

# CLARK COUNTY STAFF REPORT

**DEPARTMENT:** Public Works / Parks

**DATE:** March 28, 2017

**REQUESTED ACTION:** Express Council intent to accept the dedication of AP #188669-000, an undevelopable tract, from Lake Shore Development, at time of final plat approval and recording of PLD 2005-00037/PUD 2005-00003. Authorize staff to pursue the process to trade a real property interest in 2.9 acres of AP #188669-000, once in county ownership, to abutting parcels owned by Andrew Joe and Debbie Erickson Warner, in order to obtain a County real property interest in 7.0 acre AP #188676-000, owned by Erickson Farm Properties, LLC.

Consent       Hearing       County Manager

## **PUBLIC WORKS GOALS:**

- Provide safe and efficient transportation systems in Clark County
- Create and maintain a vibrant system of parks, trails and green spaces
- Continue responsible stewardship of public funds
- Promote family-wage job creation and economic development to support a thriving community
- Maintain a healthy, desirable quality of life
- Increase partnerships and foster an engaged, informed community
- Cultivate a nimble, responsive work force
- Make Public Works a great place to work

The primary objective of this action is to consolidate public ownership of land around Vancouver Lake, with a future goal of building a public loop trail around the lake.

## **BACKGROUND**

On March 14, 2006, Hearings Examiner Joe Turner published a Final Order approving, with conditions, PLD 2005-00037, a preliminary plat for a 148-lot subdivision and associated permit reviews, and PUD 2005-00003, a planned unit development on a 51.22-acre site, known as Erickson Farms. The developer, Lake Shore Development, is nearing completion of all required terms and conditions and hopes to receive approval and record the final subdivision shortly.

Findings 5 through 8 of the final order address the disposition of a 9.2-acre open space Tract A. This area contains a forested ravine within the western portion and a stormwater facility within the northern portion. Within the tract, the applicant is required to develop an informal play field, a neighborhood park with picnic and play areas, and a trail. Condition B-2 of the final order stipulates that all landscaping improvements shall be constructed and installed prior to final plat approval and recording. Condition B-3 stipulates that the applicant shall form a homeowners association to, in part, maintain the common open space, including all proposed tracts, and references Finding 8 of the final order.

Reading conditions B-2, B-3 and Finding 8 in conjunction with Finding 7, the final order provides an alternative to maintenance of the common open space by a homeowners association. Finding subsection 7(b) of the order stipulates that the maintenance responsibility may also be undertaken by

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OK

a "...public agency which agrees to maintain the common open space and any buildings, structures, or other improvements which have been placed on it..."

Since PLD 2005-00037/PUD-00003 was approved, the 9.2-acre open space Tract A has been divided into three distinct tax parcels. These include:

- AP #986032-591, 0.46-acres, owned by the Erickson Farms Homeowners Association that includes the local park improvements;
- AP #986031-167, 1.28 acres, owned by the County Clean Water Program that includes a stormwater facility; and
- AP #188699-000, 7.42 acres, still under the ownership of Lake Shore Development. This parcel either has to be dedicated to the homeowners association, or a public entity, in order to complete and record the final plat. The property owner has expressed a strong preference to dedicate this to the County, rather than the homeowners association.

### **COUNCIL POLICY IMPLICATIONS**

The Board of County Councilors accepts all final plats prior to recording. Implicit in many recorded plats are notes requiring dedication of specific parcels to the county for long-term maintenance and management. The first part of the requested action, to express intent to accept dedication of AP #188699-000 as part of final plat approval and recording, is consistent with current Council policy. Once a final plat is recorded, it enables housing and commercial construction to begin, supporting economic development objectives.

The second part of the requested action, while consistent with current Council policy, is a bit more complex. Staff wants to be sure Council fully understands the policy objectives and provides authorization to proceed, prior to moving forward with additional actions. The primary policy objective of the land trade is to consolidate public ownership of land around Vancouver Lake. Once this occurs, it may be possible to pursue development of a public trail loop around the Lake, in addition to protecting shoreline habitat.

Two maps are attached to this staff report: one showing the existing land ownership and the second showing proposed ownership that would be brought about by the land trade. As shown in the maps, if AP #188676-000, currently owned by Erickson Farm Properties, LLC, is acquired by the county, it would close a critical gap in public ownership along the Vancouver Lake shoreline. The Assessor currently values the parcel at \$16,821. The land trade presents an opportunity to acquire the parcel at no cost to the county. Following is an explanation of the process through which the objective may be achieved:

Andrew Joe Warner is the president of Lake Shore Development Corporation, owner of AP #188699-000, a construction contractor registered with the Washington Department of Labor and Industries (Unified Business Identifier UBI 602287321). Andrew Joe Warner and Debbie Erickson Warner, husband and wife, own four parcels on the north side of the ravine in AP #188699-000 including AP #s 188680-000, 188690-000, 188696-000 and 188697-000. Andrew, on behalf of he and his wife, approached the county expressing an interest in obtaining ownership of approximately 2.9 acres of AP #188699-000 abutting their properties, once under county ownership, to buffer their properties from the county property and maintain views from their properties. As compensation for this real property interest, Erickson Farm Properties, LLC, (WA Secretary of State UBI 602195447), of which Debbie Erickson is a governor, will convey title to AP #188676-000, a 7-acre parcel on the Vancouver Lake shoreline, to the county, at no cost to the county.

The Board of County Councilors may authorize land trades per section 2.33A of the County Code. Staff believes the contemplated land trade of 2.9 acres qualifies under Section 2.33A.180(6) as an unmarketable parcel that may be disposed of by private negotiation.

*“2.33.180(6) Unmarketable Parcels. A parcel of surplus real property, which in and of itself would have little utilitarian value because of its size or shape, may be offered and sold to owners of adjoining properties by private negotiation.”*

AP #188699-000 is an undevelopable open space tract to which the Assessor assigns \$0.00 market value. Should to Board of County Councilors approve the final plat for PLD 2005-0037/PUD 2005-00003 and accept dedication of AP #188699-000, staff would pursue a boundary line adjustment with Andrew J. and Debbie E. Warner conveying title of the 2.9 acres of AP #188699-000 to them to expand the size of one or more of their parcels. No additional buildable lots would be created.

Prior to, or simultaneous with, the recording of the boundary line adjustment, staff will record a deed to AP #188676-000, accepted by the Board of County Councilors, through which Erickson Farm Properties, LLC, will convey title to AP #188676-000 to the county.

**ADMINISTRATIVE POLICY IMPLICATIONS**

While Andrew Warner and Debbie Erickson Warner are corporate board members of Lake Shore Development Corporation and Erickson Farm Properties, LLC, respectively, and joint owners of four parcels abutting the open space tract, should the Board of County Councilors authorize staff to pursue the land trade, we will need to work closely with the Prosecuting Attorney’s Office to be sure that both components of the land trade are conveyed with authorization of the full governing boards of the corporate entities.

**COMMUNITY OUTREACH**

None.

**BUDGET IMPLICATIONS**

YES	NO	
X		Action falls within existing budget capacity.
	X	Action falls within existing budget capacity but requires a change of purpose within existing appropriation
	X	Additional budget capacity is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager.

The primary budget implication of the requested actions is that Clark County Parks will assume maintenance responsibilities for approximately 14.2 acres of additional land. These are undeveloped lands that are unlikely to be developed in the next five years. Maintenance responsibility for many undevelopable tracts with environmental constraints and most of the shoreline parcels around the east side of Vancouver Lake are designated Legacy Lands with maintenance costs absorbed by the Conservation Futures Fund. Legacy Lands maintenance costs average \$75 per acre per year. That would amount to \$1,065 per year for the subject parcels. It is unlikely the land trade, if authorized by the Board of County Councilors, could be executed and recorded before the fourth quarter of 2017.

**BUDGET DETAILS**

Local Fund Dollar Amount	\$1,065 for the 2017-18 Biennium
Grant Fund Dollar Amount	NA
Account	Conservation Futures
Company Name	NA

**ATTACHMENTS:**

Existing Ownership Map

Proposed Ownership Map

Hearings Examiner Final Order for PLD 2005-00037/PUD 2005-00003

**DISTRIBUTION:**

Board staff will post all staff reports to The Grid. <http://www.clark.wa.gov/thegrid/>

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Bill Bjerke  
Parks Division Manager

  
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Heath H. Henderson, PE  
Public Works Director/County Engineer

  
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**APPROVED:**  
CLARK COUNTY, WASHINGTON  
BOARD OF COUNTY COUNCILORS  
DATE: 3-28-17  
SR# SR 072-17



**APPROVED:** \_\_\_\_\_  
Mark McCauley, County Manager

DATE: \_\_\_\_\_



# Erickson Farms Land Trade

## Existing Ownerships

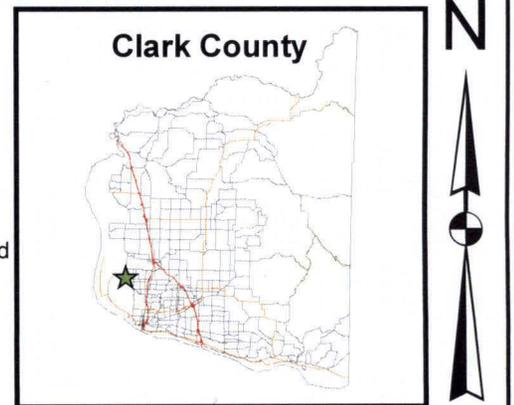


### Map Legend

Erickson Farms (EF)	Legacy Lands (LL)	Arterial
Lake Shore Development (LSD)	Port Of Vancouver (POV)	Minor
Clean Water (CW)	Private (PRI)	Private, Other
Home Owners Association (HOA)	Warner Erickson (WE)	BNSF Railroad
Clark County Taxlots		

Author: Hunter Decker

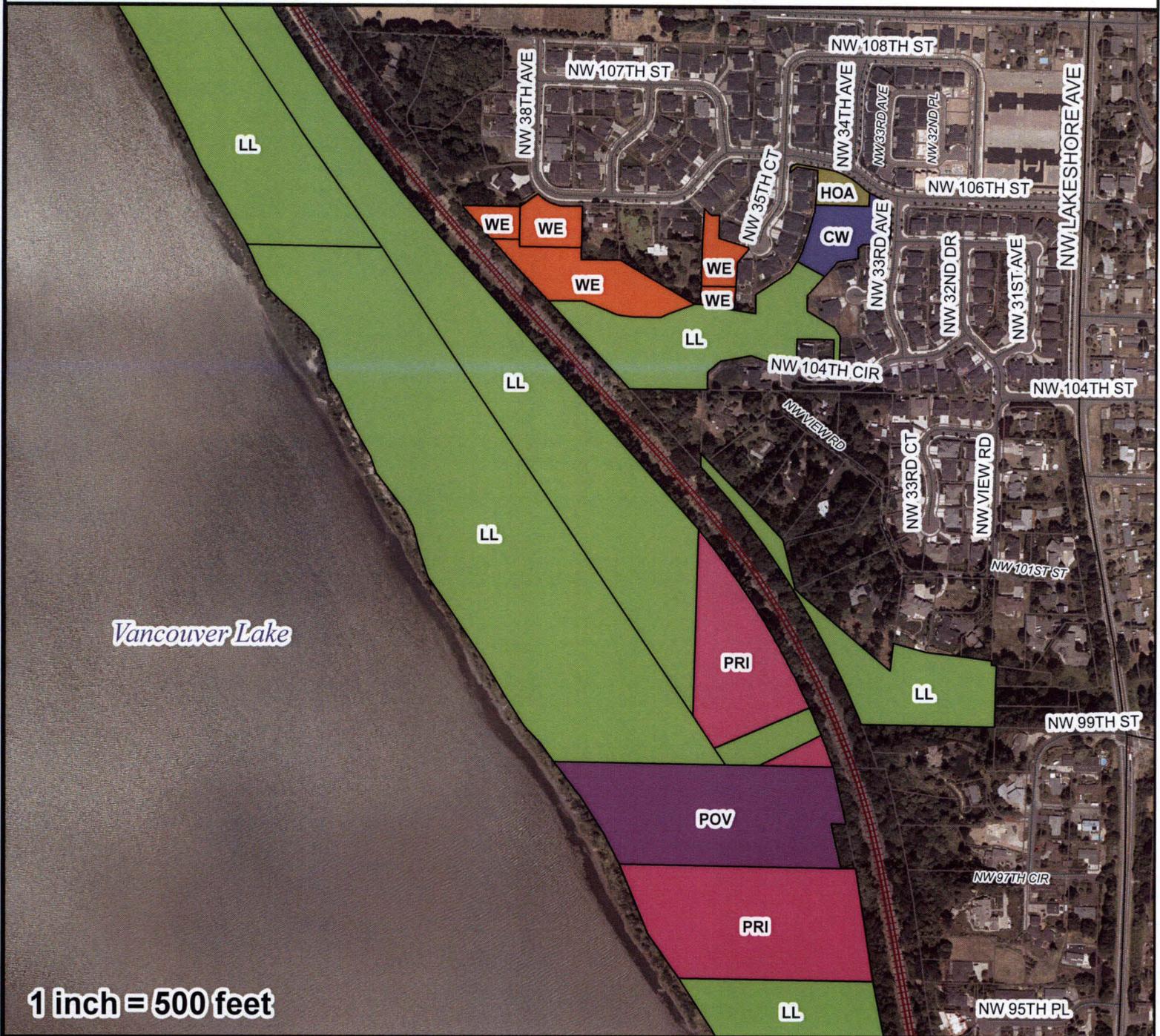
Date: 3/1/2017





# Erickson Farms Land Trade

## Proposed Ownerships



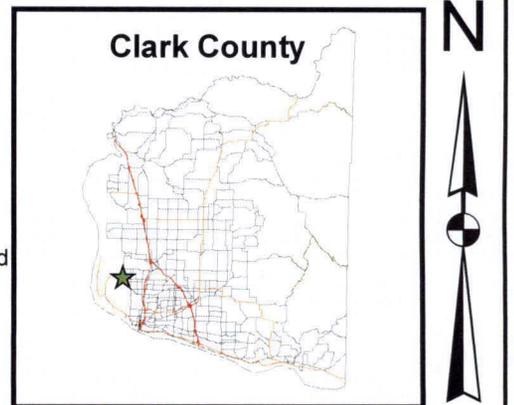
1 inch = 500 feet

### Map Legend

 Clean Water (CW)	 Port Of Vancouver (POV)	 Arterial
 Home Owners Association (HOA)	 Private (PRI)	 Minor
 Legacy Lands (LL)	 Warner Erickson (WE)	 Private, Other
 Clark County Taxlots	 BNSF Railroad	

Author: Hunter Decker

Date: 3/1/2017



**BEFORE THE LAND USE HEARINGS EXAMINER  
FOR CLARK COUNTY, WASHINGTON**

Regarding an application by Lakeshore Development Corp. for a ) **FIN**  
**AL ORDER**  
preliminary plat and associated reviews for a 148-lot subdivision) **PUD 2005-00003**  
and planned unit development on a 51.22-acre site at 10600 NW) **PLD 2005-00037<sup>1</sup>**  
Lakeshore Avenue in unincorporated Clark County, Washington )  
(**Erickson Farms**)

**A. SUMMARY**

1. The applicant requests approval to divide an approximately 51.22-acre site into 148 lots including 142 single family residential lots, 6 "Village Center" lots (which will be developed with 25,000 square feet of commercial space, 15,000 square feet of office/loft space, 21 rowhomes and either 46 townhomes or 79 condominiums) and a 9.2-acre open space tract, as a planned unit development ("PUD"). The applicant proposed to develop the site in five phases. The site is located at 10600 NW Lakeshore Avenue (the "site"). A roughly 5-acre area in the northeast corner of the site is zoned C-1 (Neighborhood Commercial). The remainder of the site and surrounding properties to the north, east and south are zoned R1-7.5 (Single-Family Residential, 7500 square foot minimum lot size). Properties to the west are zoned AG/WL (Agricultural-Wildlife).

a. Proposed single family residential lot sizes range from about 3,910 square feet to 20,500 square feet. A new single-family detached home will be built on each lot. See Sheet 6 of Exhibit 5. The applicant proposed to create six lots in the proposed "Village Center." The largest, 155,000 square foot, lot will be developed with multi-family housing; either 46 townhomes or 79 condominiums. The remaining five lots range in size from 24,030 to 33,180 square feet and will be developed with one and two story buildings for retail, office, commercial and residential lofts. See Sheets 4 and 5 of Exhibit 5. The applicant proposed to remove the five existing homes and assorted accessory structures on the site.

b. The applicant will construct half-width frontage improvements along the site's NW Lakeshore Avenue, NW 19<sup>th</sup> Street and NW 104<sup>th</sup> Street frontages. The applicant will extend new public streets into the site from those frontage roads including proposed NW 106<sup>th</sup> Street (from NW Lakeshore Avenue), NW 34<sup>th</sup> and 37<sup>th</sup> Avenues (from NW 109<sup>th</sup> Street) and NW View Road (from NW 104<sup>th</sup> Street). The applicant will extend a new stub road to the northwest boundary of the site aligned with existing 38<sup>th</sup> Avenue to the north. The applicant will construct new public and private streets and alleys within the site to create an interconnected street grid. The applicant also proposes to create a commercial driveway access to the Village Center from NW Lakeshore Avenue.

