right; all others require conditional use approval. Child care centers permitted by right shall be consistent with VMC 20.840, Child Care Homes and Centers, and be subject to Type II review pursuant to VMC 20.210.050.

Section 20.410.050 Development Standards.

D. Criteria for institutions as limited uses. As noted in Table 20.410.030–1 above, a school, religious institution, government building, fire station, child care center or emergency services facility is allowed as a limited use if it meets all of the criteria described below. An institution that does not comply with all of these criteria must be reviewed as a conditional use, except for school modular classrooms, which shall be permitted outright.

1. The site contains no more than 12 acres for an elementary school, not to exceed 75,000 gsf.
2. The site contains no more than two acres for a religious institution, not to exceed 30,000 gsf.
3. The site contains no more than one acre for a child care center, not to exceed 10,000 gsf
- 4.3. The site takes its primary access from no less than a minor arterial.
- 5.4. If a religious institution also has a private elementary school, the total development shall not exceed 60,000 gsf and seven acres.

VMC 20.420 HIGHER DENSITY RESIDENTIAL DISTRICTS

TABLE 20.410.030 – 1 Higher Density Residential Districts Use Table

Use	R-18	R-22	R-30	R-35
Family Day Care Home	P/C 10	P/C 10	P/C 10	P/C 10
Child Care Center	C-24 L/C 14	C-24 L/C 14	C-24 L/C 14	C-24 L/C 14
Religious Institution	L/C 14	L/C 14	L/C 14	L/C 14
Schools	L/C 14	L/C 14	L/C 14	L/C 14

10 Family day care homes for no more than 12 children are permitted when licensed by the State. Child care centers are permitted as conditional uses, subject to the provisions of Chapter 20.840 VMC. Child Care Centers, unless part of a Planned Development, in which case they are approved subject to Chapter 20.260 VMC. All child care facilities must be licensed by the state.

14 Schools, child care centers and religious institutions that meet all of the locational criteria contained in Section 20.420.050(F) VMC are permitted by right; all others require conditional use approval. Child care centers permitted by right shall be consistent with VMC 20.840, Child Care Homes and Centers, and be subject to Type II review pursuant to VMC 20.210.050

Section 20.420.050 Development Standards.

F. Criteria for institutions as limited uses. As noted in Table 20.420.030–1 above, schools, child care centers and religious institutions are allowed as limited uses in higher density residential districts if they meet all of the criteria described below. An institution that does not comply with all of these criteria must be reviewed as a conditional use, except for school modular classrooms, which shall be permitted outright.

1. The site contains no more than 12 acres for an elementary school, not to exceed 75,000 gsf.
2. The site contains no more than two acres for a religious institution, not to exceed 30,000 gsf.
3. The site contains no more than one acre for a child care center, not to exceed 10,000 gsf
4. The site takes its primary access from no less than a minor arterial.
5. If a religious institution also has a private elementary school, the total development shall not exceed 60,000 gsf and seven acres.

VMC 20.840 CHILD CARE HOMES AND CENTERS

Section 20.840.010 Purpose.

Need for child care facilities. The City Council finds that a community need exists for child care and similar facilities within the City of Vancouver. Further the Council finds that it is appropriate that different levels or intensities of child care facilities be subjected to different levels of review. Therefore, the City has established the following standards and review procedures for the protection and enhancement of the neighborhood and for the general health and welfare of the community. (M-3643, Added, 01/26/2004)

Section 20.840.020 Types.

A. Types. There are two types of child care uses centers identified by the State of Washington. For further definition, see VMC 20.160.020 (B)(5)(a). These include:

1. Family Child Day Care Homes. Such homes are used for the care of no more than 12 children.
2. Child Care Centers. Child Care Centers are for the care of 13 or more children.

B. Regulatory compliance. Child Care Centers and similar facilities shall comply with the requirements of VMC 20.840.030, in addition to any requirements imposed by the State of Washington. (M-3643, Added, 01/26/2004)

Section 20.840.030 Special Use Standards for Family Child Day Care Homes and Child Care Centers.

A. ~~Child care facilities, pre-schools and similar facilities for the care of 12 or fewer children that meet the definition of Family Child Day Care Homes meeting the definition of contained in VMC 20.160.020 (B)(5)(a) are permitted in any residence in any zone except industrial districts.~~ B. Signs for Family Day Care Homes are prohibited.

