

**BEFORE THE LAND USE HEARING EXAMINER
FOR THE CITY OF LA CENTER, WASHINGTON**

Regarding an application by Minit Management LLC)	<u>FINAL ORDER</u>
for CUP, site plan, short plat, and SEPA approval)	File No. 2020-009-
for a proposed commercial development at 2814 NW)	CUP/SPR/SPL/SEPA
319 th Street in the City of La Center, Washington)	(Minit Management)

A. SUMMARY

1. The applicant, Minit Management LLC, requests Conditional Use Permit (“CUP”), Site Plan Review (“SPR”), Short Plat (“SPL”), and State Environmental Policy Act (“SEPA”) approval of a phased commercial development that includes the following: a 101-unit five-story hotel; an 11,600 square foot, one-story, multi-tenant commercial building; a 4,510 square foot one-story convenience store with a drive-through window; a 2,800 square foot one-story drive-through restaurant; a 12-pump automobile fueling island; and associated parking, utility, and other infrastructure improvements. There is an existing well on site categorized as a critical area that the Applicant plans to decommission.

a. The development is proposed on a 3.97-acre parcel located at 2814 NW 319th Street; also known as tax parcel 209738-000 (the “site”). The site and surrounding properties are currently zoned JP (Junction Plan). However, development on the site is vested under the prior Community Commercial (C-2) District zoning, pursuant to a March 28, 2016, Development Agreement with the City (the “City DA”). The site is also subject to a Development Agreement between the applicant and the Cowlitz Tribe dated March 23, 2016 (the “Cowlitz DA”).

b. The site is currently developed as a truck stop, with a convenience store, passenger vehicle fueling island and card lock fueling island. The applicant proposes to remove most of the existing improvements to accommodate the proposed development.

c. The site was recently reconfigured with roadway improvements at the La Center Junction. NW Paradise Park Road, which used to run along the west side of the site, was realigned to run along the north and east sides of the site. Vehicular access to the site will continue to be provided from an existing driveway along the north leg of NW Paradise Park Road and from an existing driveway along the east leg of NW Paradise Park Road. The existing access onto NW La Center Road will be removed with development of the site.

d. According to Clark County GIS, there are no critical areas on site. However, because of the existing well, the site is located within a CARA Category 1 and 1-year Wellhead Zone of Contribution. However, this well will be abandoned with the project and all new buildings will be connected to public water.

e. Additional basic facts about the site and surrounding land are provided in the Staff Report and Recommendation to the Hearings Officer dated May 19, 2020 (the "Staff Report").

2. The Applicant submitted a State Environmental Policy Act ("SEPA") Checklist. The City reviewed the checklist and relevant materials and concluded that the proposed action did not require additional SEPA analysis. Hearing Examiner Joe Turner (the "examiner") conducted a public hearing to receive testimony and evidence about the application. City staff and consultants recommended that the examiner approve the application subject to conditions in the Staff Report, as modified at the hearing. The applicant accepted those findings and conditions, as modified, without exceptions. A representative of the Cowlitz Indian Tribe, Cowlitz Tribal Gaming Authority, and Ilani testified in support of the application. No one else testified orally or in writing.

3. Based on the findings provided or incorporated herein, the examiner approves the application subject to the conditions at the end of this final order.

B. HEARING AND RECORD HIGHLIGHTS

1. Hearing Examiner Joe Turner (the "examiner") received testimony at the public hearing about this application on May 26, 2020. That testimony and evidence, including a recording of the public hearing and the casefile maintained by the City, are included herein as exhibits, and they are filed at City Hall. The following is a summary by the examiner of selected testimony and evidence offered at the hearing.