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<sup>1</sup> This decision also addresses SEP2005-00067, EVR2005-00030, HAB2005-00067, WET 2005-00047 and related road modifications.

c. The applicant proposes to create a roughly 9.2-acre open space tract in the central and southwest portions of the site. The applicant will develop a neighborhood park consisting of a play structure, benches, paths and an informal sports field in the northeast end of the open space tract, near the center of the site. See Sheet 4 of Exhibit 5. The applicant will extend a soft surfaced path to a picnic area within the western portion of the open space tract. The western portion of the open space tract contains a forested ravine and wetlands. See Sheet 2 of Exhibit 5.

d. The applicant proposes to collect and treat storm water from impervious areas of the site and convey it to a stormwater facility in the central open space tract for treatment and detention. The applicant will release treated stormwater into the existing on-site drainageway at less than predevelopment rates. The applicant will pipe the runoff over the steep slopes to an outfall in the flatter area near the west end of the ravine. See Sheet 10 of Exhibit 5. The applicant proposed to provide an additional stormwater detention facility in the northwest portion of the site, proposed Tract Q, if necessary to accommodate runoff from that portion of the site.

e. Clark Public Utilities and the Hazel Dell Sewer District will supply domestic water and sanitary sewer service respectively to the site.

2. The county issued a Determination of Nonsignificance (“DNS”) for the subdivision pursuant to the State Environmental Policy Act (“SEPA”). That determination was not appealed.

3. Hearing Examiner Joe Turner (the “examiner”) conducted a public hearing about the application. County staff recommended that the examiner approve the preliminary plat and PUD plan subject to conditions. See the Development & Environmental Review Staff Report and Recommendation to the Hearing Examiner dated February 8, 2006 (the “Staff Report”). The applicant accepted those findings and conditions with certain exceptions. Three persons testified orally with concerns and objections. Other persons testified in writing. Contested issues in the case include the following:

- a. Whether the County provided adequate notice of the public hearing;
- b. Whether area roads can accommodate additional traffic generated by the proposed development without causing hazards;
- c. Whether the applicant is required to align 34<sup>th</sup> Avenue with existing streets north of the site;
- d. Whether the alignment of 106<sup>th</sup> Street with 106<sup>th</sup> Circle will increase traffic on 106<sup>th</sup> Circle or create a hazard;
- e. Whether the applicant should be required to construct off-site sidewalks and road improvements;

f. Whether the proposed development makes adequate provisions for children walking to the school bus stop. RCW 58.17;

g. Whether development on the site will cause or exacerbate flooding and high groundwater issues in the area;

h. Whether the proposed development will increase sediment and pollution in Vancouver Lake;

i. Whether the proposed development will impact the steep slopes on the site

j. Whether the school district can accommodate children living on the site; and

k. Whether the proposed PUD is compatible with surrounding developments.

4. Based on the findings provided or incorporated herein, the examiner concludes that the applicant sustained the burden of proof that the applications for the PUD, preliminary subdivision plat and associated permits do or can comply with the applicable approval standards. Therefore the examiner approves the applications, subject to the conditions at the end of this final order.

## **B. HEARING AND RECORD HIGHLIGHTS**

1. The examiner received testimony at a public hearing about this application on February 23, 2006. That testimony and evidence, including a videotape of the public hearing and the casefile maintained by the Department of Community Development (“DCD”), are included herein as exhibits, and they are filed at DCD. The following is a summary by the examiner of selected testimony and evidence offered at the hearing.

2. County planner Richard Daviau summarized the Staff Report and showed photographs of the site. Exhibit 45.

a. He noted that future phases of the PUD are vested for five years.

b. He noted that the applicant proposed modifications to several conditions of approval. Exhibit 42. He testified that proposed condition B-1 is acceptable to County staff with the addition of the phrase “in accordance with the PUD ordinance.”

c. He testified that the applicant will mitigate the impact of the proposed development on schools by paying school impact fees. The School District is likely to establish a new bus stop within the site, based on his experience with other developments.

d. He noted that the Code allows PUDs flexibility in lot sizes and density when the applicant demonstrates that the development will further specific comprehensive plan policies. In this case the proposed development meets numerous comprehensive plan policies including mixed use developments, pedestrian connectivity, preservation of open space and the provision of recreational facilities.

3. County development engineer Ali Safayi testified that condition A-1.a is necessary to allow the County to address safety concerns that may arise from the proposed commercial development. The County may construct a median in Lakeshore Avenue in the future, restricting the commercial driveway to right in/right out only in movements. A southbound acceleration/deceleration lane may be required to facilitate safe access in and out of the commercial driveway.

a. He testified that NW 109<sup>th</sup> Street is a neighborhood circulator, which requires a minimum 150 feet between intersections. The proposed alignment of 34<sup>th</sup> Avenue complies with the intersection spacing requirements.

b. He argued that the proposed preliminary stormwater plan does not comply with Code requirements. The Code requires that the applicant reduce the rate of runoff leaving the site to less than predevelopment rates. The site is divided into two stormwater basins, Basin A in the northwest corner of the site and Basin B covers the remainder of the site. The applicant did not propose any stormwater detention in Basin A. The applicant proposed to “over-detain” runoff from Basin B in order to compensate for the lack of detention in Basin A. However development in Basin A will increase the rate and volume of runoff, which may increase erosion and other problems downstream from the site. Additional detention in Basin B will not compensate for the impact of additional runoff in Basin A. He opined that the County and the applicant can resolve the issue during final engineering. The applicant can provide an additional detention facility in the northwest corner of the site to accommodate runoff from Basin A.

4. County concurrency engineer Richard Gamble requested the applicant modify conditions A-2.d, e and f to reflect the applicant’s agreement to construct the off-site improvements.

a. He testified that, based on the traffic analysis, Lakeshore Avenue has adequate capacity to accommodate traffic generated by the proposed development and the proposed development will not create any safety issues. The analysis did not identify any additional safety or capacity issues that would warrant additional right of way or frontage improvements.

b. He testified that the County can install a “Dead End Street” sign on 106<sup>th</sup> Circle. He encouraged Mr. Ewert to submit such a request to the County public works division.

c. He testified that the County will consider reducing the posted speed limit on Lakeshore Avenue. However, based on experience, reducing the posted speed limit has little effect on actual traffic speeds. Drivers tend to travel at whatever speed

they are comfortable with based on the road conditions. Traffic signals are intended to facilitate the even flow of traffic. They are not intended to function as traffic calming measures.

5. Attorney Randy Printz, planner Bill Horning and engineer Eric Golemo testified for the applicant.

a. Mr. Printz noted that the applicant designed the PUD to integrate the residential and commercial developments within the site. Although some of the proposed lots are smaller than existing lots in the surrounding area, the overall density is less than the maximum density allowed by the current zoning.

i. He noted that buildings in the R1-7.5 zone are limited to a maximum height of 35 feet. However the PUD ordinance allows the applicant to increase the building height in exchange for additional setbacks (15 feet of setback for every ten feet of additional building height). He questioned whether the setback requirement applies to the proposed lot lines or the existing boundaries of the site. He opined that this issue can be resolved during the subsequent design review phase of the Village Center portion of the development.

ii. He noted that there are areas of steep slopes on and near the site the sides of the ravine within the open space tract and above the railroad tracks west of the site. The area of the site abutting the ravine has been continuously farmed for many years without impacting the slopes. The slopes in the west end of the site, above the railroad tracks, will remain heavily vegetated. No clearing or development is proposed in that area. All development on the site will be setback from the steep sloped areas as recommended in the geotechnical report. Appendix G of Exhibit 6.

iii. He testified that the applicant will collect stormwater runoff from impervious areas of the site and convey it to a treatment and detention facility within the open space tract. The applicant will pipe the treated runoff from the detention pond to an outfall near the bottom of the ravine in order to avoid impacts to the steep slopes. The site contains two drainage basins. The applicant proposed to redirect the majority of runoff from Basin A to Basin B, reducing the volume of runoff from Basin A and eliminating the need for additional detention. However the applicant can provide an additional detention facility in the northwest portion of the site if necessary. Both detention facilities will eventually discharge to Vancouver Lake via a culvert beneath railroad tracks. The existing culvert has adequate capacity to accommodate runoff from the site. The site receives little runoff from surrounding properties, which are largely developed.

iv. He testified that the applicant is willing to guarantee the off-site street improvements required by conditions A-2.d, e and f. The applicant will construct half-width frontage improvements on Lakeshore Avenue abutting the site, including a continuous center left turn lane extending to NW 109<sup>th</sup> Street. The left turn lane will alleviate existing congestion on Lakeshore Avenue by providing a refuge for vehicles waiting to turn left, removing those vehicles from the through traffic lanes. Traffic from

the proposed development is not expected to impact the 134<sup>th</sup> Avenue corridor. 99<sup>th</sup> Street provides the fastest route to the I-5 freeway, based on the applicant's travel time analysis.

v. He noted that the engineers for the applicant and the County performed an extensive analysis of the traffic generated by the ultimate buildout of the proposed development. That analysis did not reveal the need for any additional improvements, beyond those proposed by the applicant. The design of the commercial access includes a southbound deceleration lane. All intersections in the area will operate at acceptable levels of service with the proposed improvements. The applicant proposed to align the site access with 106<sup>th</sup> Circle in order to provide access to the center of the site without creating an off-set intersection.

vi. He argued that the proposed development will not change the zoning of the site. The PUD ordinance allows the applicant vary from the minimum lot sizes. The applicant proposed to develop the site at less than the maximum density allowed by the current zoning. The C-2 zoning on the site allows up to 22 dwelling units per acre. The County's overall density goals are 8 to 10 dwelling units per acre. The applicant proposed to develop the site at an overall density of 4.7 dwelling units per acre.

b. Mr. Horning summarized the history of the site and the design of the proposed development. He testified that the applicant selected the alignment of proposed 34<sup>th</sup> Avenue in order to limit the volume and speed of cut-through traffic while maintaining connectivity with existing streets. He testified that the applicant will create a homeowners association, which will own and maintain the open space areas on the site. The applicant designed the development with larger lots and landscaping around the perimeter of the site to buffer surrounding properties from the more intensive development within the site.

c. Mr. Golemo argued that the preliminary stormwater plan is consistent with the County Code. The applicant proposed to direct runoff from the majority of basin A to Basin B, reducing the volume of runoff from Basin A by roughly 60-percent. The applicant will detain the additional runoff in Basin B. Therefore the proposed development will reduce the rate of runoff leaving both basins to less than predevelopment rates, consistent with the Code.

6. Linda Feliciano expressed concerns with the impact of the proposed development on schools and drainage.

7. Theresa Lowe testified on behalf of Ken and Barbara Warren. She questioned the design and maintenance of the open space tract and the design of the proposed homes.

8. John Ewert summarized his written testimony, Exhibit 41.

a. He argued that the proposed development constitutes a zone change because the PUD will allow multi-family dwellings in the R1-7.5 zone and much smaller lot sizes, which are inconsistent with existing development on surrounding properties. He

argued that the proposed open space tract does not provide sufficient area for active recreation to compensate for the smaller lots.

b. He objected to the alignment of proposed NW 106<sup>th</sup> Street with the existing NW 106<sup>th</sup> Circle, a dead-end private street on the east side of Lakeshore Avenue. Large numbers of vehicles turning in and out of the site will impede access to 106<sup>th</sup> Circle. In addition, drivers may assume 106<sup>th</sup> Circle is a through street and try to use it as a cut-through route to the east. The existing turnaround is not adequate to accommodate additional traffic. He requested the County install "No Outlet" or "Dead End" signs at the intersection of 106<sup>th</sup> Circle and Lakeshore Avenue.

c. He argued that Lakeshore Avenue is hazardous under existing conditions due to the volume and speed of traffic. Children cannot safely walk to schools and parks in the area. There are no sidewalks, traffic signals or crosswalks to accommodate pedestrian traffic in the area. Drivers frequently use the bicycle lanes on Lakeshore Avenue to pass vehicles waiting to turn left. The additional traffic generated by the proposed development will exacerbate these hazards. Children living east of Lakeshore Avenue will attempt to cross this busy street to access the commercial activities on the site. He requested the County reduce the speed limit on Lakeshore Avenue.

9. The examiner closed the record at the end of the hearing and announced his intention to approve the application subject to the conditions recommended by County staff as amended at the hearing.

### **C. DISCUSSION**

#### **PUBLIC NOTICE:**

##### Finding 1

The examiner finds that the notice provided of the public hearing in this matter complied with the requirements of the Code. CCC 40.510.030.E requires the County to mail notice of public hearings to owners of property within 300 feet of the site, publish notice in the newspaper and post notice on the site at least ten days before a hearing. The County did these things in this case.