~~BC.~~ Child Care Centers. Child Care Centers, pre-schools and other similar facilities for care of 13 or more children and which otherwise meet the definition of Child Care Center contained in VMC 20.160.020 (B)(5)(a)(b) shall be reviewed as follows:

1. ~~In low-density residential zones, Child Care Centers shall be permitted pursuant to VMC 20.410 and VMC 20.420 as applicable are prohibited in low-density residential, and zones unless part of a Planned Development, pursuant to VMC 20.260 Planned Developments.~~
 2. ~~In medium and high-density residential zones. Child Care Centers located in medium and high-density residential zones shall be reviewed as a Conditional Use Permit pursuant to VMC 20.245, unless part of a Planned Development, in which case the approval process contained in VMC 20.260 shall supercede. Regardless of the location, child care centers shall also comply with the following development standards:~~
 - a. Minimum lot size. ~~10,000~~ 5,000 sq. ft.
 - b. Minimum outdoor play area. Minimum of 75 sq. ft. per child for whom care is provided. This area must be contiguous to the facility.
 - c. Play area screening: A site-obscuring fence of at least 4' but not more than 6' in height shall be provided, separating any play area from adjoining lots. A similar fence shall be required between the play area and any abutting rights-of way.
 - d. Parking and loading: Compliance with the applicable provisions of VMC 20.945 Parking and Loading shall be required.
 - e. Signs. Signs shall be allowed subject to 20.960 VMC.
2. In all commercial and (OCI and IL) child care centers shall be allowed by right subject to the following design standards:
- a. Minimum lot area of 10,000 sq. ft.
 - b. Play area screening. A site-obscuring fence of at least 4' but not more than 6' in height shall be provided, separating any play area from adjoining lots. A similar fence shall be required between the play area and any abutting rights-of way.
 - c. Parking and loading. Compliance with the applicable provisions of VMC 20.945 Parking and Loading shall be required except that no parking or loading shall be required in the City Center District (CX).
 - d. Signs. Signs in a commercial or industrial zoning district shall comply with the applicable sections of VMC 20.960 Signs.
- (M-3643, Added, 01/26/2004)

EN 13-61

ATTACHMENT "D" - RELEASE OF DEED OF RIGHT

Grantee: City of Vancouver, Washington

Grantor: Clark County, Washington

Legal Description: See Exhibit "A"

Assessor's Property Tax Parcel Numbers: 102283-000 and a portion of 152586-000 (5.2 acre portion of the 88.15-acre parcel)

CLARK COUNTY, Grantor, hereinafter referred to as "COUNTY", for and in consideration of mutual covenants and promises set forth herein, hereby conveys to the CITY OF VANCOUVER, Grantee, hereinafter referred to as "CITY", the following Release of Deed of Right.

WHEREAS, by interlocal agreement signed by COUNTY December 14, 1993, and signed by CITY February 7, 1994, COUNTY agreed to provide CITY 100 % of the revenue for the CITY to acquire approximately 130 acres in four contiguous parcels in the South Vancouver Lake lowlands, said revenue appropriated from the Conservation Futures Fund; and

WHEREAS, CITY used said funds to acquire subject property; and

WHEREAS, in consideration of COUNTY funding of the land acquisition, CITY executed a Deed of Right to COUNTY on November 23, 1994, assuring that CITY would not make any use of the property which is inconsistent with the conservation purposes and improvements as described in the project sponsor's Conservation Futures grant application at the time of funding approval, unless the Board of County Commissioners consents to the inconsistent use. Further, CITY assured COUNTY that Board of County Commissioners shall approve any such conversion only upon conditions where the CITY can assure it will acquire substitute properties which are of equal or greater fair market value at the time of conversion, which, to the extent feasible, are equivalent in qualities, characteristics and location, and which also meet the goals and objectives of the Conservation Futures Program; and

WHEREAS, CITY is considering a land exchange with Firestone Pacific Foods involving approximately 5.5 of the 130 acres acquired by CITY and is requesting COUNTY to remove the 5.5 acre property from the covenants and restrictions set forth in the Deed of Right; and

WHEREAS, if executed, proposed land exchange would constitute a conversion of the conservation purpose of the land acquisition;

WHEREAS, the Board of County Commissioners considered the City's request for conversion and release from the Deed of Right on December 3, 2013.