2. La Center contract planner Ethan Spoo and City engineer Tony Cooper appeared for the City.

a. Mr. Spoo summarized the Staff Report.

i. He noted that the site is currently developed with a Shell service station and convenience store. The applicant proposed to remove most the existing to structures, in phases, to accommodate the proposed phased development.

ii. Although the site is zoned JP (Junction Plan), development on the site is vested under the prior C-2 (Commercial) zoning and development Code, pursuant to the City DA.

iii. The applicant proposed to develop the site with: a 101-unit five-story hotel; an 11,600 square foot, one-story, multi-tenant commercial building; a 4,510 square foot one-story convenience store with a drive-through window; a 2,800 square foot one-story drive-through restaurant; a 12-pump automobile fueling island; and associated parking, utility, and other infrastructure improvements.

iv. The applicant proposed to short plat the site to create four separate lots, one for each of the proposed uses. However, the applicant may choose not to file a final short plat and retain the site as a single parcel.

v. The proposed development meets all applicable approval criteria for site plan review, based on the findings in the Staff Report. The Code requires a minimum 178 parking spaces on the site. The applicant proposed to provide 184 spaces as well as loading spaces for the proposed uses.

vi. CUP approval is required for the proposed hotel, commercial building, drive-through restaurant, and fuel islands. These uses comply with the CUP approval criteria, based on the findings in the Staff Report.

vii. There is an existing groundwater well on site. Therefore the site is designated a wellhead protection area with a one-year and 10-year wellhead zone of travel (CARA I). The Applicant plans to decommission the well, which will eliminate the CARA designation from the site.

viii. He requested the examiner add certain additional conditions of approval that are necessary to respond to issues raised in the SEPA comments.

ix. He noted a typographical error on proposed condition 25 in the Staff Report. The pedestrian connections should be eight feet wide, not five feet as stated in the Staff Report. He requested the examiner modify Condition 25 to that effect.

b. Mr. Cooper summarized the engineering issues.

i. The section of Paradise Park Road abutting the site was recently realigned to accommodate construction of a roundabout west of the site, pursuant to the DAs. Paradise Park Road is designated a Rural Major Collector road and is intended to accommodate all future traffic for the area. The site driveways accessing Paradise Park Road were constructed to accommodate emergency vehicles and delivery trucks.

ii. The applicant will retain the existing right-in only access onto Paradise Park Road during construction and phasing of the development. Pursuant to the City DA, the applicant will close this driveway once traffic exceeds a designated threshold.

iii. The Cowlitz Tribe constructed a sewer line and pump station to serve all potential development west of the Lewis River, including this site. There is an existing eight-inch diameter sewer main stubbed to the site to accommodate the proposed development. There is a Latecomers Agreement, which requires that the applicant and other future developers reimburse the Cowlitz Tribe for their proportionate share of the cost of the sewer improvements.

iv. The applicant constructed an underground stormwater system on the site as part of the Paradise Park Road realignment. That system is designed to accommodate all stormwater runoff from the proposed development, consistent with current regulations.

v. The applicant will be required to install street lights and street trees along the site's Paradise Park Road frontage. Street trees may be located within the right-of-way or on private property.

vi. The applicant will need to contact Clark Public Utilities ("CPU") and the Fire Department regarding the feasibility of connecting the existing water system on the site to public water.

3. Planner Mike Odgren testified on behalf of the applicant, Minit Management LLC. He accepted the Staff Report, as amended, without exceptions. He noted that the applicant may phase the development and the short plat based on future market conditions.

a. He noted that the applicant is proposing trees along the entire perimeter of the site. He questioned whether those trees are sufficient to fulfill the City's street tree requirement.

b. He questioned whether the applicant can provide a temporary water connection to the site, disconnecting the existing on-site water system from the groundwater well and connecting it to public water. That would allow the existing convenience store on the site to continue operating after the well has been decommissioned.

4. Attorney Steve Horenstein appeared and summarized his written testimony on behalf of the Cowlitz Indian Tribe, Cowlitz Tribal Gaming Authority, and Ilani. He testified that the Tribe supports the proposed development, as it will support the Tribe's existing Ilani casino development on the west side of the I-5 freeway

4. No one else testified at the online hearing. At the conclusion of the hearing the examiner held the record open for three weeks, subject to the following schedule:

a. For one week, until June 2, 2020, to allow anyone to submit additional written testimony and evidence in this matter; and

b. For a second week, until June 9, 2020, to allow anyone to respond to anything that was submitted during the first week; and

c. For a third week, until June 16, 2020, to allow the applicant to submit a written final argument.

