

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

Regarding a request by Randy M. Goode for preliminary plat approval to divide 43.25 acres into 211 single-family lots southwest of the NW Larsen Drive/Pacific Highway intersection in the City of La Center, Washington) **FINAL ORDER**
) **File No. 2017-0007-SUB**
) **(Riverside Estates)**

A. SUMMARY

1. Randy M. Goode (the “applicant”) requests approval of a preliminary plat to divide 43.25 acres into 211 lots for single-family detached homes, four future development lots (proposed Phase 6), and park, open space, and stormwater tracts. The development is located at 1514 NW 339th Street and 34509 & 34512 NW Pacific Highway; also known as East Fork Estates Lot 1/10 & 2/20, East Fork Estates Phase 2 Lot 1, Lot 2 and Lot 9: Assessor Nos.: 986028830, 986030206, 986028825, 986030202, 986030201 and 258641000; SE ¼ of Section 33, T4N, R1E, WM (the “site”). The site and properties to the north, across NW Pacific Highway, are zoned MDR-16 (Medium Density Residential, 16 units per acre). Properties to the west are located in unincorporated Clark County, outside the City’s Urban Growth Area boundary. Properties to the northeast, across NW Pacific Highway, and properties abutting the southwest corner of the site are zoned LDR-7.5 (Low Density Residential, 7,500 square foot minimum lot size). Properties to the south are in unincorporated Clark County but within the City’s Urban Growth Area and zoned R-12. Properties abutting the northwest and east boundaries of the site are in unincorporated Clark County but within the City’s Urban Growth Area and zoned R-12. Properties abutting the southeast corner of the site are in unincorporated Clark County but within the City’s Urban Growth Area and zoned R1-7.5.¹

a. The site is currently vacant. The applicant proposed to construct a new single-family detached dwelling on each of the proposed lots. The applicant proposed to develop the site in six phases. No development is proposed in Phase 6 at this time. The applicant will develop this portion of the site with multi-family dwellings in the future, subject to additional City review and approval.

b. The applicant proposed to dedicate rights-of-way and construct public streets within the site. Primary access to the site will be from a new intersection on NW Pacific Highway, proposed NW 15th Street, with additional streets branching off from NW 15th Street to provide access to the proposed lots. The applicant will extend proposed NW 17th Place to the northwest boundary of the site to allow for further extension when the property abutting the northwest boundary of the site redevelops. The applicant will also dedicate right-of-way and construct half-width improvements on the site’s NW Larsen Drive frontage. The applicant will convert the existing NW Larsen Drive/NW

¹ Zoning for properties located in the City is based on the City of La Center zoning map, p. 9 of the La Center comprehensive plan. Zoning for properties located in unincorporated Clark County is based on the zoning indicated by the Clark County GIS maps.

Pacific Highway intersection to right-out only access. The applicant will dedicate right of way and pay a fee in lieu to the City equal to the cost of constructing half width improvements along the site's Pacific Highway frontage. All of the proposed lots will have direct access onto the proposed interior streets or NW Larsen Drive. No lots will directly access NW Pacific Highway.

c. The applicant proposes to collect stormwater from impervious areas on the site and direct it to one of three proposed stormwater facilities on the site for treatment and detention: the existing pond in the northwest portion of the site, a detention vault in the southwest portion of the site, and a bioretention facility in the southeast corner of the site. The applicant proposed to discharge treated stormwater from these detention facilities into existing drainageways at less than predevelopment rates.

d. Clark Public Utilities will provide domestic water and the City of La Center will provide sanitary sewer service to each proposed lot. The applicant will construct a sewage pump station in the southeast corner of the site to pump sewage effluent to the existing gravity flow public sewer in NW Pacific Highway east of the site. The majority of the lots will connect to the pump station via gravity flow sewer lines. However, some of the lower elevation lots in the southwest corner of the site may require individual grinder pumps to direct effluent to the pump station. The applicant proposed to size the pump station to accommodate projected sanitary sewer flows from the upstream sewer basin. The pumps are sized to accommodate sewer flows from this development and the Highland Terrace development north of the site.