NOW, THEREFORE, BE IT RESOLVED that COUNTY does hereby consent to the conversion and relinquishes all rights, title and interest in and to the 5.5 acre property and releases CITY from the Deed of Right subject to the following findings and conditions:

FINDINGS:

1. Market value of properties proposed for exchange has been determined to be of equivalent value through a fair market appraisal. Valuation conclusions have been supported by an appraisal review.
2. Parties to the exchange have agreed to an acre for acre exchange of land.
3. Lands to be exchanged are immediately adjacent and of equivalent conservation value.
4. Lands that will come into City ownership will meet the goals and objectives of the Conservation Futures Program.
5. The release only applies to the 5.5 acres of land subject to the proposed land exchange to Firestone Pacific Foods. This release shall in no way modify or extinguish the Deed of Right dedicated to the County November 23, 1994, over that portion of Assessor's Property Tax Parcel Number 152586-000 not affected by the land exchange (approximately 82.95 acres).

CONDITIONS:


1. The City approves parcel boundary line adjustments that accurately reflect the land exchange.
2. The land exchange between the City and Firestone Pacific Foods is executed generally in conformance with the parameters and purposes described in County staff report ES 13-026 (Final Staff Report SR 245 - 13).
3. The City executes a Deed of Right to the County over the 5.5-acre conveyance parcel from Firestone Pacific Foods upon acceptance of the deed.

Adopted on this 3rd day of Dec., 2013

Attest:

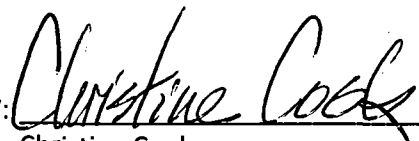

Rebecca Tilton
Clerk to the Board

Board of Commissioners for
Clark County, Washington


Steve Stuart, Chair

APPROVED AS TO FORM, ONLY
Anthony F. Golik, Prosecuting Attorney

Tom Mielke, Commissioner

BY: 
Christine Cook
Deputy Prosecuting Attorney

David Madore, Commissioner

Exhibit "A", Legal Description

City of Vancouver land proposed for exchange to Firestone Pacific Foods including Assessor's Parcel Serial No. 102283-000 and a portion of Assessor's Parcel Serial No. 152586-000.

A parcel of property situated in the Joseph Petrain Donation Land Claim in the Southwest quarter of Section 16, Township 2 North, Range 1 East of the Willamette Meridian, Clark County, Washington described as follows:

BEGINNING at the Southeast corner of that parcel conveyed to Paul Johnston, by deed, recorded under Auditor's File Number 4268818; Clark County records, said point being on the Westerly Right-of-Way line of Fruit Valley Road;

THENCE South $18^{\circ}34'57''$ West, along said Westerly Right-of-Way line, a distance of 97.09 feet to the Northerly line of that parcel of property conveyed to Harold L. and Jean E. Firestone, et ux., by deed, recorded under Auditor's File Number 3492031, records of Clark County;

THENCE North $83^{\circ}49'16''$ West, along said Northerly line, a distance of 145.40 feet to an angle point in said Northerly line;

THENCE North $82^{\circ}40'22''$ West, along said Northerly line, a distance of 891.98 feet;

THENCE North $07^{\circ}15'33''$ East, leaving said Northerly line, a distance of 320.09 feet to the Southerly line of that parcel conveyed to Frito-Lay Inc., by deed, recorded under Auditor's File Number 8612230181, Clark County records;

THENCE South $73^{\circ}55'28''$ East, along said Southerly line a distance of 587.15 feet to the Southwest corner of that parcel conveyed to Frito-Lay Inc., by deed, recorded under Auditor's File Number G583283, Clark County records;

THENCE South $70^{\circ}08'59''$ East, along the Southerly line of said Frito Lay parcel a distance of 343.89 feet to the Westerly line of said Johnston parcel;

THENCE South $20^{\circ}01'16''$ West, along said Westerly line, a distance of 25.75 feet to the Southwest corner of said Johnston parcel;

THENCE South $69^{\circ}58'37''$ East, along the Southerly line of said Johnston parcel a distance of 149.98 feet to the POINT OF BEGINNING.