Notice was mailed to property owners within 300 feet on January 17, 2006. See Exhibit 29. Notice was published in the COLUMBIAN newspaper on February 8, 2006. See Exhibit 31. Signs were posted at three separate locations on and near the site on February 8, 2006. See Exhibit 37. This is sufficient to comply with the Code. The Code does not require that notice be mailed to the owners of properties located beyond the 300-foot radius of the site. The Code does not require that mailed notice be received by the owners; such a requirement would be impossible to enforce. Multiple forms of notice are required, in part, to provide a measure of overlap, so that if notice in one form is not effective (e.g., when a mailed notice is not received), another form of notice will be effective (e.g., published or posted on the site).

The examiner finds the public was provided with an adequate opportunity to review this application and to comment on it either orally at the hearing or in writing. The neighborhood was well represented at the hearing and in the written record. Residents of the neighborhood testified clearly and succinctly regarding issues of concern to them.

#### **LAND USE:**

##### Planned Unit Development - General Requirements and Approval Criteria

CCC 40.520.080 (E) establishes the standards and general requirements for a PUD review, which include parcel size, building height and open space including landscaping and maintenance arrangement. CCC 40.520.080(F) stipulates that 5 specific findings must be made prior to a PUD approval in the county. Based on the following, the examiner finds that the proposed PUD can, with appropriate conditions of approval, comply with the applicable PUD standards and requirements.

#### **PUD General Requirements (40.520.080(E)(1))**

##### *40.520.080(E)(1)(a) - Size of the Planned Unit Development Site*

- (1) *Except as set forth in subsection 40.520.080(E)(1)(a)(2) of this section, a tract of land to be developed as a planned unit development shall have a minimum lot area of six (6) acres.*

#### Finding 2

The proposed PUD site consists of approximately 51.2 acres, therefore this requirement is met. No condition of approval is warranted.

##### *40.520.080(E)(1)(a) - Size of the Planned Unit Development Site*

- (2) *A planned unit development may have a lot size of less than six (6) acres if the responsible official or hearings examiner makes specific findings of fact...*

#### Finding 3

The proposed PUD site is greater than six (6) acres, therefore this requirement does not apply. No condition of approval is warranted.

##### *40.520.080(E)(1)(b) - Building Height*

*With review and approval of the responsible official or hearings examiner, the height of a proposed building shall comply with the height limitations of the underlying district in which it is proposed to be located, except that a greater height may be allowed in the amount of ten (10) feet of height for each additional fifteen (15) feet of setback from any property line.*

#### Finding 4

The applicant is requesting a maximum 45 foot height limit within the proposed Village Center. The majority of the proposed Village Center is zoned C-2 which does not have a height limitation; however, the western portion is within the R1-7.5 zoning district which has a 35 foot height limit. PUD's do allow for "flexibility in design", however there are specific criteria within the PUD code that must be met to allow for an increase in the height of a building by 10 feet for each additional fifteen feet of setback

(CCC40.520.080E.1.b). Because a specific site plan/design of these buildings has not been submitted at his time, the examiner cannot verify the height of these buildings. Therefore, the building height shall be no more than 35 feet for the portion of property that is zoned R1-7.5 along the western boundary of the proposed Village Center, unless setbacks are increased by 15 feet (See Condition B-1).

There is a question about whether the 15-foot setback requirement applies to the existing property lines of the site or the property lines of the lots created by the proposed subdivision. The applicant proposed to delay resolution of that issue until the subsequent site plan review and/or land division process for development in the Village Center. The examiner finds that it is not necessary to resolve the issue until specific development is proposed on the site.

*40.520.080(E)(1)(c) Common Open Space*

*“No open area may be accepted as common open space within a planned unit development, unless it meets the following requirements:*

- (1) The location, shape, size and character of the common open space is suitable for the planned unit development;”*

Finding 5

The proposed open space identified as Tract A (See Exhibit 5, Sheet 6) consists of approximately 9.2 acres. This area contains a forested ravine within the western portion and a proposed stormwater facility within the northern portion. The open space tract is centrally located within the development allowing easy access for all residences of the PUD. The applicant will develop the open space tract with an informal play field, a neighborhood park with picnic and play areas as well as a trail. See Sheet 4 of Exhibit 5 and pp. 1 and 6 of Exhibit 44.

It was alleged that the open space will be unusable due to drainage problems and proximity to the stormwater facilities. However there is no substantial evidence to that effect. The applicant can grade the site to create a well drained level area for the playfield and park. There is no evidence that the stormwater facilities will have an adverse impact on these active recreation areas, which will be separated from the water quality facility by a dense landscape buffer. The applicant will landscape the stormwater facility to increase its visual appeal as an area of passive open space. See p. 6 of Exhibit 44. Therefore the examiner finds that the open space is suitable for the proposal. No condition of approval is warranted.

- (2) The common open space is for amenity or recreational purposes, or is used to maximize solar access to units incorporating solar energy systems; provided, that the uses authorized are appropriate to the scale and character of the planned unit development, considering its size, density, expected population, topography, and the number and type of dwellings provided;*

Finding 6

As noted above, the proposed open space tract will contain a neighborhood park with picnic and play areas as well as an informal play field and a trail. This will provide the

residences of this PUD with active as well as passive recreational opportunities. The active recreational areas (the park and play field) are separate from the proposed stormwater facilities. See Sheet 6 of Exhibit 44. However the applicant proposed to landscape the stormwater facility to enhance its visual appeal and function as passive open space. The examiner finds that the proposed open space is appropriate to the scale and character of the PUD. No condition of approval is warranted.

- (3) *Common open space will be suitably improved for its intended use, except that common open space containing natural features worthy of preservation, such as wetlands, may be left unimproved. The buildings, structures, and improvements to be permitted in the common open space are those appropriate to the uses which are authorized for the common open space;*

### Finding 7

The proposed open space does contain natural features that are being preserved. The areas outside of those natural features are being developed appropriately for the authorized uses. As noted above, the provided open space will serve as an amenity and provide recreation to those within the development. The applicants have also identified on the plans a trail system connecting the picnic area, neighborhood park and play area (See Exhibit 5, Sheet 3). As a condition of approval, these recreational areas are required in order to further the recreational opportunities within the PUD and satisfy the requirements of this section. Prior to final engineering approval of Phase C, the applicant shall submit a final plan showing the required playground, picnic area and trail improvements for approval by the planning manager. The plan shall be detailed and shall include type and materials of all improvements. These improvements should be constructed/installed prior to final plat for Phase C. (See Finding 13 and Conditions A-9 and B-2).

- (4) *Land shown in the final development plan as common open space, the landscaping and/or planting contained therein, shall be permanently maintained by and conveyed to one of the following:*
  - (a) *An association of owners shall be formed and continued for the purpose of maintaining the common open space. The association shall be created as an association of owners under the laws of the state and shall adopt and propose articles of incorporation or association and bylaws, and adopt and improve a declaration of covenants and restrictions on the common open space that is acceptable to the Prosecuting Attorney, in providing for the continuing care of the space. No common open space may be put to a use not specified in the final development plan unless the final development plan is first amended to permit the use. No change of use may be considered as a waiver of any covenants limiting the use of common open space areas, and all rights to enhance these covenants against any use permitted are expressly reserved; or*
  - (b) *A public agency which agrees to maintain the common open space and any buildings, structures, or other improvements which have been placed on it."*

### Finding 8

Prior to final plat the applicant will need to form a homeowners association to, in part, maintain the common open space and all other proposed tracts (See Condition B-3). The examiner finds that the liability concerns raised by Ms. Carmen (Exhibit 40) are not relevant to the applicable approval criteria for this development. The use or need for some of the proposed tracts is unclear from the application materials. It appears that some of the tracts are intended for landscaping or stormwater purposes but it is uncertain. Therefore the applicant should be required to identify the intended use of all tracts prior to final plat,. (See Condition B-4)

### **PUD Approval Criteria (40.520.080(F))**

*The site of the proposed use is adequate in size and shape to accommodate the proposed use and all setbacks, spaces, walls and fences, parking, loading, landscaping, and other features as required by this title, to ensure that the proposed use is compatible with the neighborhood land uses;*

#### Finding 9

The site is approximately 51.2 acres in size, which is more than adequate to accommodate the proposed use. This includes accessory uses related to the proposed single-family development such as yards, open space and landscaping that make the proposal compatible with the neighboring single-family uses. The applicant is proposing to build single family detached homes next to existing single family detached homes. Although some of the proposed lots are smaller than adjacent lots, the uses on those lots are not incompatible. To further compatibility, the applicant has proposed larger lot sizes along the perimeter that abut the existing residential development and have kept the smaller lot sizes to the interior of the PUD.

The County does not regulate the design or ownership of homes. The applicant proposed to develop the residential lots on the site with single family homes, which allow for individual ownership. However the Code does not preclude future owners from renting the homes. The Code does not require certain minimum home sizes or values nor do they restrict the materials or finishes used to build a home. Neighbors argued that the proposed development would affect the value of adjoining properties. However the examiner finds that that the neighbors did not offer substantial evidence to sustain that such an effect would or is reasonably likely to occur. To find that property value would be affected, the record must contain substantial evidence of such effects, i.e., evidence of property value on which a reasonably prudent person would rely. Where property value effects are alleged, a reasonably prudent person would rely on the opinion of a person qualified by training and experience to assess the value of property, e.g., a licensed real estate appraiser. Unsupported opinions about property value effects by people without such qualifications are not substantial evidence.

The proposed Village Center within the commercial district includes landscape buffers as required between commercial and residential districts. The Village Center will require a future site plan review application and at that time the appropriate buffers will be required. Staff finds that conceptually this area is compatible with neighboring uses. No condition of approval is warranted.

Allegations that the proposed commercial uses are not “needed” are irrelevant. The northeast corner of the site is zoned for commercial use. The proposed rowhouses and/or condominium dwellings are allowed in the C-2 zone. See CCC 40.230.0140.C and Table 40.230.010-1.

*That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed uses. Adequate public utilities are available to serve the proposal;*

#### Finding 10

The development is proposing several internal roads as well as improvements to existing roads. These roads are to be improved to Clark County road standards to ensure adequate width and pavement type to serve the single-family residential development as well as the Village Center. Streets in the area will have sufficient capacity to accommodate traffic generated by the proposed development based on the County concurrency analysis. (See Finding 30). All public utilities are available to the subject site (See Finding 49).

*The proposed use will have no significant adverse effect on abutting property or the permitted use thereof;*

#### Finding 11

Although some of the proposed lots are smaller than adjacent lots, the uses on those lots are not incompatible. The applicant is proposing to build single-family detached homes next to existing single family detached homes along the perimeter of the residential zoned portions of the site, which are compatible in use to the surrounding single-family developments and will not create significant adverse effects to those neighboring properties or uses. The proposed development of the Village Center is consistent with the commercial zoning of the property. The integration of the residential and commercial uses in one PUD does not have a significant adverse effect on abutting property or the permitted use thereof. Rather, it provides a transition between the existing residential areas on abutting properties and the planned commercial development in the northeast corner of the site, maintaining consistency with the character of the neighborhood, while promoting pedestrian traffic and reducing vehicular trips in the area. No condition of approval is warranted.

*The establishment, maintenance, and/or conduct of the use for which the development plan review is sought will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, or welfare of persons residing or working in the neighborhood of such use and will not, under the circumstances of the particular case, be detrimental to the public welfare, injurious to property or improvements in the neighborhood; nor shall the use be inconsistent with the character of the neighborhood or contrary to its orderly development; and*

#### Finding 12

The proposal for single-family detached residential dwellings is consistent with the surrounding development and will not be detrimental to the health, safety, morals, or welfare of persons residing or working in the neighborhood. The proposed development of the Village Center is also consistent with this criterion. The property is zoned commercial and the applicant could develop this independent of the residential uses. The fact that the applicant is choosing to integrate the two uses will help create consistency with the character of the neighborhood. The examiner finds that this proposal will not be injurious to the property or improvements in the neighborhood and it is consistent with the character of the neighborhood and not contrary to its orderly development. No condition of approval is warranted.

*The proposal includes unique or innovative design concepts developed to further specific policies of the comprehensive plan.*

Finding 13

The proposal (with conditions) meets this finding in its development of a neighborhood park, pedestrian trail, picnic area and informal play area. The proposed PUD integrates the commercial uses as part of the overall development and utilizes curvilinear streets and alleys to serve the development. The proposed PUD contains a variety of housing types including attached and detached single-family and a mixing of residential uses with commercial. All of these features serve to further specific comprehensive plan policies (See Exhibit 6, Project Narrative, Pages 5 - 12). Conceptual landscape plans have been provided (Exhibit 5, Page 3) showing landscape enhancements and noting benches and playground equipment for the proposed park in addition to the trail system. This trail system, with the public sidewalk system connects all of the open space to the development. The examiner also finds the conceptual Landscape Master Plan (Exhibit 5, Sheet 3) will help unify the subdivision as a community and will contribute to the uniqueness of the PUD. As a condition of approval, prior to final engineering approval, the applicant shall submit a final landscape plan for approval by the planning manager that is consistent with and includes details of the Conceptual landscape plans. All landscaping improvements for each phase shall be constructed/installed prior to final plat for that phase. (See Conditions A-9 and B-2)

## **Additional Requirements**

### Finding 14 - Future Site Plan Required for Village Center

A separate site plan review application was not submitted for the Village Center with this PUD application. The examiner approves the Village Center concept, however a separate site plan review application will be necessary. That site plan should be conceptually the same as that proposed under the PUD master plan and the County will review the specific uses within the Village Center at the time of site plan review. The County will review the future site plan application through at least a Type II process, which will provide public notice and an opportunity to comment in writing. See CCC 40.520.040.A(2). Because of the combination of residential with commercial, the uses must be consistent with the requirements of Table 40.230.010-1(1). (See Condition B-5).

### Finding 15 - Future Land Division Required for Townhouse Lots

The applicant uses the terms rowhouse vs. townhouse to distinguish between the design of the proposed attached dwelling units within the Village Center. However the county considers these two terms/uses to be interchangeable in describing attached units on individual lots. Development of rowhouses/townhouses on the site will require land division approval with an integrated site plan. The applicant acknowledges the need future land division approval for this area (See Exhibit 6, Applicants Narrative, Page 13) and it will be a condition of approval. (See Condition B-6)

### Finding 16 - Mid-Rise Condominium

The applicant also discusses the possibility of a mid-rise condominium in lieu of the proposed townhouses. This would be reviewed as a multi-family development requiring site plan approval and not a land division. The concept is acceptable as part of the PUD but a specific site plan review would be required and integration of the condominiums into the overall PUD would be reviewed at that time. (See Condition B-7)

### Finding 17 - Numbering of Lots

The preliminary plat identifies lots 1 through 142 for single-family residential and then lots 1 through 6 within the area of the proposed Village Center. Because this is one subdivision application the lot numbers 1-6 cannot be repeated. The applicant must revise the lot numbers prior to final plat. (See Condition B-8)

### Finding 18 - Lot Area

Lots 57 through 60, 64 through 69, and lots 104, 105, 141, and 142 are in close proximity of steep slopes, and as a result, placement of homes within these lots require greater attention. (See Finding 26 – under Slope Stability Analysis). These lots may need to be revised in order to have sufficient area for building. Building envelopes for these lots are warranted to ensure adequate building area. The lot sizes shall not significantly decrease from what is proposed with the conceptual plan. (See Finding 26 and Condition B-9)

### Finding 19 - Phasing

The applicant's phasing plan (See Exhibit 5, Page 6 and Exhibit 6, Project Narrative, Page 14) states that stormwater improvements are to occur in phase A and the open space improvements are to occur no later than phase C. The applicant also notes the years in

which the phases would be developed. This suggests that the phases are going to be developed sequentially. However the applicant should be allowed to alter the phasing to accommodate changing conditions, provided that the stormwater facilities for the development are constructed with the first phase and the park and open space improvements are constructed no later than the third phase, prior to completion of Phase C or the Village Center to ensure that these amenities are available to benefit the future residents. In addition, all phases will be required to comply with phasing procedures of 40.500.010(B)(2) (See Condition B-10).