2. The City of La Center issued a Mitigated Determination of Nonsignificance ("MDNS") for the subdivision pursuant to the State Environmental Policy Act ("SEPA"). 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 and preliminary plat subject to conditions. See the Staff Report & Recommendations to the Hearing Examiner dated September 26, 2017 (the "Staff Report"), as amended at the hearing. The applicant accepted those findings and conditions, as amended, without exceptions. Six persons testified orally with questions and concerns about the proposed development. Other persons testified in writing. Disputed issues or concerns in the case include the following:

- a. Whether the City provided adequate public notice about the application;
- b. Whether development on this site is subject to the "beveling standard" the City Council discussed at the May 11, 2016 public hearing;
- c. Whether comprehensive plan policy 1.2.5 requires 11,000 square foot lots abutting the Urban Growth Boundary;
- d. Whether the applicant is required to fence the site;

- e. Whether potential impacts from future single-family development in proposed Phase 6 are relevant to this application;
- f. Whether traffic from this development will exceed the capacity of area streets or otherwise create a hazard;
- g. Whether the applicant can modify the existing NW Larsen Drive/Pacific Highway intersection to right-out only movement;
- h. Whether the applicant is required to improve the section of NW 339th Street abutting the site;
- i. Whether the applicant is required to provide access to Mr. Wohler's property (tax lot 258689000) from streets within the site;
- j. Whether the proposed development will cause or exacerbate flooding and other stormwater issues on adjacent properties;
- k. Whether the proposed development will impact the existing pond on Ms. DeLong's property;
- l. Whether the applicant is required to oversize the sewer pump station to serve future development within the sewer basin;
- m. Whether, and to what extent, the applicant is required to extend utilities to serve future development on properties abutting the site;
- n. Whether the applicant is required to provide an access road along the length of the offsite sanitary sewer easement between the pump station and NW Pacific Highway;
- o. Whether the applicant's critical areas analyses accurately identify all critical areas (wetlands, riparian areas, and Oregon white oak trees) on the site; and
- p. Whether the examiner has the authority to modify the SEPA conditions without a SEPA appeal.

3. Based on the findings provided or incorporated herein, the examiner approves the subdivision subject to the conditions at the conclusion 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 October 3, 2017. 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 consulting city planners Eric Eisemann and Todd Boulanger, City engineer Tony Cooper, and City public works director Jeff Sarvis appeared for the City.

a. Mr. Boulanger summarized the Staff Report.

i. The applicant proposed to develop the site into 211 lots for single-family dwellings in five phases. Proposed Phase 6 is intended as a future development tract. This development will result in a density of 9.85 dwelling units per acre.

ii. There is an Oregon white oak tree on the site, which the applicant proposed to preserve within an open space tract.

iii. There is conflicting information regarding the critical areas on the site.

(A) A 2010 critical areas survey by Bluhm Associates, based on a critical areas analysis by Ecological Land Services of unknown date, identified wetlands in the northwest corner of the site (the existing on-site pond and abutting areas south of the pond); a second area south of the pond, also in the northwest portion of the site; in the northeast corner of the site; an east-west ditch extending between the northeast and northwest wetlands; in the central portion of the site; and in the southeast corner of the site, including another east-west ditch extending half-way through the site from the east boundary.

(B) A 2015 critical areas assessment by Cascadia Ecological Services identified wetlands in the northwest corner of the site (the existing pond and abutting areas south of the pond).

(C) A 2016 critical areas assessment by Castle-Rose Environmental determined that there are no regulated wetlands on the site. Castle-Rose Environmental concluded that the prior assessments incorrectly identified an agricultural pond and ditches as regulated wetlands.

(D) The Department of Ecology (“ECY”) recommended additional analysis to resolve the conflicting information, arguing that “low functioning” wetlands are still wetlands subject to local, state, and federal regulations. Fill within wetlands requires approval from the U.S. Army Corps of Engineers (the “Corps”).

iv. The applicant proposed to retain and modify the existing pond on the site to provide stormwater detention and an open space amenity. The applicant proposed two larger active parks in the southwest and southeast corners of the site and several smaller open space/park tracts primarily near the site entrance on NW Pacific