5. No new testimony or evidence was submitted during the first week of the open record period. Therefore, pursuant to the applicant's request, the examiner closed the record in this case at 5:00 p.m. on June 2, 2020.

C. DISCUSSION

1. City staff recommended approval of the application, based on affirmative findings and subject to conditions of approval in the Staff Report, as modified at the hearing. The applicant accepted those revised findings and conditions without exception.

2. The examiner concludes the Staff Report identifies the applicable approval standards in the LCMC for the application and contains affirmative findings showing that the proposal does or can comply with those standards, provided that the applicant complies with the recommended conditions of approval. The examiner adopts the affirmative findings in the Staff Report as his own.

D. CONCLUSION

The examiner concludes that the applicant sustained the burden of proof that the proposed development does or can comply with the applicable provisions of the La Center Municipal Code and Revised Code of Washington, provided it is subject to reasonable conditions of approval warranted to assure compliance in fact with those provisions.

E. DECISION

In recognition of the findings and conclusions contained herein, and incorporating the reports of affected agencies and exhibits received in this matter, the examiner hereby approves File No. 2020-009-CUP/SPR/SPL/SEPA (Minit Management) in general conformance with the applicant's preliminary plat, subject to the following conditions:

A. Engineering and Public Works

General Conditions

1. The applicant, at time of engineering approval, shall comply with all applicable City of La Center Engineering Standards for Construction and all engineering recommendations contained in the Staff Report unless modified by the Public Works Department (LCMC 12.10.040); and the Applicant shall comply with all applicable La Center land use regulations, goals and policies.
2. The applicant shall comply with all provisions of the development agreement with the City, dated March 28, 2016.
3. At the time of final site plan review, the applicant shall submit an exhibit showing how the existing right-in/right-out access to La Center Road will work during construction. At such time as the Applicant closes the access point to the site from NW La Center Road, the applicant shall construct right-of-way improvements for closure of the access on NW La Center Road to current WSDOT standards and shall obtain WSDOT's approval of construction plans. Such approval from WSDOT shall be provided to the City.

Streets, Sidewalks and Public Ways

4. In lieu of completing public improvements, a performance bond in the amount not less than 110% of the construction estimate shall be provided prior to issuance of a building permit. LCMC 12.10.110.

5. All handicap ramps must comply with current ADA standards and engineering standards.
6. The applicant shall install street lights and street trees along the site's Paradise Park Road frontage. Street trees may be located within the right-of-way or on private property.
7. Fire hydrants shall be spaced every 500 feet per IFC or as otherwise approved by the Fire District. The location of all the hydrants must be approved by the Fire District.
8. The applicant shall submit final grading and erosion control permit as part of the engineering review showing the proposed contours on the plans.
9. Site development earthwork for site grading and construction of sewer, storm drain, water and street systems shall be limited to the dry weather season between May 1st and October 31st with planting and seeding erosion control measures completed by October 1st to become established before the onset of wet weather.

Sanitary Sewer

10. To verify the condition of the existing sewer lateral, a video inspection of the existing sewer lateral must be performed verifying its structural integrity and ability to accommodate the developer's preferred option.
11. The City will reassess the sewer development charges and latecomer's fees when building plans are submitted.
12. Per LCMC 13.10.350 a sewer impact fee shall be charged for commercial development based on the use of the proposed structures at the time the building plans are submitted.

Potable Water

13. The applicant shall contact CPU about the existing water system pressure and shall obtain CPU approval for the new water system.