CONTAINING 5.50 acres, more or less.

Together with and subject to easements, reservations, covenants and restrictions apparent or of record.

ATTACHEMENT "E" - DEED OF RIGHT

EN 1362

Grantee: Clark County, Washington

Grantor: City of Vancouver, Washington

Legal Description : See Exhibit "A"

Assessor's Property Tax Parcel Numbers: 152595-000 a portion of 152589-000 (3.48 acre portion of the 8.83-acre parcel)

CITY OF VANCOUVER, Grantor, hereinafter referred to as "CITY", for and in consideration of mutual covenants and promises set forth herein, hereby conveys to CLARK COUNTY, Grantee, hereinafter referred to as "COUNTY", the following Deed of Right.

WHEREAS, by interlocal agreement signed by COUNTY December 14, 1993, and signed by CITY February 7, 1994, COUNTY agreed to provide CITY 100% of the revenue for the CITY to acquire approximately 130 acres in four contiguous parcels in the South Vancouver Lake lowlands, said revenue appropriated from the Conservation Futures Fund; and

WHEREAS, CITY used said funds to acquire subject property; and

WHEREAS, in consideration of COUNTY funding of the land acquisition, CITY executed a Deed of Right to COUNTY on November 23, 1994, assuring that CITY would not make any use of the property which is inconsistent with the conservation purposes and improvements as described in the project sponsor's Conservation Futures grant application at the time of funding approval, unless the Board of County Commissioners consents to the inconsistent use. Further, CITY assured COUNTY that Board of County Commissioners shall approve any such conversion only upon conditions where the CITY can assure it will acquire substitute properties which are of equal or greater value at the time of conversion, which, to the extent feasible, are equivalent in usefulness and location, and which also meet the goals and objectives of the Conservation Futures Program; and

WHEREAS, CITY proposed a land exchange with Firestone Pacific Foods involving approximately 5.5 of the 130 acres acquired by CITY and requested COUNTY to release the 5.5 acre property from the covenants and restrictions set forth in the Deed of Right; and

WHEREAS, the Board of County Commissioners approved the City's request for conversion and release from the Deed of Right on December _____, 2013 via Final Staff Report SR ____-13

WHEREAS, the Board of County Commissioners release was conditioned upon the City of Vancouver dedicating a new Deed of Right to the County for the 5.50 acres acquired by land exchanged from Firestone Pacific Foods;

NOW, THEREFORE, BE IT RESOLVED that CITY will not make or permit to be made any use of the real property described in Exhibit "A" to this Deed of Right, or any part of it, which is inconsistent with those chapters of the Clark County Code and Revised Code of Washington that govern the use of Conservation Futures Funds, unless the Board of County Commissioners consents to the inconsistent use. Clark County shall approve any such conversion only upon conditions where the project sponsor can assure it will acquire substitute properties which are of equal or greater fair market value at the time of conversion, which, to the extent feasible, are equivalent in qualities, characteristics and location, and which also meet the goals and objectives of the Conservation Futures Program. Such consent shall only be valid by written agreement of the parties, recorded in the land records of Clark County.

All parties to this deed, and all successors, heirs, and assigns, shall be subject to the requirements of RCW Chapter 84.34, as may be amended, to the extent such amendment is applicable under the law.

SIGNED this ____ day of _____, 201_.

City of Vancouver, WA

By: Eric Holmes, City Manager

Attest:

R. Lloyd Tyler, City Clerk
By: Carrie Lewellen, Deputy City Clerk

Approved as to form:

Ted H. Gathe, City Attorney

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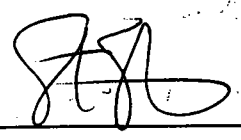
ACCEPTED this 3rd day of Dec., 2013

Attest:



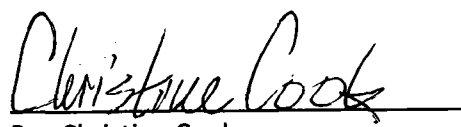
Rebecca Tilton
Clerk to the Board

Board of Commissioners for
Clark County, Washington



-----, Chair

APPROVED AS TO FORM, ONLY
Anthony F. Golik, Prosecuting Attorney



By: Christine Cook
Deputy Prosecuting Attorney