Highway. The applicant proposed to improve all of the parks with lawns, trees, paths, benches, animal waste sites, and similar amenities. The larger “active” parks will also include play features and equipment, sports fields, picnic areas, etc. If the parks meet City requirements they may be eligible for park fee credits. Each phase of the development must meet the minimum park area requirement of the Code. The applicant will dedicate all open space and parks tracts to a homeowners association that will be responsible for maintenance of these facilities.

v. The applicant’s traffic study is based on a prior development plan for the site that assumed 99 single-family and 306 multi-family dwelling units. That analysis overestimates the traffic impact of the current proposal for 211 single-family dwellings. The applicant will be required to provide additional traffic analysis when a development application is submitted for the Tracts in proposed Phase 6.

vi. The applicant will create a new intersection on NW Pacific Highway, proposed NW 15th Street, to provide access to the site. The City supports retaining the name NW Larsen Drive for the existing street abutting the east boundary of the site. The applicant will convert the existing NW Larsen Drive/ NW Pacific Highway intersection to a right-out only access. In addition, the applicant should be required to dedicate a half-width right-of-way along the northwest boundary of proposed Lot 7, between proposed NW 17th Place and NW Pacific Highway. This right-of-way can be developed as a full-width street when the abutting property to the northwest redevelops, providing additional access to NW Pacific Highway in compliance with the City’s arterial intersection spacing requirements.

vii. The applicant will manage all stormwater on the site.

viii. Mr. Boulanger corrected minor typographical errors in the Staff Report.

(A) The first table on p. 6 should list the zoning district as “MDR-16 (Medium Density).”

(B) The last paragraph on p. 10 should state “detention vault,” rather than “detection vault.”

(C) Page 13 under the Phase 2 heading should refer to a “tract” rather than a “track.”

(D) Page 16 should require three off-street parking spaces per lot.

(E) Page 26 should reference the La Center parking standards rather than the Ridgefield standards.

b. Mr. Eisemann testified that the City Council, when it considered annexing the site into the City, intended to adopt a beveling standard that required minimum 7,000 square foot lots abutting LDR districts, the UGA, or land outside the UGA. Based on the minutes of the May 11, 2016 City Council meeting, the Council voted to approve the annexation subject to this beveling standard. However, the annexation ordinance signed, adopted, and codified by the City Council, Ordinance 2016-003, did not include the beveling requirements discussed by the Council. The hearings officer must determine whether the beveling requirement discussed by the City Council applies to this site. If that beveling standard does not apply, the current Code (LCMC 18.140.030(2)) requires that lots abutting “low density residential (LDR) districts” provide “80 percent of the lot area of the minimum lot size of the abutting LDR district.” LDR zoned lands includes unincorporated land within the Urban Growth Area that will be zoned LDR-7 when those lands are incorporated into the City.

i. The East Fork of the Lewis River and the north-south aligned portion of the west boundary of the site are the City’s Urban Growth Boundaries (or UGA boundaries) in this area. The City’s “Urban Growth Area” includes unincorporated lands between the current City limits and the UGA boundary. In this case, the area between the south boundary of the site and the river is within the Urban Growth Area.

ii. The applicant and the City will enter into a Development Agreement regarding phasing and the types of housing products in proposed Phase 6. The development may be eligible for Park Impact Fee Credits if the proposed park improvements meet City standards. He requested the examiner include a condition of approval requiring a final agreement consistent with the current draft agreement prior to final plat approval for any phase of this development. He submitted a copy of the draft Development Agreement into the record.

iii. The site contains two archeological sites; areas of archeological scatter. These sites may be in an area of proposed soil disturbance. He requested the examiner modify proposed condition A.18 to require monitoring of these areas when soil disturbance activities are occurring in those areas.

iv. There is an Oregon white oak tree sapling on the site, in addition to the larger Oregon white oak tree. The applicant should be required to review the sapling to determine whether it meets applicable standards for preservation.

v. The City has funded construction of a traffic circle at the intersection of W 4th Street and Pacific Highway and construction of the improvement is scheduled for 2018.

vi. LCMC 18.245 may require a fence between the future multi-family development and abutting properties west of the site. The proposed conditions of approval require a 20-foot wide buffer with a trail along the west boundary of Phase 6.