Stormwater and Erosion Control

14. Per LCMC 18.320.210, treatment BMPs shall be sized to treat the water quality design storm, defined as the six-month, 24-hour storm runoff volume.
15. Provide a final stormwater Technical Information Report (TIR) that complies with LCMC 18.320 at the time of engineering review.
16. Downspouts connections from the building must connect directly into the site stormwater system.
17. Provide maintenance records to the city yearly showing that the detention and water quality system is maintained per the manufactures recommendations.

Lighting

18. Submit a Photometric analysis along with the streetlight design to verify compliance with the Engineering Standards.
19. Street lighting shall be "dark sky" compliant and meet the lighting standards per the Engineering Standards section 2.27.
20. Install Cobra Head streetlights on Paradise Park Road (classified as a Rural Major Collector) as required in section 2.27 (F) of the Engineering Standards.

Building

21. A geotechnical report will be required analyzing the development design for the structures on the property at the time of engineering review.
22. Retaining walls and perimeter fencing are subject to building permit review.
23. Traffic impact fees are typically assessed and collected at the time of building permit issuance. Traffic impact fees will not be assessed based on the plans, unless the uses change from the original site plan when P.M Peak hour trips were vested and the trip cap per the Development Agreement is exceeded.

B. Land Use

General

24. Prior to construction or ground disturbance, the applicant shall apply for and receive final site plan and engineering document approval from the City consistent with the preliminary site plan approval and conditions.
25. The applicant shall provide site improvements related to fencing, waste handling, parking and landscaping as depicted in the Minit Management landscaping and site plan figures contained in this decision.
26. Applications for sign permits are not subject to land use review. Future signs are subject to sign permit application and must demonstrate compliance with LCMC 8.60, Signs.
27. Prior to final site plan approval, the applicant shall revise all primary pedestrian circulation routes between building entrances and streets to be a minimum 8 feet wide to meet ADA Standards.
28. Fences and hedges shall comply with LCMC 18.245.020.
29. The applicant shall provide waste collection by Waste Connections prior to occupancy.
30. The applicant must comply with the conditions provided by Clark County Fire & Rescue at the pre-application meeting (dated November 28, 2017).
31. Should the applicant choose to proceed with a final short plat, the applicant shall apply for and receive final short plat approval from the City and provide a copy to the City after recording with Clark County.
32. The applicant shall comply with all monumentation and survey standards in LCMC 18.230 prior to final plat approval.
33. The applicant shall complete construction within six years and shall install all required public infrastructure in the first phase of the development.

Parking and Loading

34. All parking stalls shall meet the dimensional standards of LCMC 18.280.030.
35. All loading berths shall meet the dimensional standards of LCMC 18.280.040.
36. The applicant shall record a joint parking agreement and provide it to the City prior to final plat approval.
37. Landscaping within the 2-foot overhang shall consist of groundcover that will not interfere with or be damaged by the overhang.
38. The applicant shall design and provide ADA parking in compliance with RCW 46.61.581, RCW 19.27.550, and other applicable state laws.
39. The applicant shall design and provide EV charging infrastructure in compliance with WAC 51-50-0427 and other applicable state laws. This includes the requirement for one accessible parking space to be served by EV charging infrastructure (WAC 51-50-0427.5).

Conditional Uses at the Multi-Tenant Commercial Building

- 40. Uses must meet the trip cap in the development agreement with the City of 199 p.m. peak hour trips.
- 41. Uses must verify adequate parking is available when specific uses are proposed.
- 42. Uses that require outdoor storage are not permitted without additional review.
- 43. The following conditional uses from LCMC Table 18.150.020 are permitted as tenants of the multi-use commercial building under the conditional use permit.