#### Finding 20 – Density Requirements

CCC Table 40.220.010-2 establishes minimum and maximum density requirements for single-family residential zones and PUDs within them. For a PUD in the R1-7.5 zone the minimum/maximum density is 4.1 and 5.8 dwelling units respectfully. Densities for PUDs are calculated based on the gross area of the site minus any public rights-of-way. The applicant states the rights-of-way for the development total 3.6 acres (See Exhibit 5, Page 1); however, this right-of-way calculation is not separated between the R1-7.5 zone and the C-2 zone, therefore an accurate density calculation cannot be made. For the purposes of this finding, 20% of the gross area will be subtracted for the roadway areas to estimate the density.

Based on a gross site area of the property zoned R1-7.5 of approximately 45.36 acres the minimum required density would be 149 units ( $45.36 - 20\% = 36.28 \times 4.1 = 148.74$  rounded up to 149) and the maximum would be 210 units ( $45.36 - 20\% = 36.28 \times 5.8 = 210.42$  rounded down to 210). Based on a gross site area of the property zoned C-2 of approximately 5.85-acres and a maximum of 22 units per acre the maximum residential density allowed would be 64 units ( $5.85 - 50\%$  (maximum for residential)  $= 2.92 \times 22 = 64.24$  rounded down to 64). These calculations result in a minimum residential density for the site of 149 units and a maximum of 274 units. The applicant states they are proposing a maximum of 257 units (See Exhibit 6, Project Narrative, Page 16) but staff calculates it only at 248 (142 single-family lots + maximum of 100 units with the condominium project + 6 loft units above the commercial = 248). While this will need to be clarified as part of final plat and or site plan approval for the proposed Village Center, the examiner finds the project is within the required density range. A condition requiring an accurate density calculation is warranted (See Condition B-11).

#### Finding 21 – Existing Structures

All of the existing structures on the site need to be removed prior to final plat (See Condition B-12). Removal of the homes on the site will displace the existing residents. That is unfortunate, but it is not relevant to the approval criteria for the proposed PUD. In addition, the proposed development will create a significant number of new dwelling units in a variety of price ranges, consistent with the County's housing goals.

#### Finding 22 – State Platting Standards (RCW 58.17)

With conditions of approval, the examiner finds the proposed land division will make appropriate provisions for the public health, safety, and general welfare of the community. Extension of public sewer and water lines and connection of proposed residences to public sewer and water, as well as treatment of any future increase of

stormwater runoff, will be provided, to protect groundwater supply and integrity. Impact fees will also be required to contribute a proportionate share toward the costs of school, park and transportation provisions, maintenance and services.

The applicant is required to provide a safe walking route for children who walk to school. RCW 58.17.110. In this case the school district testified that all children from this site will be bussed to school. See the March 2, 2005 letter from the Vancouver School District, Appendix N of Exhibit 6. The applicant fulfills its responsibility under this part of RCW 58.17.110 by providing continuous sidewalks within and abutting the site where a school bus stop could be established and by providing improvements within which a school bus could safely turn around within the site. The proposed and existing pedestrian facilities will provide a safe walking route between the site and the school bus stop. In addition, the school district may provide one or more bus stops within the site, reducing the distance school children who reside on this site must travel for access to the bus stop.

#### Finding 23

The examiner finds, based upon Staff's review with the Prosecuting Attorney's office, that completion of the PUD will vest future phases to the ordinances in effect at the time of this application (August 26, 2004), provided the applicant complies with the Development Approvals Timeline found in CCC 40.500.010B. This opinion is based on staff's finding that the state law authorizes the county to adopt a more protected vesting than state law mandates. This is in addition to the fact that the county has adopted five year vesting protection under the site plan ordinance. The county's ordinance can take on the protection that the Noble Manor case contemplates for subdivisions and therefore future developments may be entitled to this protection. Neither the statute nor the Noble Manor case specifically make this point, but it is a logical extension of the findings in Noble Manor.

#### **CRITICAL AREAS:**

##### Finding 24 - Habitat

A Department of Natural Resources (DNR) type 5 tributary of the Columbia River flows approximately along the western property line. According to CCC Chapter 40.440.010(C)(1)(a) of the HCO, a DNR type 5 watercourse requires a 150-foot riparian Habitat Conservation Zone (HCZ) in order to protect fish and wildlife habitat. The riparian HCZ extends horizontally outward from the ordinary high water mark, or to the edge of the existing 100-year floodplain, whichever is greater. The former of these two measurements is likely applicable to the subject site.

According to the applicant's project narrative and preliminary plat, no clearing or development activities are proposed in the riparian HCZ. Therefore the proposed project is not subject to review under the Habitat Conservation Ordinance (CCC Chapter 40.440). Any future non-exempt clearing or development activities proposed in the riparian HCZ, shall be subject to review and approval under a Habitat Permit (See Condition B-22a).

Development on the upland portion of the site will eliminate habitat for wildlife. But the County Code does not prohibit such effects. On the contrary, it is an inevitable

consequence of concentrating new development in the urban area. None of the animals observed on this site is listed as endangered or threatened. They are commonly observed in the urban area. Their presence is less likely after the site is developed, but that is to be expected. The applicant will preserve roughly 10-acres of the site as open space, wildlife habitat and wetlands, thus preserving wildlife habitat within the urban area.

#### Finding 25 - Wetlands

Only major issues that require conditions and/or revisions to the proposed plans to ensure compliance with the requirements of the Wetland Protection Ordinance (CCC 40.450) are discussed in detail below:

- a. Compliance with CCC 40.450 will ensure that the project has no significant environmental impacts to wetlands (see SEPA Determination).
- b. The wetland and wetland buffer boundaries are shown correctly on the existing conditions plan (Exhibit 5, Sheet 2). No wetland or wetland buffer impacts are proposed.

#### Conclusion:

Based upon the development site characteristics and the proposed development plan, the examiner concludes that the proposed preliminary land division complies with the requirements of the Wetland Protection Ordinance PROVIDED that certain conditions (listed below) are met. Therefore, the requirements of the preliminary plan review criteria are satisfied (See Conditions B-21 & B-22b).

#### Finding 26 - Geologic Hazard Area

Provisions of Chapter CCC 40.430 applies to all construction, development, earth movement, clearing, or other site disturbance which requires a permit, approval or authorization from the county in or within one hundred (100) feet of a geologic hazard area except for exempt activities listed in subsection 40.430.010(B)(2). Regulated geologic hazards include steep slope hazard areas, landslide hazard areas, seismic hazard areas, and volcanic hazard areas.

The development proposes nonexempt activities within 100 feet of potentially instable slopes and adjacent to severe erosion hazard area, therefore, the provisions of CCC 40.430 apply to this development.

#### Geotechnical Concerns

In addition to the proposed residential structures and driveways, the applicant proposes to construct stormwater facilities in an area of steep slopes designated in the county GIS mapping as an area of excessive erosion and slope instability. The applicant has submitted a geotechnical site investigation report (dated May 7, 2004) prepared by Geotechnical and Environmental Services Inc (See Appendix G, Exhibit 6).

#### Slope Stability Analysis

The applicant's geotechnical consultant has analyzed stability of the existing slope conditions by modeling the slope using Bishop's Simplified Method of slices. The slope stability analysis included calculations for seismic and static conditions at the most

critical slope sections adjacent to borings B1, B2, and B3 (locations are shown on Figure 2 of Appendix G, Exhibit 6).

In accordance with the geotechnical report, the result of the slope stability analysis indicates a factor of safety against seismic and static conditions of 1.3 and 1.7, respectively. The report indicates that factors of safety in excess of 1.1 and 1.5 are generally considered the acceptable minimums for seismic and static conditions. The report concludes that the proposed development is geo-technically feasible provided that continued geotechnical input is obtained both after the plans become more formalized and during the proposed construction.

Based on the performed slope stability analysis, the applicant's geotechnical engineer recommends a building setback line a minimum of thirty five (35) feet from the top of the slopes. The report recommends that all construction activities including grading, building construction, landscaping, wall installation, drainage discharge, and similar work should occur above the setback lines. (See Condition A-4a & B-22c)

The geotechnical analysis report contains important findings and recommendations for grading, erosion, and construction of the future roadways/structures, slope stability, wet weather construction methods, and onsite drainage. Excavation and/or grading associated with this project shall comply with CCC 14.040.020, the Clark County Building Code. All earthwork, grading, and road construction shall be reviewed during the design phase and monitored during construction by a geotechnical engineer (See Condition A-4b).

The proposed lots 57 through 60, 64 through 69, and lots 104, 105, 141, and 142 are in close proximity of steep slopes, and as a result, placement of homes within these lots require greater attention. The locations of the buildings and associated improvements within these lots in relation to the delineated setback line shall be documented and certified by a professional land surveyor licensed in the State of Washington. (See Condition C-1 & B-22c)

No development is proposed on or near the steep slopes above the railroad tracks west of the site. The existing vegetation on these slopes will remain undisturbed. Therefore the examiner finds that the proposed development will not affect the stability of those slopes.

The proposed development is likely to reduce the volume of stormwater runoff flowing over the steep slopes. The applicant proposed to collect runoff from the majority of the site that would otherwise flow downhill into the ravine on the site. The applicant will direct the collected runoff to one or more detention facilities. The applicant will discharge runoff from the detention facilities to an outfall in the flatter areas near the bottom of the ravine.

#### Retaining Walls

The applicant proposed to construct a small retaining wall along the south end of the site's Lakeshore Avenue Frontage. See the "Landscape Edge Sections" on Sheet 3 of Exhibit 5. The examiner finds that due to the topographical constraints, construction of additional retaining walls may be necessary in other locations. Retaining walls greater

than 4 feet tall will require a building permit. All retaining walls shall be shown in sufficient detail on the final engineering plans to assess their impacts on adjacent roads, structures, and public or private utilities (See Condition A-4c).

Conclusion (Geotechnical)

The examiner finds that the requirements of CCC 13.60 can be satisfied, subject to conditions.

Finding 27 - Archeological

The proposal is located within a high probability area for containing cultural resources. An archaeological predetermination survey was completed for the site by the applicant that included 23 shovel test probes. No archaeologically significant items were found and no further archaeological work is recommended at this time. County staff concurred with the applicant's survey. If any cultural resources are discovered in the course of development construction, the Office of Archaeology and Historic Preservation in Olympia and Heritage Trust of Clark County should be notified. Failure to comply with these State requirements may constitute a Class C felony, subject to imprisonment and/or fines. (See Condition B-20e).

**TRANSPORTATION CONCURRENCY:**

Finding 28 - Trip Generation

County concurrency staff reviewed the proposed Erickson Farms PUD consisting of approximately 25,800 square feet of commercial buildings; 9,000 square feet of office buildings; 100 multifamily units; and 142 single-family home lots. Currently there are five single-family homes and a 3,800 square foot retail building on the site, which will be removed with construction of the proposed development. The applicant's traffic study has estimated the weekday AM peak-hour trip generation at 245 total trips, with 210 of those trips being new trips, while the PM peak-hour trip generation is estimated at 489 total trips with 379 of those trips being new trips. The difference between the total trips and the new trips is typically due to internal trips, which are trips that occur within the site, and pass-by trips that are already on the road and will not be adding additional trips to the general area.

#### Finding 29 - Site Access

Level of Service (LOS) standards are not applicable to accesses that are not regionally significant; however, the LOS analysis provides information on the potential congestion and safety problems that may occur at the site accesses to the arterial and collector network. Most of the accesses onto Lakeshore Avenue will have an LOS E, which would indicate that the intersections are operating at capacity. The estimated LOS E would occur on the minor streets of NW 109<sup>th</sup> Street, the central site access, and NW 104<sup>th</sup> Street on Lakeshore Avenue. These intersections will continue to experience delays. Unsignalized intersections operating at LOS E experience between 35 and 50 seconds of delay per vehicle, based on the 2000 Highway Capacity Manual. However this is consistent with adopted standards for unsignalized intersections. See CCC 40.350.020.G.1.d. In addition, the LOS at these intersections is anticipated to be better than shown in the applicant's traffic study because road improvements will be required which will provide additional opportunities for drivers to find gaps in the traffic. The applicant will provide a center left-turn lane, which will allow vehicles to make a two-stage left turn as they exit the site to travel northbound on Lakeshore Avenue. The turn lane will also provide a refuge for vehicles waiting to make a left turn into the site without interfering with the flow of through traffic on Lakeshore Avenue. The left turn lane will extend to 109<sup>th</sup> Street, facilitating access to this street for existing residents.

#### Finding 30 - Concurrency

The applicant submitted a traffic study for this proposal in accordance with CCC 40.350.020B and is required to meet the standards established in CCC 41.350.020.G for corridors and intersections of regional significance within 3 miles of the proposed development. The County's Traffix<sup>TM</sup> model includes the intersections of regional significance in the area and the County's model was used to evaluate concurrency compliance.

The County incurs costs to analyze the proposed development's impacts; therefore, the applicant should reimburse the County for costs incurred in running the concurrency model. (See Condition A-2c).

#### NW 119<sup>th</sup> Street and NW 36<sup>th</sup> Avenue intersection

The modeling results indicate that the intersection of NW 119<sup>th</sup> Street and NW 36<sup>th</sup> Avenue has an unacceptable LOS F and is failing concurrency. (See Technical Memo # 1, Exhibit # 34). This deficiency was also identified in the applicant's traffic study. Trips from the proposed development will impact this intersection. Previous developments have volunteered to install a traffic signal and have conditions of approval to that effect; therefore, the signal is reflected in County traffic models. Concurrency modeling for NW 119<sup>th</sup> Street and NW 36<sup>th</sup> Avenue, with the proposed signal, results in an acceptable LOS. The applicant volunteered to ensure that this improvement is constructed prior to final plat. (See Conditions A-2d and B-13)

#### NW Bliss Road and NW 36<sup>th</sup> Avenue intersection

The modeling results indicate that the intersection of NW Bliss Road and NW 36<sup>th</sup> Avenue has an unacceptable LOS F and is failing concurrency. (See Technical Memo #3, Exhibit 35). This deficiency was also identified in the applicant's traffic study. Trips

from the proposed development will impact this intersection. A previous development volunteered to install a northbound right turn lane and channelization at this intersection and has a condition of approval to that effect; therefore, this mitigation is reflected in County traffic models. Concurrency modeling for NW Bliss Road and NW 36<sup>th</sup> Avenue, with the proposed mitigation, results in an acceptable LOS. The applicant volunteered to ensure that this improvement is constructed prior to final plat. The applicant needs to be aware that this improvement entails construction and not simply lane striping. (See Conditions A-2e and B-14)

#### NW 99<sup>th</sup> Street and NW 11<sup>th</sup> Avenue intersection

The modeling results indicate that the intersection of NW 99<sup>th</sup> Street and NW 11<sup>th</sup> Avenue has an unacceptable LOS F and is failing concurrency. This deficiency was also identified in the applicant's traffic study. This T-shaped intersection has a unique lane configuration that has been studied more extensively by county staff. This intersection is unique due to the channelization on NW 99<sup>th</sup> Street that has one eastbound through lane, but two receiving lanes. The models typically only assume that if there is one approach lane, there will be one receiving lane. On the east side of the intersection, there are two receiving lanes; one lane for eastbound through vehicles and one lane for southbound vehicles making a left-turn to travel eastbound. Since the county's models are unable to reflect the presence of two eastbound receiving lanes when there is only one eastbound approach lane, the models are analyzing the traffic impacts incorrectly.