vii. There are discrepancies in the zoning shown on the County GIS site, the City website, and the City's adopted 2035 comprehensive plan. The comprehensive plan is controlling. Figure 14 of the comprehensive plan indicates that the Petersons' properties will be zoned MDR-16 when they are incorporated into the City. That planned designation has existed since 2008. The beveling standard may not apply to lots abutting the Petersons' properties, because they are designated MDR-16.

viii. La Center comprehensive plan policy 1.2.5 cited by Mr. Nuttbrock allows, but does not require, lot sizes up to 11,000 square feet abutting the Urban Growth Boundary. The language used in this provision is permissive, not mandatory.

ix. The City agrees with the applicant's proposed changes to SEPA condition 1, with some changes. He suggested the examiner retain the existing language of condition 1 and add an "or" to allow, as an alternative, a third-party biologist chosen by the City to evaluate all of the critical area issues on the site (wetlands, riparian areas, and the Oregon white oak trees) at the applicant's expense. Either evaluation must occur prior to any soil disturbance on the areas under consideration.

c. Mr. Cooper noted that the City requires a minimum 300 feet between intersections on NW Pacific Highway, a major arterial street. The existing NW Larsen Drive/Pacific Highway intersection is located less than 300 feet from the proposed NW 15th Street/Pacific Highway intersection. Therefore, the NW Larsen Drive intersection will be limited to right-out only, provided that turn movement does not conflict with the operation of the proposed NW 15th Street/Pacific Highway intersection. The NW Larsen Drive intersection can be designed to allow in-bound emergency vehicle access, providing a secondary emergency access to the site as requested by the Fire District. The applicant will construct all of the interior streets within the site to a Local Access Street standard, with the exception of NW 15th Street, which will be constructed as a Neighborhood Street. The applicant will construct half-width street improvements on the section of NW Larsen Drive abutting the site. The half-width improvement will provide a minimum 25-foot paved width to accommodate two-way traffic and emergency vehicles. Parking will be prohibited on the half-width section of NW Larsen Drive.

i. The applicant is not required to dedicate right-of-way and construct half-width improvements on the section of NW 339th Street abutting the site. The area south of NW 339th Street contains a stormwater pond and riparian zone, which preclude further expansion of NW 339th Street to the south. Therefore, half-width improvements on this site could not be extended and full-width street improvements constructed when the abutting properties redevelop. In addition, because this development will not generate any traffic on that street, there is no nexus between the proposed development and the need for improvements to NW 339th Street.

ii. The applicant will also be required to dedicate a half-width right-of-way along the west boundary of proposed Lot 7, between NW 17th Place and

NW Pacific Highway, to allow for additional cross-circulation and connectivity when the abutting property to the northwest redevelops.

iii. The applicant will treat and detain stormwater on the site and release it to existing drainageways at less than predevelopment rates. The applicant proposed three separate stormwater facilities on the site.

(A) The applicant will build up the existing pond on the site to provide stormwater detention above the existing water level in the pond. The applicant will treat stormwater in a bioswale before it enters the pond. Treated stormwater from the pond will discharge to the existing swale/ditch to the west, in the location of the existing pond outfall. The applicant's engineer will review the existing pond for structural stability and leakage prior to approval of the final stormwater design.

(B) The applicant will construct an underground stormwater detention vault in the proposed park near the southwest corner of the site. The applicant will treat stormwater entering the detention vault with mechanical filters. Stormwater from the vault will be discharged to the existing ditch within the habitat buffer.

(C) The applicant will provide a third stormwater detention facility near the southeast corner of the site, northwest of the NW Larsen Drive/339th Street intersection. Runoff from roads and driveways will be treated in a swale before entering this detention facility. Runoff from roofs does not require treatment and will flow directly into the detention facility. Runoff from this site currently flows into the stormwater facility serving the East Fork Estates development. The proposed detention facility in the southeast corner of the site will also discharge runoff into East Fork Estates development stormwater facility. However, the applicant is not relying on the East Fork Estates stormwater facility for required treatment or detention. The applicant will treat detain runoff on the site and release it at less than predevelopment rates to ensure that the rate of runoff flowing into this off-site facility will not increase.