Approved Conditional Uses at the Multi-Tenant Commercial Building (LCMC Table 18.150.020)
2. Retail Sales – Food.
a. Markets in excess of 15,000 square feet gross floor area
c. Bakery – primarily retail outlet (> 10,000 square feet of gross floor area)
d. Bakery – primarily retail outlet (< 10,000 square feet of gross floor area)
3. Retail Sales – General.
b. General retailer (under 25,000 square feet gross floor area)
d. Single purpose/specialty retailers (greater than 10,000 square feet gross floor area)
e. Yard and garden supplies, including nurseries
4. Retail Sales – Restaurants, Drinking Places.
b. Restaurants, with associated drinking places, alcoholic beverages
6. Retail Sales – Building Material and Farm Equipment.
7. Retail Sales – Products (Finished product retailers with primary fabrication or assembly on-site. Within an entirely enclosed building.)
b. Uses of 10,000 square feet gross floor area or greater
9. Services – General.
g. Branch banks
j. Event facilities (<10,000 square feet)
l. Event facilities (>10,000 square feet)
11 Services – Medical and Health.
b. Outpatient clinics
f. Animal hospitals and veterinary clinics
(2) Inside animal activities only
12. Services – Professional Office.
b. Professional offices (> 10,000 square feet gross floor area)
13. Services – Amusement.
a. Amusement centers
b. Bowling alleys, billiard and pool parlors, and video arcades
d. Theaters, indoor

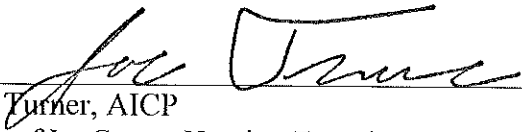
Approved Conditional Uses at the Multi-Tenant Commercial Building (LCMC Table 18.150.020)
f. Athletic, health and racket clubs (< 10,000 square feet of gross floor area)
14. Services – Educational.
a. Nursery schools, preschools
b. Day care facilities consistent with Chapter 388-73 WAC
e. Vocational schools
g. Artistic studios and schools including but not limited to dance, music and martial arts (>10,000 square feet)
i. Public/private educational institutions
15. Services – Membership Organizations.
a. Business, professional and religious (not including churches)
c. Civic, social, fraternal, charitable, labor and political (>5,000 square feet)
d. Churches
17. Public Services and Facilities.
a. Buildings entirely dedicated to public services, such as city hall, police and fire substations
e. U.S. Post Offices

SEPA and Critical Areas

44. Prior to engineering document approval by the City, the well located on this property must be decommissioned by a well driller licensed in the State of Washington per RCW 18.104.43. The well must also be decommissioned in accordance with the decommissioning standards set forth in WAC 173-160-381. Decommissioning reports must be submitted to the Department of Ecology 30 days after completion of the decommissioning.
45. The applicant shall deactivate the water system in accordance with state regulations and guidance from the Department of Health, and shall submit documentation of the water system deactivation to the City prior to engineering approval.
46. The applicant shall coordinate any required storage tank permit updates or renewals with the Clark County fire marshal and the Department of Ecology and shall provide documentation to the City prior to engineering approval.
47. The applicant shall meet all recommendations in the submitted archaeological predetermination report (ASCC, September 2019).
48. The applicant shall follow all recommendations contained in the submitted geotechnical study (Columbia West Engineering, Inc., September 2019).
49. The applicant shall obtain an Access Break from the Washington State Department of Transportation (WSDOT) prior to final site plan approval from the City for the two proposed pedestrian connections to the La Center Road right-of-way. Should WSDOT not approve the pedestrian connections, the applicant shall

- remove the proposed pedestrian connections to La Center Road from the site plan and this change shall be reflected on the approved final site plan.
50. The applicant shall construct right-of-way improvements on La Center Road to current WSDOT standards and shall obtain WSDOT's approval of construction plans. Such approval shall be provided to the City prior to engineering plan approval.
 51. Lighting installed by the applicant must be of an appropriate wattage and be shielded and/or directed according to RCW 47.36.180 to avoid any glare to the motorists on Interstate 5 or the on/off ramps from it to NW La Center Road.
 52. The applicant shall comply with the requirements in the Department of Ecology's letter dated May 20, 2020.
 53. The applicant shall comply with all requirements specified in the letter dated May 20, 2020, to the City from the Southwest Clean Air Agency.

DATED this ___ day of June 2020.



Joe Turner, AICP
City of La Center Hearing Examiner