The presence of two receiving lanes allows the southbound left turning vehicles to have a separate lane to turn into which does not conflict with the separate lane for eastbound through-moving vehicles. Therefore, this arrangement makes it easier for southbound traffic to make a left turn. This situation cannot be modeled accurately in the county's Traffix™ model, so other models and field observations must be used to determine the approximate level of service. Further county analysis is currently ongoing to determine the level of service for the southbound approach, which would be the approach that would fail concurrency. However, the proposed development does not send any trips to the southbound approach that is potentially failing; therefore, mitigation is not recommended for the proposed development.

#### **SAFETY:**

Where applicable, a traffic study shall address the following safety issues:

- traffic signal warrant analysis,
- turn lane warrant analysis,
- accident analysis, and
- any other issues associated with highway safety.

Mitigation for off-site safety deficiencies may only be a condition of approval on development in accordance with CCC 40.350.030(B)(6) The code states that "nothing in this section shall be construed to preclude denial of a proposed development where off-site road conditions are inadequate to provide a minimum level of service as specified in Section 40.350.020 or a *significant* traffic or safety hazard *would be caused or materially aggravated* by the proposed development; provided, that the applicant may voluntarily

agree to mitigate such direct impacts in accordance with the provisions of RCW 82.02.020.”

#### Finding 31 - Traffic Signal Warrants

Signal warrant analysis for the intersection of NW 119<sup>th</sup> Street and NW 36<sup>th</sup> Avenue indicate multiple warrants are met for signalization. Since this issue has already been addressed in finding 28, it will not be discussed here.

The applicant’s traffic study stated that traffic signal warrants are met at the intersection of NW Bliss Road and NW 36<sup>th</sup> Avenue. Staff agrees with the applicant’s traffic study regarding signal warrants. However, with the mitigation that has already been volunteered from previous developments to install a northbound right turn lane, staff finds that additional mitigation to install a traffic signal should not be required of the proposed development. Since this issue was addressed in finding 28, it will not be discussed further here.

None of the intersections along the site’s frontage meet volume warrants for a traffic signal due to the relatively low volume of traffic on the minor traffic approaches going east-west. Additional mitigation is not recommended at these locations.

#### Finding 32 - Turn Lane Warrants

Turn lane warrants are evaluated at unsignalized intersections to determine if a separate left or right turn lane is needed on the uncontrolled roadway. The applicant’s traffic study identifies the need for left turn lanes at the site’s accesses onto Lakeshore Avenue as well as at NW 109<sup>th</sup> Street. The accesses onto Lakeshore Avenue include NW 104<sup>th</sup> Street, NW 106<sup>th</sup> Circle, the north site access, and NW 109<sup>th</sup> Street. County staff agrees with the findings in the traffic study and, due to the relatively close spacing of these site accesses along Lakeshore Avenue, the applicant should construct a continuous center left turn lane along Lakeshore Avenue between NW 104<sup>th</sup> Street and NW 109<sup>th</sup> Street. This turn lane should include appropriate tapers to transition to the 3-lane section that will be constructed on Lakeshore Avenue by the applicant. The applicant volunteered to ensure that this improvement is constructed prior to final plat. (See Conditions A-2f and B-15).

#### Finding 33 - Historical Accidents

The applicant’s traffic study analyzed the collision history at the regionally significant and adjacent intersections impacted by the proposed development. The collision rates at these intersections do not exceed thresholds that would warrant additional analysis. Therefore, mitigation by the applicant is not required.

#### Conclusion

Based upon the development site characteristics, the proposed transportation plan, the requirements of the County's transportation concurrency ordinance, and the findings above, the examiner concludes that the proposed preliminary transportation plan meets the requirements of the county transportation concurrency ordinance CCC 40.350.020. The proposed subdivision will generate additional trips in the area that will be perceptible to area residents, but it will not exceed the engineering capacity of streets or create a hazard. There is no substantial evidence to the contrary.

The traffic study was prepared by a licensed professional engineer based on actual traffic volumes. Future traffic volumes were estimated using accepted methods of calculation based on the type and amount of development proposed. Although neighbors disputed the accuracy and findings of the traffic study and argued that the traffic from the development will exacerbate existing hazards, they failed to provide any substantial evidence to contradict the traffic study. Their unsupported opinions do not have enough probative value to rebut the expert testimony of engineers for the applicant and the County.

Members of the public expressed concerns about speeding traffic in the area. The examiner finds that reasonably prudent drivers will observe the posted speed limit. Unfortunately not all drivers are prudent. However there is no evidence that the development proposed in this application will contribute a disproportionate share of imprudent drivers. Higher vehicular traffic volume creates a marginally higher risk for pedestrian and bicyclists. But those risks are consistent with the location of the site in the urban area where County plans call for the sort of development being proposed. The examiner encourages area residents to contact the County to request enhanced enforcement of traffic laws in this area and/or the installation of traffic calming devices to reduce speeds on these streets. The examiner has no authority to reduce the posted speed limit on Lakeshore Avenue.

Certainly the additional traffic generated by this subdivision will pose an increased risk for drivers, cyclists and pedestrians in the area. It may well warrant a heightened degree of attentiveness to traffic when driving, cycling or walking in the neighborhood. Construction on this site will further increase this risk. This is one of the many hazards of living in an urban area. Parents have an obligation to warn their children of potential dangers such as this.

The examiner finds that a development moratorium is not warranted in this area as alleged in Exhibit 15. All of the affected intersections will continue to operate at acceptable levels of service based on the County's concurrency analysis, provided the applicant completes the required street and intersection improvements. In addition, the examiner has no authority to adopt a development moratorium in this area. Only the Board of County Commissioners has that authority.

#### **TRANSPORTATION:**

##### Finding 34 - Pedestrian/Bicycle Circulation

Pedestrian circulation facilities in compliance with the Americans with Disabilities Act are required in accordance with the provisions of Section CCC 40.350.010. The development will construct sidewalks along the frontages on NW Lakeshore Avenue, NW 104<sup>th</sup> Street, NW 109<sup>th</sup> Street, and on both sides of streets within the site. The proposed road improvements along the frontage on NW Lakeshore Avenue will accommodate bike lanes. Bike lanes are not required along the local access roads within and abutting the site. Based on this information, the proposed pedestrian/bicycle circulation complies with the provisions of Section CCC 40.350.010. The applicant is required to construct sidewalks along Lakeshore Avenue and any proposed tracts prior to

final plat approval. The applicant or future owners will construct sidewalks abutting the proposed lots prior to final occupancy approval of homes on the individual lots. See CCC 40.350.030.C(4)(h)(2).

The applicant is not required to construct offsite sidewalks in the area, because it would be disproportionate to the impact of the development on the need for such facilities. Applicants are not required to remedy all perceived and existing deficiencies in the vicinity of a development. The County Code requires an applicant to mitigate impacts a development causes or to which it contributes significantly. Although the proposed development contributes to problems with substandard streets in the area, those problems exist largely because of existing development. It would be inequitable to require an applicant to bear the full burden of improvements where the proposed development is only responsible for a small portion of the problem. The need for sidewalks is one that exists generally along streets in the area, and is a need to which all adjoining properties contribute, not just the lots being created in this case. Sidewalks in the area will interconnect over time as other properties in the area develop, but the applicant is not required to make such connections at this time.

NW Lakeshore Avenue is classified as a 2-lane principal arterial road, a limited access roadway that is intended to carry higher volumes of traffic. Traffic volumes and speeds on this street may create a barrier to safe east-west pedestrian and bicycle traffic. However that is an existing condition that the applicant is not required to remedy. Traffic signals at the site access intersections would facilitate pedestrian movements across Lakeshore Avenue, signal warrants are not met at these intersections. (See Finding 31).

### Finding 35 - Circulation Plan

In accordance with Section CCC 40.350.030(B) (2), the purpose of the circulation plan is to ensure access to the proposed development and to provide adequate cross-circulation in a manner which allows subsequent developments to meet the cross-circulation standards.

NW Lakeshore Avenue, abutting the development to the east, NW 119<sup>th</sup> Street to the north, and NW 99<sup>th</sup> Street to the south are the primary north-south and east-west circulator roads in the area. The proposed onsite road extensions through the site and connectivity with the existing roadway system in the vicinity of the proposed development provide adequate cross-circulation in the area. This project complies with the circulation plan; therefore, the requirements of circulation plan in compliance with Section CCC 40.350.030(B) (2) are satisfied.

The examiner finds that it is unnecessary to align proposed 34<sup>th</sup> Avenue with the existing streets north of 109<sup>th</sup> Street (33<sup>rd</sup> or 35<sup>th</sup> Avenues). The proposed offset intersection provides north-south cross-circulation while forcing drivers to slow down as they turn on and off of 109<sup>th</sup> Street. This is consistent with the standards of CCC 40.350.030.B.2(c)(2).<sup>2</sup> A street aligned with 33<sup>rd</sup> or 35<sup>th</sup> Avenues would provide a direct route that may encourage higher speeds. The proposed intersection spacing is consistent with County requirements. The applicant must design the intersections consistent with County standards for turning radius, which will ensure emergency vehicles and other larger vehicles can maneuver through the site. (See Finding 39).

The examiner finds that traffic generated by the proposed development is unlikely to have a significant impact on 106<sup>th</sup> Circle. By aligning the proposed site access with 106<sup>th</sup> Circle the applicant avoided a potentially hazardous off-set intersection with conflicting turn movements. The proposed center turn lane on Lakeshore Avenue will facilitate access to and from 106<sup>th</sup> Circle; vehicles turning out of 106<sup>th</sup> Circle to southbound Lakeshore Avenue can make a two-stage left turn. Eastbound and westbound vehicles can make simultaneous left turns.

The alignment of 106<sup>th</sup> Avenue with 106<sup>th</sup> Circle is unlikely to cause significant confusion. The name of the exiting street "106<sup>th</sup> Circle" clearly indicates that this is not a through street. Installation of "No Access" or "Dead End" signs will further clarify that this is not a through street. The small number of drivers who ignore such signs will not have a significant impact on this street.

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<sup>2</sup> CCC 40.350.030.B.2(c)(2) provides:

- (2) Access Street System. The access street system shall:
  - (a) Provide convenient parcel access to and from adjacent arterials and/or collectors;
  - (b) Be designed to discourage external traffic from short-cutting;
  - (c) Be designed to discourage vehicular speeds in excess of legal speed limits;
  - (d) Be designed for convenient circulation of internal traffic without reliance on the arterial systems;
  - (e) Support direct travel by pedestrians, bicyclists, and transit users; and
  - (f) Discourage unnecessary streets and hard surfaces.

Additional traffic generated by the proposed development will cause an incremental increase in traffic noise. However traffic noise on public roads is expressly exempt from state noise regulations. See WAC 173.60.050(4)(a). Increased traffic noise associated with increased traffic can be expected on 109<sup>th</sup> Street, which is designated a neighborhood circulator street with a maximum capacity of up to 2000 average daily trips. See CCC 40.350.030.B.4.b(4)(b). In addition, there is no substantial evidence that traffic noise will have a significant impact on abutting properties. The majority of vehicles are likely to access the site via 106<sup>th</sup> Street, because it provides the most direct route to the majority of lots on the site. The applicant is not adding travel lanes or otherwise moving traffic significantly closer to abutting residences.

#### Finding 36 - Frontage Roads

**NW Lakeshore Avenue** is classified as a 2-lane principal arterial road with center-turn lane and bike lanes (Pr-2cb). The minimum half-width right-of-way dedication and frontage improvements along this road in accordance with CCC Table 40.350.030-2 and Standard Details Manual, Drawing #5A, include:

- A minimum half-width right-of-way of 40 feet
- A minimum half-width roadway of 23 feet
- Curb/gutter and a minimum detached sidewalk width of 6 feet
- Landscaping per Section 'G' of Standard Details Manual

In accordance with CCC 40.350.030(B)(5)(1), the right-of-way or easement width shall be a minimum of one-half ( $1/2$ ) of that specified in Tables 40.350.030-2 through 40.350.030-6; provided, that such minimum width may be increased where necessary to accommodate the minimum roadway improvement. The design of the proposed Lakeshore Avenue frontage includes a southbound deceleration lane approaching the commercial access. See Sheet 4 of Exhibit 5. The examiner finds that there is no substantial evidence that ultimate buildout of the proposed development will create any safety concerns, based on the County's concurrency analysis. Therefore Condition A-1.a in the Staff Report should be deleted.

**NW 104<sup>th</sup> and NW 109<sup>th</sup> Streets** are classified as "Neighborhood Circulator" roads. The minimum half-width right-of-way dedication and frontage improvements along this road in accordance with CCC Table 40.350.030-4 and Standard Details Manual, Drawing #13, include:

- A minimum half-width right-of-way of 27 feet
- A minimum half-width roadway of 18 feet
- Curb/gutter location and a minimum sidewalk width of 5 feet

The proposed right-of-way dedications and improvements for these roads meet the minimum requirements of CCC 40.350.

#### Finding 37 - Onsite Roads

The applicant proposes to construct the extension of NW 106<sup>th</sup> Street as a collector road (C-2cb & C-2). Classifications of roads to arterials and collectors require approval of the

Board of Clark County Commissioners. Staff believes that a larger cross-section to accommodate traffic flow and turn lanes along this road is needed and supports the proposal for constructing this road to collector road standards. However, this road is not expected to function as a collector road since it does not meet all of the criteria applicable to collector roads. The applicant may construct the road to collector standards, but it will not be classified as a collector unless the Board chooses to designate it as such.

The examiner finds that the proposed right-of-way dedications and improvements for NW 106<sup>th</sup> Street meet the minimum requirements of CCC 40.350.

Cross-sections of all other onsite roads are shown on sheet 7 of 10 of the preliminary plan set (Exhibit 5). The proposed right-of-way dedications and improvements along these roads meet the minimum requirements of CCC 40.350.