iv. The applicant will construct a sanitary sewer pump station near the southeast corner of the site. Effluent will flow to the pump station by gravity. The pump station will then pump the effluent via a "force main" to the existing gravity flow sanitary sewer system in "E" Avenue east of the site. The applicant will be required to obtain easements for the section of force main between the site and NW Pacific Avenue. The applicant will size the sanitary sewer lines on the site and the force main to accommodate sewer effluent from the entire upstream sewage basin that can gravity flow to the proposed pump station. The applicant will be required to provide a manhole in Pacific Highway to allow future developments to the north to provide gravity flow connections to the pump station. The applicant is also required to provide sewer stubs to adjacent properties within the basin for future sanitary sewer connections. The applicant will size the sewage pumps to accommodate effluent from this site and the proposed Highland Terrace development north of the site. The Highland Terrace developer will contribute towards the cost of the pump station. Future developments will need to expand

the pump station to accommodate increased sanitary sewer flows. Many of the properties southwest of the site, in the East Fork Estates development, are at a lower elevation than the site. Therefore, the applicant cannot provide gravity flow sanitary sewer service between those lots and the pump station. The applicant will be required to provide a sanitary sewer stub to those properties if they can be served with gravity flow connections to the pump station. Properties at lower elevations will be served by other planned sewer connections.

d. Mr. Sarvis requested an opportunity to review proposed condition B.12 to provide evidence regarding the proportionality of that condition. He agreed with the changes Mr. Johnson proposed to condition B.8. The pump station “wet well” is sized to accommodate sanitary sewer flow from future development of all properties in the sewer basin. The sewer pumps are only sized to accommodate sewer from this development and the Highland Terrace development. Future developers will be required to expand the pumping capacity and valves to accommodate increased sewage flows.

3. Engineers Tim Wines and Travis Johnson and wetland biologist Jason Smith testified on behalf of the applicant.

a. Mr. Wines responded to the Staff Report and public comments.

i. He objected to proposed condition B.12 requiring the applicant pay a proportionate share of the cost of improvements to the La Center Road/Timmen Road intersection. The applicant’s Traffic Impact Fees (“TIFs”) should fund that improvement. There is no evidence regarding the cost of the improvement or the applicant’s proportionate share of such costs.

ii. The applicant will provide the opportunity for the parcel abutting NW Pacific Highway and surrounded by the site (Mr. Wohler’s property, tax lot 258689-000) to connect to public water and sanitary sewer lines on this site. The applicant proposed to install manholes, provide easements between the streets and the boundaries of the abutting property, and extend stubs for sewer and water lines six feet past the edge of the public right-of-way within the easements. The developer of the adjacent property will be responsible for further extending the sewer and water lines when the adjacent property redevelops. He requested the examiner modify proposed conditions B.28 and B.29 to that effect. The applicant is willing to work with Mr. Wohler to extend utilities to the boundaries of Mr. Wohler’s property, provided Mr. Wohler is willing to bear the additional costs of the utility extensions.

iii. The applicant will detain stormwater on the site in compliance with Code requirements, releasing it to existing drainageways at controlled rates that replicate existing conditions. This development will not increase the rate of stormwater discharge from the site.

iv. The applicant has all necessary easements for the extension of the proposed sanitary sewer force main between the site and NW Pacific Highway. It is

not feasible to construct a road along the easement as required by bullet seven on page 29 of the Staff Report. A stream and steep topography preclude construction of such a road.

v. The applicant will provide a bus stop pullout on NW Pacific Highway near the site access, which C-Tran could utilize in the future if bus service is provided to this area in the future.

vi. The applicant did not include the Petersons' properties in the design of the sewer pump station. Expanding the pump station to serve future development on those properties would increase the cost the pump station. The design included the Highland Terrace development, because that applicant will contribute towards the cost of the pump station. Future developers can expand the pump station as necessary to accommodate additional development within the sanitary sewer basin served by the pump station.

vii. Development on this site is unlikely to impact the pond on Ms. DeLong's property. The pond on the site currently discharges to a ditch/drainagway that flows southwest to Ms. DeLong's pond. The proposed development will replicate that existing condition; discharging stormwater to the same ditch/drainagway and maintaining the hydrology of the off-site pond.

b. Mr. Johnson testified that it is feasible to provide a full access intersection on the parcel abutting NW Pacific Highway and surrounded by the site (Mr. Wohler's property, tax lot 258689-000) in compliance with the City's intersection spacing requirements when that parcel redevelops. There is no need to provide a street stub to that parcel from this site. In addition, there will be a significant elevation different between this parcel and proposed NW 17th Place, which could preclude such a street connection.

i. This development will allow for future sanitary sewer connections to the East Fork Estates development. The applicant will provide a sanitary manhole in Larsen Drive and extend easements to the boundaries of the site to allow such connections. However, properties in the East Fork Estates development are at a lower elevation and therefore may require individual sewage grinder pumps in order to connect to the pump station on this site.

ii. He requested the examiner modify SEPA condition 1 to require the applicant hire a 3rd party wetland biologist identified by the City to evaluate the entire site for critical areas prior to undertaking any land disturbing activities on the site. The applicant will comply with that 3rd party determination. He agreed with the modified language proposed by Mr. Eisemann.

iii. He withdrew Mr. Wines' objections to proposed condition B.12 requiring the applicant pay a proportionate share of the cost of improvements to the La Center Road/Timmen Road intersection. The applicant will accept that condition and

work with staff to ensure that the applicant's share of the cost is proportional to the impact of the development.

iv. It may not be feasible to construct a path between NW 13th Street and Phase 6 as required by proposed condition B.8. Such a path would cut through the backyards of the proposed lots. In addition, there will be an eight to ten-foot grade change between NW 13th Street and Phase 6, which may make construction of a path in this location impractical. The applicant would be willing to provide a pedestrian connection through Phase 6, between the hammerhead at the west end of NW 13th Street and the west end of NW 15th Street. He requested the examiner modify proposed condition B.8 to allow such a path as an alternative to a path between proposed Lots 31 and 32.

v. The applicant has no plans to fence the site at this point.

vi. The applicant intends to begin construction of on the site as soon as possible, after the City approves the applicant's construction drawings.

c. Mr. Smith testified that he performed the wetland delineation on the site consistent with the 1987 Corps manual. The 2009 Bluhm Associates wetland analysis provided by the City did not include any written analysis, only drawings showing wetlands on the site and a proposed mitigation plan. In addition, that delineation is more than five years old and therefore no longer valid. Based on his analysis the existing pond on the site is a manmade impoundment that does not qualify as a jurisdictional wetland. The pond was created sometime between 1951 and 1962, based on based on aerial photos and topographic maps of the area. There is no evidence of wetland hydrology on the areas of the site surrounding the pond. Based on the 1987 Corps manual, absent historic evidence that the pond was created from a wetland, it cannot be deemed a jurisdictional wetland. All of the drainage ditches on the site are manmade and therefore are not jurisdictional wetlands. There is no evidence of "wetlands A, B and C" shown in the Bluhm maps. Those areas are currently being farmed and planted with oats, an obligate upland species.

4. Robert Hickok questioned whether the beveling standards apply to lots abutting existing lots in the East Fork Estates development south of the site. Based on the minutes of the May 11, 2016 Council meeting, the City Council clearly intended to apply a beveling requirement to the majority of lots on the perimeter of this site. That intent should be implemented with this development. This development will significantly change the existing bucolic character of the area.

a. He questioned whether the applicant will be required to maintain NW Larsen Drive.

b. He argued that the additional impervious surface area on this site will increase the volume of stormwater runoff leaving the site, which will impact the existing stormwater pond serving the East Fork Estates development.

5. Rodney Peterson testified that he and his mother own the properties adjacent to the east boundary of the site, across NW Larsen Drive. He expressed concerns regarding the density of the development and its impact on their properties, which are located in the City's UGA but outside the incorporated City. There is no buffer between the site and their properties. All of the homes on Larsen Drive will face the road and their properties, with no fence or buffer between the development and abutting properties. Therefore, the applicant should be required to provide larger lots on the east boundary of the site to protect their properties.

a. The applicant's traffic analysis underestimates the volume of traffic that will be generated by this development and its impact on area streets. There are no sidewalks or shoulders on the section of NW Pacific Highway between the site and downtown La Center. The City or the applicant should be required to provide a safe pedestrian connection between the site and the remainder of the City.

b. The City failed to notify them when it rezoned their properties.

c. He questioned whether the SEPA conditions can be modified at this stage.

d. He testified that he lived on the site as a child and there were several wet areas that may have been wetlands. Farming activities and piping on the site may have eliminated the wetlands identified in the prior analyses of the site.

e. He questioned whether their properties are located within the sewer basin served by the proposed pump station.