The applicant has requested a road modification to allow landscaped islands in the streets. Staff recommends conditional approval of these landscaping islands. (See Finding 42)

#### Structural Section

Commercial and truck traffic will be using those sections of NW 106<sup>th</sup> Street and NW 32<sup>nd</sup> Avenue abutting the commercial development. Thicker asphalt and rock base layers will be required to ensure durability of these road sections. The applicant shall construct NW 106<sup>th</sup> Street and NW 32<sup>nd</sup> Avenue, abutting the commercial development with roadway sections conforming to the required thickness for 'Industrial' roads (Standard Details Manual, Drawing #22) (See Condition A-1.a).

#### Finding 38 - Access Management

In compliance with section CCC 40.350.030.B.4.d, direct driveway access onto NW Lakeshore Avenue will be prohibited since access onto the local access roads can be provided. The applicant has requested and the examiner approved a road modification for a direct access driveway onto Lakeshore Avenue to serve the commercial portion of the PUD. (See Finding 42).

No direct driveway access from the residential lots onto NW Lakeshore will be permitted. (See Condition B-22f).

#### Finding 39 - Intersection Design

The intersections shall be designed and constructed in accordance with the provisions of subsection CCC 40.350.030.B.7 and the requirements set forth in CCC Table 40.350.030-2 and CCC Table 40.350.030-4.

NW Lakeshore Avenue is a principal arterial road. In compliance with CCC Table 40.350.030-2, minimum full access intersection spacing along this road shall not be less than 600 feet. Spacing between the proposed intersection of NW 106<sup>th</sup> Street/NW Lakeshore Avenue and the existing intersections to the north and south of this intersection do not meet the intersection spacing standards. The applicant requested and

the examiner approved a modification to the intersection spacing standards. (See Finding 42).

#### Finding 40 - Sight Distances

The site's topography and curvilinear roads could pose problems in limiting sight distances unless properly designed and maintained. Driveways and intersections shall have unobstructed sight distance triangles and the proposed onsite roads shall be designed to meet the minimum stopping sight distance standards in accordance with the provisions of Section CCC 40.350.030(B)(8) (See Condition A-1b).

#### Finding 41 - Landscaping

The applicant proposes landscaping along the onsite local access roads. Landscaping along the frontages of residential access roads is neither required nor prohibited. The applicant shall ensure that the landscaping plan is prepared in conformance with Section 'G' of the Standard Details Manual, that no sight distance obstructions would result due to such landscaping, and that no potential conflict for placement of utilities is created. The homeowners' association will be responsible for long-term maintenance of landscaping. Furthermore, in areas where detached sidewalk is proposed, curbs shall be of the type E-1 or A-1 per Standard Details Manual, Drawing #F18.

Landscaping is required in a planter strip within the right-of-way along the site frontage of NW Lakeshore Avenue, in accordance with CCC 40.320.020 and Section G of the Standard Details Manual, in conjunction with the required frontage improvements (See Condition A-1.c).

#### Finding 42 - Road Modification

Approval Criteria - If a development cannot comply with the Transportation Standards, modifications may be granted in accordance with the procedures and conditions set out in CCC 12.05A.660(1)(a). The request shall meet one (or more) of the following four specific criteria:

- a. *Topography, right-of-way, existing construction or physical conditions, or other geographic conditions impose an unusual hardship on the Applicant, and an equivalent alternative, which can accomplish the same design purpose, is available.*
- b. *A minor change to a specification or standard is required to address a specific design or construction problem, which, if not enacted, will result in an unusual hardship.*
- c. *An alternative design is proposed which will provide a plan equal to or superior to these standards.*
- d. *Application of the standards of the Transportation Standards to the development would be grossly disproportional to the impacts created.*

#### Modification Request #1 (Design Modification)

Intersection spacing along NW Lakeshore Avenue - The intersection spacing between the intersection of the proposed NW 106<sup>th</sup> Street and NW Lakeshore Avenue with respect to the existing intersections to the north and south along NW Lakeshore Avenue, a principal

arterial road, does not meet the 600 feet minimum spacing requirement specified in CCC Table 40.350.030-2.

The applicant is requesting a road modification to intersection spacing standards. The narrative submitted with the road modification application indicates that existing intersections along NW Lakeshore Avenue are not spaced 600 feet apart. The proposed access road is aligned with NW 106<sup>th</sup> Circle creating a 4-way intersection approximately 405 feet to the north of the existing intersection of NW 105<sup>th</sup> Street and NW Lakeshore Avenue. The narrative indicates that a reduction in intersection spacing is requested because the limited frontages and existing intersections along NW Lakeshore Avenue will not allow the new intersection to meet the required spacing. The applicant indicates that given these constraints, construction of an access road into the proposed development is not possible without modification to the intersection spacing standards.

#### Staff's Evaluation

The proposed intersection of NW 106<sup>th</sup> Street with NW Lakeshore Avenue appears to be the most feasible location for extension of the onsite road into the development. Staff concurs with the applicant that moving the intersection to the north or south will not provide the required intersection spacing along the arterial. The applicant's traffic engineer has not identified any safety issues pertaining to site's access points. The design speed along NW Lakeshore Avenue is 40 miles per hour (mph). In accordance with CCC Table 40.350.030-10 and Table 40.350.030-11 the minimum stopping sight distance shall be 325 feet and the minimum intersection/driveway sight distance shall be 400 feet. The traffic study indicates that the available sight distance at the proposed access points on NW Lakeshore Avenue is unrestricted and exceeds 1,000 feet in each direction. To mitigate the safety impacts, the developer shall install street lighting along the entire frontage on NW Lakeshore Avenue. (See Condition A-1d)

Staff finds that the request to reduce the intersection spacing requirement in this location meets the criterion described in subsection CCC 40.550.010(A)(1)(a). Therefore, staff recommends conditional approval of the requested modification (See Condition A-1e)..

#### Modification Request #2 (Administrative Modification)

In relation to commercial driveway access onto NW Lakeshore Avenue, a minor arterial road, subsection CCC 40.350.030(B)(4)(d)(1) prohibits driveway access onto arterials unless no other access to the site exists or can be provided.

The applicant is requesting a road modification to allow the commercial portion of the PUD to have direct access onto NW Lakeshore Avenue in addition to access to the proposed onsite road extensions. The narrative indicates that this modification is required to prevent an unusual hardship on the applicant and to accommodate neighborhood retail and office uses within the proposed development. The applicant argues that direct access will make the development more attractive for the future lessees, and will help to keep commercial vehicle trips from passing through residential areas. The applicant further argues that direct access will minimize stacking at the NW 106<sup>th</sup> Street/Lakeshore intersection and the reduction in stacking will eliminate a need for a signal at this

intersection. The applicant believes avoiding a signal along Lakeshore Avenue will improve operation of this road as an arterial.

#### Staff's Evaluation

NW Lakeshore Avenue is a principal arterial road with center-turn lane and bike lanes (Pr-2cb). Subsection CCC 40.350.030(4)(d)(1) indicates that no driveways will be permitted to access onto arterials unless no other access to the site exists or can be provided. The proposed extension of NW 32<sup>nd</sup> Avenue to the west of the commercial development is classified as a local access road. The project proposes two access driveways onto NW 32<sup>nd</sup> Avenue to serve the commercial developments. Therefore, in accordance with the provisions of CCC 40.350.030(4)(d)(1), the proposed development shall not be permitted to have direct access onto NW Lakeshore Avenue since access to a road with lower classification can be provided. However, subsection CCC 40.350.030(4)(b)(1)(d) indicates that nonresidential driveways are prohibited from taking access from an urban access road as defined in CCC Table 40.350.030-4 unless no access exists or can be provided to a collector. The Transportation Standards does not provide provisions for preferences given to providing access onto an arterial road when access to a collector road is not available.

The transportation standards do not provide any provisions for economic considerations such as economic feasibility of the project, particularly when the traffic safety may be compromised. Economic factors are considered for the purpose of proportionality analysis in case a road modification is requested because the applicant believes that the cost for the required improvements is disproportional to the impacts resulting from the development.

The proposed commercial development is to occur on some parcels that are zoned as neighborhood commercial (C-2). The underlying zoning allows the applicant to develop this portion of the project as a stand alone commercial development. In such a case, staff would have no choice but to allow direct access onto NW Lakeshore Avenue since denying access would be considered a taking if identifiable safety hazards that would result in denying the development could not be substantiated. The applicant's traffic engineer has not identified any safety issues pertaining to site's access points.

Staff concurs with the applicant that providing a direct access for the commercial development onto NW Lakeshore Avenue will reduce traffic congestion at the intersection of NW 106<sup>th</sup> Street/NW Lakeshore Avenue and along the internal roadways and intersections. This additional access point will further reduce conflict between traffic generated by residential and the proposed commercial development. Staff is concerned that left turn movements in and out of this driveway will impede flow of traffic and exacerbate safety along this section of NW Lakeshore Avenue. However, in the absence of substantial evidence, staff relies on the determination made by the applicant's traffic engineer and County concurrency staff that no safety issues pertaining to the site's proposed access points have been identified. Therefore, staff recommends conditional approval of the requested modification since the criterion described in subsection CCC 40.550.010(A)(1)(a) is met. (See Condition A-1e).

### Modification Request #3 (Design Modification)

The applicant proposes raised landscaped center medians in several locations within the PUD. The narrative indicates that the landscaped center medians will enhance project entries and provide identity for planning units within the PUD. The applicant proposes to provide automatic irrigation system and make it a responsibility of the Erickson Farms Homeowners Association to provide long-term maintenance of these planters. The applicant believes that the proposed alternative design provide a plan equal or superior to the standards.

### Staff's Evaluation

The County Transportation Standards do not provide provisions for raised/landscaped median within public local access roads. The landscaped medians may be appropriate, as long as the plans do not affect stopping sight distances along the road and corner sight distances at the intersections. The proposed landscaped islands require ongoing maintenance and irrigation. The applicant has addressed how these islands would be irrigated and maintained. Therefore, staff recommends conditional approval of the landscaped medians since the criterion described in subsection CCC 40.550.010(A)(1)(c) is met. (See Condition A-1f).

Based on the findings and road modification approval criteria, staff recommends approval of road modification requests #1, #2 and #3 with conditions noted. The examiner adopts staff's findings and recommendation as his own.

### **Conclusions (Transportation)**

Based upon the development site characteristics, the proposed transportation plan, the requirements of the County's transportation ordinance, and the findings above, the examiner finds that the proposed preliminary transportation plan meets the requirements of the county transportation ordinance, subject to conditions.

### **STORMWATER & EROSION CONTROL:**

#### Finding 43 - Approval Criteria

The Stormwater and Erosion Control Ordinance CCC 40.380, adopted July 28, 2000, applies to development activities that result in 2,000 square feet or more of new impervious area within the urban area; the platting of single-family residential subdivisions in an urban area; and all land disturbing activities, except those exempted in Section CCC 40.380.030(A).

The project will create more than 2,000 square feet of new impervious surface, involves platting of single-family residential subdivision, and it is a land disturbing activity not exempted in Section CCC 40.380.030(A). Therefore, this development shall comply with the Stormwater and Erosion Control Ordinance, CCC 40.380.

#### Finding 44 – Erosion Control

The examiner finds that it is feasible to protect adjacent properties from erosion and sediment during construction on the site. The erosion control ordinance is intended to minimize the potential for erosion and a plan is required for all projects meeting the applicability criteria listed in CCC 40.380.050. This project is subject to the erosion control ordinance, which requires the applicant to stabilize all exposed soils in a timely manner. (See Condition A-3.d). In addition, the applicant will provide erosion control measures on and around the site to intercept sediment-laden runoff and protect surrounding properties. Ms. Carmen provided photographs and testimony about failed erosion control measures on other development sites in the area. Exhibits 39 and 40. However there is no substantial evidence that similar failures will or are reasonably likely to occur on this site. Nor is there substantial evidence that erosion control facilities will not function as designed or will cause pollution or sedimentation of adjacent properties or Vancouver Lake. The examiner finds that the requirements of the erosion control ordinance can be enforced effectively to prevent abuses and to penalize violations that occur. Failure to install and maintain erosion control measures in compliance with the approved erosion control plan can result in a stop-work order, citation, or other code enforcement actions. If neighbors observe what they believe might be a violation, they should inform the County Enforcement Division.

#### Finding 45 - Stormwater Proposal

The project proposes to achieve the required stormwater quality and quantity control by utilizing a combination of a 2-cell wet-pond for water quality/detention and Stormwater Management StormFilter™ filters. The project does not provide detention for a portion of the developed site. The facilities will be dedicated to the county for long-term maintenance.

#### Finding 46 - Existing Conditions

The property is 53.95 acres in area. The current use of the site is primarily farming. The site is covered with grass, shrubs, graveled road/parking areas, and existing buildings. All existing structures within the site will be removed prior to the construction of the PUD. In accordance with the county GIS mapping, the majority of the site has slopes ranging from approximately 0 to 15 percent, 5% of the site has slopes ranging from 15 to 25 percent, 5% of the site has slopes ranging from 25 to 40 percent, and approximately 8% of the site has slopes exceeding 40 percent.

#### Finding 47 - Developed Conditions

The preliminary stormwater report indicates that the proposed total area of new impervious surface consisting of roofs, driveways, and streets will be approximately 21.33 acres. The pervious area will be 24.13 acres. The report indicates that any offsite runoff that currently enters the site will be routed around the onsite stormwater facilities and conveyed to the existing drainage course.

#### Water Quality Control

The basin plan divides the proposed site into two basins A and B. Basin B is further subdivided into B1, B2, and B3. The project proposes to achieve the required stormwater quality control for Basin B1 within the proposed 2-cell water quality/detention pond

(wet-pond) located in the middle of the proposed development site. The preliminary stormwater report proposes to achieve the required stormwater quality control for runoff from the pollution-generating surfaces in Basin A and sub-basin B2 by utilizing Stormwater Management StormFilter™ structures containing 11 and 7 cartridges, respectively. The report indicates that the runoff from Basin B3 will not be treated since this area consists of landscaped and roof areas. The project engineer certifies that the proposed storm facilities will be designed to treat 70% of runoff from the pollution generating surfaces due the 2-year, 24-hour storm events, as required.

The applicant will release treated stormwater from the site into the existing drainage system, which eventually discharges to Vancouver Lake. The existing drainage system, including the culvert beneath the railroad tracks, has adequate capacity to accommodate the rate and volume of stormwater discharged from the proposed development, based on the applicant's preliminary analysis. The applicant is required to confirm the preliminary analysis by performing an off-site analysis extending a minimum of one-fourth of a mile downstream from the development site in compliance with the provisions of Section CCC 40.380.040(B)(2) to ensure that the runoff from this development does not adversely impact the downstream. (See Condition A-3a). If necessary the applicant can modify the existing culvert and drainage facilities, provide additional on-site detention or take other measures to ensure that adequate capacity is available to accommodate runoff from the site.

#### Water Quantity Control

The provisions of stormwater ordinance, subsection CCC 40.380.040(C)(3)(d), require that water quantity control facilities be designed to limit the runoff release rate at peak rates equal to one-half of the pre-developed 2-year, 24-hour storm peak runoff rate; and not exceeding 10-year and 100-year pre-developed runoff rates. In accordance with the provisions of Section CCC 40.380.040(C)(1)(g), no development within an urban area shall be allowed to materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots.

The report indicates that stormwater quantity control will be achieved by detention and release of excess runoff along the existing drainage paths. Runoff from a portion of the site will not be detained. The report indicates that much of the area in Basin A will be routed to the facility proposed for Basin B. The report indicates that the post-developed runoff rates from Basin A will be less than the pre-developed runoff, therefore, quantity control facility is not proposed.

The report also indicates that small areas located in sub-basins B2 and B3 will not make it to the proposed facility due to topographical constraints. The stormwater plan proposes to over-detain runoff in sub-basin B1 to mitigate for the impacts. Staff finds that the pre-developed compared with post-development release rates in Table 1, Appendix P, indicates that the project is releasing the runoff in excess of the permitted half of the pre-developed runoff due to 2-year, 24-hour storm. Furthermore, even if the release volumes were to be controlled to the level of allowed rates, the velocity, time of concentration, and the timing of the peak flow cannot be controlled without detention since the developed site will be covered with impervious surfaces and the pre-developed drainage

paths will be altered. Staff believes that lack of detention will result in increased or concentrated runoff flow along the historic drainage paths. The applicant argued that the proposed plan complies with County requirements, because much of the runoff from Basin A will be transferred to Basin B where it will be detained. The overall rate of release from each basin will not exceed predevelopment rates. In addition, the applicant offered to provide a second detention facility in the northwest corner of the site if necessary to detain runoff from Basin A. Therefore the examiner finds that it is feasible to comply with the requirements of the Code. The details of the design, including the need for additional detention, can be worked out during final engineer. (See Condition A-3b)

Based on the County's GIS mapping and site visits, staff finds that portions of the adjacent properties to the north and south of the development drain toward the proposed site. The stormwater basin plan does not include runoff from the northerly tributary areas. Changing the drainage patterns within the site due to grading can adversely impact the adjacent properties. The report indicates that offsite runoff is currently being intercepted by other storm systems and offsite runoff is very limited; and that any offsite runoff entering the site will be conveyed around the proposed facilities and conveyed to the existing drainage course. There are no indications in the report or on the plans to demonstrate how the upstream tributary runoff will be routed through the site. The runoff release rates at any location may not exceed the allowable runoff rates in the direction of pre-developed flow. The project will be required to propose a plan to ensure that this development does not block runoff from upstream properties. (See Condition A-3c).

The examiner finds that the proposed development will not contribute excessive pollution to Vancouver Lake. All runoff from the site will be treated by with Best Management Practices ("BMPs") consistent with the requirements of CCC 40.380.040.B to remove chemical pollutants and sediment.

#### Infiltration

According to the Stormwater & Erosion Control Ordinance (CCC 40.380), infiltration of 100-year storm event is the preferred method for stormwater disposal from the developed site. Natural Resource Conservation Service (NRCS, formerly SCS) mapping shows the site to be underlain by Hillsboro Silt Loam (74% HoB, 13% HoC, 12% HoG) classified by AASHTO as A-4 soils. Hillsboro soils are designated as hydrologic group "B". Stormwater and Erosion Control Ordinance (CCC 40.380), does not list A-4 soils as suitable for infiltration.

The applicant has retained Geotechnical and Environmental Services Inc. to conduct a geotechnical engineering study at the subject site in March of 2004. The infiltration investigation report indicates that the infiltration testing was performed in test pits I-1 through I-5 (locations are shown in Figure 2 of the Geotechnical Engineering Study, Appendix G, Exhibit 6). The test data including on-site observed infiltration rates and laboratory analysis based on AASHTO classification method M-145, is summarized in a table format on page 11 of the report. The infiltration rates in test locations I-3, I-4, and I-5 are acceptable (more than 8 inches per hour), however staff finds that infiltration as a method of stormwater disposal is not feasible since, as reported, the laboratory tests show

the soils are classified as A-4 and the soil samples contain high silt & clay content. Subsection CCC 40.380.040(C)(a), does not list the A-4 class of soils (defined in AASHTO Specification M145) as suitable for infiltration. The applicant, therefore, is not utilizing infiltration facilities as a method of stormwater quantity control.

The examiner finds that the proposed development will not exacerbate and may even reduce existing problems with elevated groundwater and flooding. Based on neighbor's testimony, rain falling on the site under existing conditions infiltrates into the ground until it reaches the clay pan, creating a shallow perched aquifer. The proposed development will cover much of the site with impervious surfaces, which will limit stormwater infiltration. The proposed stormwater system will collect runoff from those impervious surfaces and eventually discharge it to Vancouver Lake west of the site via the existing drainage system on the site, reducing the amount of rainfall that can infiltrate on the site.

#### Conclusion (Stormwater)

Based upon the development site characteristics, the proposed stormwater plan, the requirements of the County's stormwater ordinance, and findings above, staff concludes that the proposed preliminary stormwater plan is feasible subject to conditions. Therefore, the requirements of the preliminary plan review criteria are satisfied.

## **FIRE PROTECTION:**

### Finding 48

Tom Scott (in the Fire Marshal's Office) reviewed this application and can be reached at (360) 397-2375 x 4095 or 3323 if there are any questions regarding the following review (The site is in Clark County Fire District 6):

- a. Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process. (See Condition C-2)
- b. Fire flow in the amount of 1,000 gallons per minute supplied for 60 minutes duration is required for the residential portion of the PUD. The required fire flow is available at the site. Fire flow in the amount of 2,750 gallons per minute supplied for 120 minutes duration is required for the commercial portion of the PUD. A utility review from the water purveyor indicates that the required fire flow is not currently available at the site. Please contact the Fire Marshal's office to discuss alternate methods of meeting fire flow requirements. Additions to water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to final plat approval. (See Condition B-16)
- c. Fire hydrants are required for this application. The indicated number and spacing of the fire hydrants for the residential housing is adequate, however, either the indicated number or the spacing of the fire hydrants for the commercial development is inadequate. The applicant shall provide fire hydrants such that the maximum spacing between hydrants does not exceed 700 feet and such that no lot or parcel is in excess of 500 feet from a fire hydrant as measured along approved fire apparatus access roads. Hydrants shall be installed per Fire Marshal standards with locations approved by the Fire District Chief. (See Condition B-16)
- d. Fire apparatus access is required for this application. The roadways and maneuvering areas as indicated in the application shall meet the requirements of the Clark County Road Standard. The applicant shall provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface capable of supporting the imposed loads of fire apparatus. (See Condition B-17)
- e. Approved fire apparatus turnarounds are required for this project. The provisions for turning around fire apparatus comply with the Clark County Road Standard.

## **WATER & SEWER SERVICE:**

### Finding 49

The site will be served by the Clark Public Utilities water district and the Hazel Dell sewer district. Letters from the above districts confirm that services are available to the site. All lots in the proposed plat must connect to an approved public sewer and water systems. A copy of the final acceptance letter from the sewer and water purveyor should be submitted to the Health Department with the final plat mylar. The applicant needs to comply with all requirements of the purveyor. (See Condition B-18)

Submittal of a “Health Department Evaluation Letter” is required as part of the Final Construction Plan Review application. If the Evaluation Letter specifies that an acceptable “Health Department Final Approval Letter” must be submitted, the Evaluation Letter will specify the timing of when the Final Approval Letter must be submitted to the county (e.g., at Final Construction Plan Review, Final Plat Review or prior to occupancy). The Health Department Evaluation Letter will serve as confirmation that the Health Department conducted an evaluation of the site to determine if existing wells or septic systems are on the site, and whether any structures on the site have been/are hooked up to water and/or sewer. The Health Department Final Approval Letter will confirm that all existing wells and/or septic systems have been abandoned, inspected and approved by the Health Department, if applicable. (See Condition B-19)

**IMPACT FEES:**

Finding 50

Park (PIF), Traffic (TIF), and School (SIF) Impact Fees apply to all residential units within this development. The site is within Park District 9, the Hazel Dell Transportation Subarea, and the Vancouver School District. There are two different impact fee calculations for the proposed residential portion of the PUD (single-family detached and single-family attached including residential condo).

Impact fees for the detached units are as follows per dwelling unit:

- PIF - \$1,576.00 (acquisition) + \$440.00 (Development) = **\$2,016.00**
- TIF - **\$1,423.54**
- SIF - **\$1,725.00**

Impact fees for the attached units (including residential condo) are as follows per dwelling unit:

- PIF - \$1,151.00 (acquisition) + \$321.00 (Development) = **\$1,572.00**
- TIF - **\$871.68**
- SIF - **\$1,450.00**

Impact fees shall be paid prior to issuance of a building permit for each lot. If a building permit application is made more than three years following the date of preliminary plat approval, the impact fees will be recalculated according to the then-current ordinance rate. (See Condition B-20f & C-3)

Traffic (TIF) Impact Fees apply to the commercial development; however, these fees will be calculated at the time of site plan review.

The examiner has no authority to direct where the County spends the TIF fees collected from this development or the ranking of area road projects on the County’s Transportation Improvement Program. Exhibits 15 and 40. Such concerns must be addressed to the Board of County Commissioners.

**OTHER ISSUES:**

Finding 51

The examiner finds that the school district can accommodate students who will live in homes on the site. This development will have an incremental impact on the school district. The development mitigates this impact by paying school impact fees. Although some of the schools serving this site are at or near capacity (see the March 2, 2005 letter from the Vancouver School District, Appendix N of Exhibit 6), the school district is required by law to accommodate students who live there. The district testified that it will adjust attendance boundaries and practices as necessary to fulfill student needs. By paying school impact fees, the proposed subdivision adequately provides for schools as a matter of law.

Finding 52

Construction on this site will temporarily cause increased noise, dust, traffic and other impacts on adjacent properties. However the Code does not contain standards regulating construction activities. This is only one of the many consequences of living in an urban area. The examiner finds that, while such impacts may occur, they are not significant enough to require specific limitations on construction other than those imposed by State law and the County Code. The examiner encourages residents to contact the County if excessive impacts occur.

Finding 53

It was alleged that chemicals used in the historic agricultural activities on the site may have contaminated the soils on the site. However there is no substantial evidence to this effect. The examiner has no authority to require testing of the site to determine if contamination exists. Such concerns should be addressed to the County Health Department and/or the state Department of Ecology.

Finding 54

There is no substantial evidence that the natural gas transmission line in the area poses a hazard to residential development on this site. The pipeline is not located on the site. Therefore construction on the site will not impact the pipeline.

**D. CONCLUSIONS**

Based on the above findings and discussion, the examiner concludes that PUD 2005-00003, PLD 2005-00037, SEP2005-00067, EVR2005-00030, HAB2005-00067, WET 2005-00047 (Erickson Farms) and related permits should be approved, because they do or can comply with the applicable standards of the Clark County Code and the Revised Code of the State of Washington, subject to the following conditions of approval which are necessary to ensure the final plat and resulting development will comply with the Code.

**E. DECISION**

Based on the foregoing findings and except as conditioned below, the examiner hereby approves PUD 2005-00003, PLD 2005-00037, SEP2005-00067, EVR2005-00030, HAB2005-00067, WET 2005-00047 (Erickson Farms) in general conformance with the applicant's preliminary plat (Exhibit 5) and the plans and reports associated with

this proposal (Exhibits 6 and 44). This approval is granted subject to the requirements that the applicant, owner or subsequent developer (the "applicant") shall comply with all applicable code provisions, laws and standards and the following conditions. These conditions shall be interpreted and implemented consistently with the foregoing findings.

## Conditions of Approval

<b>A</b>	<b>Final Construction Review</b> Review & Approval Authority: Development Engineering
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Prior to construction, a Final Construction Plan shall be submitted for review and approval to Development Engineering, consistent with the approved preliminary plan and the following conditions of approval:

- A-1 Final Transportation Plan (On-Site & Frontage)** - The applicant shall submit and obtain County approval of a final transportation design in conformance with CCC 40.350 and the following conditions of approval:
- a.** The applicant shall construct NE 106<sup>th</sup> Street and NW 32<sup>nd</sup> Avenue, abutting the commercial development, with roadway structural sections conforming to Standard Details Manual, Drawing #22. (See Finding 37).
  - b.** The applicant shall submit a letter signed by a licensed engineer in the State of Washington certifying that the sight distance triangles for the driveways and at the intersections of NW 104<sup>th</sup> Street, NW 109<sup>th</sup> Street, and NW 106<sup>th</sup> Street with NW Lakeshore Avenue; and at the proposed intersections of the internal roads will meet the minimum standards; and certify that the stopping sight distances along the onsite roads will be adequate. (See Finding 40).
  - c.** The proposed landscaping along the internal access roads shall be in conformance with Section 'G' of the Standard Details Manual, shall not result in sight distance deficiencies, shall not conflict with placement of utilities, and the homeowners' association shall be responsible for the long-term maintenance of the landscaping. In areas where detached sidewalk is proposed, curbs shall be of the type E-1 or A-1 per Standard Details Manual, Drawing #F18. Landscaping is required in a planter strip within the right-of-way along the site frontage of NW Lakeshore Avenue, in accordance with CCC 40.320.020 and Section G of the Standard Details Manual, in conjunction with the required frontage improvements (See Finding 41)
  - d.** The developer shall install street lighting along the entire frontage on NW Lakeshore Avenue. (See Finding 42).
  - e.** The proposed full-access driveway onto NW Lakeshore Avenue to serve the commercial portion of the PUD is approved on a temporary basis. The left turn movements will be eliminated at the sole discretion of the county

Engineer, in the event that safety and/or operational problems occur. (See Finding 42)

- f. The road cross-section in the locations where landscaped islands will be installed shall have a minimum of 20-foot unobstructed paved width on each side of the islands. The proposed landscaped islands shall be in conformance with Section 'G' of the Standard Details Manual, they shall not result in sight distance deficiencies, they shall not conflict with placement of utilities, and the homeowners' association shall be responsible for the long-term maintenance of the landscaping. (See Finding 42)

**A-2 Transportation (Concurrency):**

- a. Signing and Striping Plan: The applicant shall submit a signing and striping plan and a reimbursable work order, authorizing County Road Operations to perform any signing and pavement striping required within the County right-of-way. This plan and work order shall be approved by the Department of Public Works prior to final plat or final site plan approval.
- b. Traffic Control Plan: Prior to issuance of any building or grading permits for the development site, the applicant shall obtain written approval from Clark County Department of Public Works of the applicant's Traffic Control Plan (TCP). The TCP shall govern all work within or impacting the public transportation system.
- c. The applicant shall reimburse the County for the cost of concurrency modeling incurred in determining the impact of the proposed development, in an amount not to exceed \$1,500.
- d. The applicant volunteered to ensure the design and installation of a traffic signal and all related features at the NW 119<sup>th</sup> Street and NW 36<sup>th</sup> Avenue intersection. The design shall show how the traffic signal will be installed and placed in a safe location. The proposed development shall not obtain final construction plan approval until the plans are approved by the county for construction by the applicant, unless directed otherwise by the Director of Public Works. (See Finding 28)
- e. The applicant volunteered to ensure the design and installation of a northbound right turn lane and all related features at the NW Bliss Road and NW 36<sup>th</sup> Avenue intersection. The proposed development shall not obtain final construction plan approval until the plans are approved by the county for construction by the applicant, unless directed otherwise by the Director of Public Works. In the event that environmental permitting requires an undue and extreme hardship on the applicant, alternative mitigation measures may be installed at the discretion of the Public Works Director, such as a traffic signal. (See Finding 30)
- f. The applicant volunteered to ensure the design and installation of a center left turn lane on Lakeshore Avenue between NW 104<sup>th</sup> Street and NW 109<sup>th</sup>

Street, and all related features. The design shall show how the turn lanes will be installed and transition to the current roadway configuration. The proposed development shall not obtain final construction plan approval until the plans are approved by the County for construction by the applicant, unless directed otherwise by the Director of Public Works. (See Finding 32)

**A-3 Final Stormwater Plan** - The applicant shall submit and obtain County approval of a final stormwater plan designed in conformance with CCC 40.380 and the following conditions of approval:

- a. An offsite analysis extending a minimum of one-fourth of a mile downstream from the development site shall be included in the TIR. (See Finding 44).
- b. The required TIR shall include analysis of stormwater quantity control for the entire site. Discharge leaving the site at any location shall not exceed the allowable flow rates in the direction of the historical drainage paths. (See Finding 47)
- c. The final stormwater plan shall provide measures to route runoff from the upstream tributary areas through the site without impacting the downstream properties. (See Finding 47).
- d. An erosion control plan for the development shall be submitted in compliance with Section 40.380.060(E). The erosion control plan shall be submitted and approved prior to any construction. The applicant shall submit a copy of the approved plan to the Chief Building Official. Failure to comply with the approved erosion control plan can result in a stop-work order, citation, or other code enforcement actions. (See Finding 44)

**A-4 Geotechnical:**

- a. The top of slope setback line for residential building foundations shall be accurately delineated and shown on the final plat. The applicant shall submit a letter signed by the project geotechnical engineer that certifies the setback line shown on the final plat has been appropriately delineated. (See Finding 26)
- b. The project shall implement all the recommendations of the Geotechnical Engineering Study (dated May 7, 2004) prepared by Geotechnical and Environmental Services Inc., unless further studies present new or different facts. The plans for site grading, road construction, and construction of the stormwater facilities shall be reviewed by a geotechnical engineer during the final design phase and the work shall be monitored during construction by a geotechnical engineer or his/her designee. (See Finding 26)
- c. Retaining walls greater than 4 feet tall will require a building permit. All retaining walls shall be shown in sufficient detail on the final engineering plans to assess their impacts on adjacent roads, structures, public and private utilities. (See Finding 26)

- A-5 Excavation and Grading** - Excavation/grading shall be performed in compliance with Appendix Chapter J of the 2003 International Building Code (IBC); and, drainage facilities shall be provided, in order to ensure that building foundations and footing elevations can comply with CCC 14.04.252.
- A-6 Pre-Construction Conference** - Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the County.
- A-7 Erosion Control** - Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.
- A-8 Erosion Control** - Erosion control facilities shall **not** be removed without County approval.
- A-9** Prior to final engineering approval for any phase of the PUD, the applicant shall submit a final landscape plan that phase for approval by the planning manager that is consistent with and includes details of the conceptual landscape plans. The plan for Phase C shall show the required playground, picnic area and trail improvements. The plans shall be detailed and shall include type and materials of all improvements. (See Finding 7 and 13)

<b>B</b>	<b>Final Plat Review &amp; Recording Review &amp; Approval Authority: Development Engineering</b>
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Prior to final plat approval and recording by Development Engineering, the following conditions shall be met:

- B-1** Determination of building heights in excess of that currently allowed in the R1-7.5 areas of the Village Center portion of the PUD (35 feet, unless increased by increased setbacks) shall be determined at the time of the future Site Plan Approval or land division process required by condition B-5, in accordance with the PUD ordinance, CCC 40.520.080.E.1.b. (See Finding 4).
- B-2** All landscaping improvements shall be constructed/installed prior to final plat for each phase of the PUD. (See Finding 7)
- B-3** The applicant shall form a homeowners association to, in part, maintain the common open space. This maintenance shall include all proposed tracts. (See Finding 8)
- B-4** Each of the proposed tracts shall be identified as to the intended use of the tract. (See Finding 8)

- B-5** A separate site plan review application will be required for the Village Center. That site plan should be conceptually the same as that proposed under the PUD master plan and at the time of site plan the specific uses will be reviewed. Because of the combination of residential with commercial, the uses will need to be consistent with the requirements of Table 40.230.010-1(1). (See Finding 14)
- B-6** A separate land division application is required when the applicant decides to pursue the townhouse phase pursuant to the townhouse standards and the PUD approval. (See Finding 15)
- B-7** A separate site plan review application is required if the applicant decides to pursue the condominium option. The condominium phase shall be integrated into the overall PUD. (See Finding 16)
- B-8** The lot numbers of the preliminary plat shall be revised so they are not repeated. (See Finding 17).
- B-9** Lots 57 through 60, 64 through 69, and lots 104, 105, 141, and 142 are in close proximity of steep slopes. These lots may need to be revised in order to have sufficient area for building. The plat shall identify building envelopes for these lots to ensure adequate building area. The lot sizes shall not significantly decrease from what is proposed with the conceptual plan. (See Finding 18)
- B-10** Storm facilities shall be constructed prior to final plan approval for the first phase of the development. The park and open space improvements shall be constructed no later than the third phase and prior to construction of Phase C and the Village Center. All phases shall comply with phasing procedures of 40.500.010(B)(2). (See Finding 19)
- B-11** The applicant shall submit an updated, clear, and accurate density calculation for the PUD. Staff understands that all phases may not be in for final approval at the same time. (See Finding 20)
- B-12** All structures within the subject site shall be removed according to all relevant standards prior to final plat approval. (See Finding 21).
- B-13** **Transportation (Concurrency)** - The applicant shall ensure the installation of a traffic signal, and all related features, at the intersection of NW 119<sup>th</sup> Street and NW 36<sup>th</sup> Avenue in accordance with the approved plans. The improvements shall be operational prior to final plat approval, unless directed otherwise by the Director of Public Works. (See Finding 28)
- B-14** **Transportation (Concurrency)** - The applicant shall ensure the installation of a northbound right turn lane, and all related features, at the intersection of NW Bliss Road and NW 36<sup>th</sup> Avenue in accordance with the approved plans or as modified at the discretion of the Public Works Director. The improvements shall

be operational prior to final plat approval, unless directed otherwise by the Director of Public Works. (See Finding 30)

- B-15 Transportation (Concurrency)** - The applicant shall install a continuous center left turn lane on Lakeshore Avenue, and all related features, between NW 104<sup>th</sup> Street and NW 109<sup>th</sup> Street in accordance with the approved plans. The improvements shall be operational prior to final plat approval, unless directed otherwise by the Director of Public Works. (See Finding 32)
- B-16** The required fire flow is not currently available at the site for the commercial portion of the PUD. Please contact the Fire Marshal's office to discuss alternate methods of meeting fire flow requirements. Water mains supplying fire flow and fire hydrants shall be installed, approved and operational. The indicated number or the spacing of the fire hydrants for the commercial development is inadequate. The applicant shall provide fire hydrants such that the maximum spacing between hydrants does not exceed 700 feet and such that no lot or parcel is in excess of 500 feet from a fire hydrant as measured along approved fire apparatus access roads. Required hydrants shall be installed per Fire Marshal standards with locations approved by the Fire District Chief. (See Finding 48b & 48c)
- B-17** The applicant shall provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface capable of supporting the imposed loads of fire apparatus. (See Finding 48d).
- B-18** All lots in the proposed plat must connect to an approved public sewer and water systems. A copy of the final acceptance letter from the sewer and water purveyor shall be submitted to the Health District with the final plat mylar. The applicant shall comply with all requirements of the purveyor.
- B-19** Submittal of a "Health Department Evaluation Letter" is required as part of the Final Construction Plan Review application. If the Evaluation Letter specifies that an acceptable "Health Department Final Approval Letter" must be submitted, the Evaluation Letter will specify the timing of when the Final Approval Letter must be submitted to the county (e.g., at Final Construction Plan Review, Final Plat Review or prior to occupancy). The Evaluation Letter will serve as confirmation that the Health Department conducted an evaluation of the site to determine if existing wells or septic systems are on the site, and whether any structures on the site have been/are hooked up to water and/or sewer.
- B-20 Developer Covenant** – A "Developer Covenant to Clark County" shall be submitted for recording to include the following:
- a. Critical Aquifer Recharge Areas - "The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection."

- b. Erosion Control - "Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction."
- c. Private Roads: "Clark County has no responsibility to improve or maintain the private roads contained within or private roads providing access to the property described in this development. Any private access street shall remain a private street unless it is upgraded to public street standards at the expense of the developer or abutting lot owners to include hard surface paving and is accepted by the county for public ownership and maintenance."
- d. Responsibility for Stormwater Facility Maintenance: For stormwater facilities for which the county will not provide long-term maintenance, the developer shall make arrangements with the existing or future (as appropriate) occupants or owners of the subject property for assumption of maintenance to the county's Stormwater Facilities Maintenance Manual as adopted by Chapter 13.26A. The responsible official prior to county approval of the final stormwater plan shall approve such arrangements. Final plats shall specify the party(s) responsible for long-term maintenance of stormwater facilities within the Developer Covenants to Clark County. The county may inspect privately maintained facilities for compliance with the requirements of this chapter. If the parties responsible for long-term maintenance fail to maintain their facilities to acceptable standards, the county shall issue a written notice specifying required actions to be taken in order to bring the facilities into compliance. If these actions are not performed in a timely manner, the county shall take enforcement action and recover from parties responsible for the maintenance in accordance with Section 32.04.060.
- e. Archaeological (all plats): "If any cultural resources are discovered in the course of undertaking the development activity, the Office of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."
- f. Impact Fees: "In accordance with CCC 40.610, Impact fees for the detached units are as follows per dwelling unit:
- PIF - \$1,576.00 (acquisition) + \$440.00 (Development) = **\$2,016.00** (Park District #9)
  - TIF - **\$1,423.54** (Hazel Dell TIF subarea)
  - SIF - **\$1,725.00** (Vancouver School District)
- Impact fees for the attached units (including residential condo) are as follows per dwelling unit:
- PIF - \$1,151.00 (acquisition) + \$321.00 (Development) = **\$1,572.00** (Park District #9)

- TIF - **\$871.68** (Hazel Dell TIF subarea)
- SIF - **\$1,450.00** (Vancouver School District)

The impact fees for lots on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated March 14, 2006 and expiring on March 14, 2009 Impact fees for permits applied for following said expiration date shall be recalculated using the then-current regulations and fees schedule.”

**B-21 Wetlands:**

The requirements of CCC Section 40.450.030(E)(4) shall apply even if no impacts are proposed. These requirements include:

- a. Demarcation of wetland and/or buffer boundaries established prior to, and maintained during construction (i.e. sediment fence;
- b. Permanent physical demarcation of the boundaries in a manner approved by the Development Services Manager (i.e. fencing, hedgerows, berms etc.) and posting of approved signage on each lot or every 100 ft of the boundary, whichever is less;
- c. Recording a conservation covenant with the County Auditor that runs with the land and requires that the wetlands and buffers remain in natural state; and,
- d. Showing the wetland and buffer boundaries on the face of the Final Plat and including a note that refers to the separately recorded conservation covenant.

**B-22 Plat Notes -** The following notes shall be placed on the final plat:

- a. Habitat: “Any future non-exempt clearing or development activities within the riparian HCZ shall be subject to review and approval under a Habitat Permit.”
- b. Wetland Covenants: "Clark County Wetland Protection Ordinance (Clark County Code Chapter 13.36) requires wetlands and wetland buffers to be maintained in a natural state. Refer to the Conservation Covenant recorded in conjunction with this plat for limitations on the maintenance and use of the wetland and wetland buffer areas identified on the face of this Plat."
- c. Geologic Hazard: “Residential building foundations shall be constructed a minimum of thirty-five (35) feet from the top of slope setback line shown on the final plat. Site and structure specific geotechnical analysis shall be performed for any structures proposed beyond the slope setback line. All construction activities including grading, building construction, landscaping, wall installation, drainage discharge, and similar work shall be reviewed by a geotechnical engineer and/or engineering geologist prior to construction. In addition, all earthwork, foundation excavations and drainage installation shall be monitored for compliance by a qualified geotechnical firm during construction. Prior to the issuance of building permits for lots adjacent to the setback lines, location certification by a professional land surveyor licensed in the State of Washington is required.”

- d. Sidewalks: "Prior to issuance of occupancy permits, sidewalks shall be constructed along all the respective lot frontages. Sidewalks are attached except along the frontage of (insert street name) which is detached."
- e. Utilities: "An easement is hereby reserved under and upon the exterior six (6) feet at the front boundary lines of all lots for the installation, construction, renewing, operating and maintaining electric, telephone, TV, cable, water and sanitary sewer services. Also, a sidewalk easement, as necessary to comply with ADA slope requirements, shall be reserved upon the exterior six (6) feet along the front boundary lines of all lots adjacent to public streets."
- f. Driveways: "All residential driveway approaches entering public roads are required to comply with CCC 40.350." No direct driveway access from the residential lots onto NW Lakeshore will be permitted."
- g. Private Roads: "Clark County has no responsibility to improve or maintain the private roads contained within or private roads providing access to the property described in this plat. Any private access street shall remain a private street unless it is upgraded to public street standards at the expense of the developer or adjoining lot owners to include hard surface paving and is accepted by the County for public ownership and maintenance."
- h. Privately Owned Stormwater Facilities: "The following party(s) is responsible for long-term maintenance of the privately owned stormwater facilities:  
\_\_\_\_\_."

<b>C</b>	<b>Building Permits Review &amp; Approval Authority: Customer Service</b>
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Prior to issuance of a building permit, the following conditions shall be met:

- C-1 A surveyor's location certificate for the homes and associated improvements within lots 57 through 60, 64 through 69, and lots 104, 105, 141, and 142 in relation to the setback lines will be required.
- C-2 Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process.
- C-3 **Impact Fees** - The applicant shall pay impact fees per dwelling units for the detached units as follows:
  - PIF - \$1,576.00 (acquisition) + \$440.00 (Development) = **\$2,016.00** (Park District #9)
  - TIF - **\$1,423.54** (Hazel Dell TIF subarea)

- SIF - **\$1,725.00** (Vancouver School District)

The applicant shall pay impact fees per dwelling units for the detached units as follows:

- PIF - \$1,151.00 (acquisition) + \$321.00 (Development) = **\$1,572.00** (Park District #9)
- TIF - **\$871.68** (Hazel Dell TIF subarea)
- SIF - **\$1,450.00** (Vancouver School District)

If the building permit application is made more than three years following the date of preliminary site plan approval, the impact fees shall be recalculated according to the then-current rate.

<b>D</b>	<b>Development Review Timelines Review &amp; Approval Authority: None Advisory to Applicant-</b>
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- D-1 Land Division** - Within 5 years of preliminary plan approval, a Fully Complete application for Final Plat review shall be submitted.

DATED this 14th day of March, 2006.



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Joe Turner, AICP  
Clark County Hearings Examiner