6. Kurt Wohlers testified that he owns the parcel abutting NW Pacific Highway and surrounded by the site (tax lot 258689-000). The applicant should be required to extend gravity flow sanitary sewer and public water lines to the boundaries of his property in order to serve future development. Installing the utilities to his boundaries at this time would avoid the need to impact landscaping and other improvements on the lots underlying the proposed utility easements when he redevelops his property in the future. He noted that all traffic from the site must utilize the single access from Pacific Highway, which will have a significant impact on the lots near that intersection.

7. Alicia DeLong testified that her home is located within eight feet of the west boundary of proposed Phase 6. She was told that the pump house serving her home is located in an easement on the site. Development on Phase 6 and the proposed trail on the west boundary of the development will impact her property, generating pedestrian traffic past her home and multi-family dwellings in close proximity. The applicant should be required to provide larger single-family homes along the west boundary of the site to provide a transition between urban and rural densities. In the alternative, the applicant could provide a landscaped buffer and/or fence between the site and her home. There is

an existing pond on her property that is fed by runoff from the on-site pond. Development on this site may cause her pond to dry up.

8. Harlan Harris raises horses on property west of Phase 6, as do his neighbors. The future multi-family development in Phase 6 will conflict with that use, as residents are likely to feed the horses, which could create a hazard for the residents and the horses. The applicant should be required to provide a fence to clearly identify the boundary between the site and abutting pastures. The applicant could appease the neighbors by providing a fence along the entire west boundary of the site. Traffic from the site and other developments proposed in the area will create a hazard. This development will add 1,000 new residents to the City. Other developments on Pacific Highway will add even more. There is a steep drop off to a ditch and no sidewalks or shoulders on the section of Pacific Highway between the site and the remainder of the City. He did not receive notice of this application until one week prior to the hearing. The City should provide earlier notice to allow the public to review the application.

9. Realtor Erica Rodman testified on behalf of the Larsen family, which owns a 21-acre parcel at the end of Larsen Drive south of the site, on the East Fork of the Lewis River. She objected to the proposal to limit Larsen Drive to right-out only and route all other traffic through the site. Closure of the existing access and routing traffic through this development will impact the value of the Larsen property.

C. DISCUSSION

1. City staff recommended that the examiner approve the preliminary plat, based on the affirmative findings and subject to conditions of approval in the Staff Report, as modified at the hearing. The applicant largely accepted those findings and conditions as modified, with exceptions discussed below.

2. The examiner finds that the Staff Report, as amended at the hearing, accurately identifies the applicable approval criteria for the preliminary plat and contains affirmative findings that the proposed preliminary plat does or can comply with the applicable standards of the LCMC and the Revised Code of Washington, provided the applicant complies with recommended conditions of approval as amended herein. The examiner adopts the affirmative findings in the Staff Report, as amended, as his own, except to the extent that those findings are inconsistent with the findings in this Final Order.

3. The examiner finds that the City provided adequate public notice of the application. The City mailed notice of the hearing to the owners of properties within 300 feet of the site as required by LCMC 18.30.100(2) and 18.30.120(5)(b)(ii) and posted a sign on the site as required by LCMC 18.55.110.H on September 15, 2017. *See* the September 15, 2017 affidavit from Naomi Hanson. Mailings were based on the ownership records of the Clark County assessor's office. The City also published notice of the hearing in the newspaper on September 6, 2017 as required by LCMC 18.30.100(2) and 18.30.120(8). The City also mailed and published notice of the SEPA MDNS for this development on August 2, 2017 as required by LCMC 18.310.170. The

Code does not require that the City mail earlier notice of the application, nor does the Code require that mailed notice be received by the owners. 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).

a. 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.

4. The examiner finds that City Council failed to adopt beveling standards discussed by the City Council at the May 11, 2016 Council meeting. The City Council clearly intended to apply additional beveling standards to properties included in the “Goode” annexation. See the minutes of the May 11, 2016 City Council meeting. However, the additional beveling requirements were not included in Ordinance No. 2016-003. Therefore, the City did not adopt the additional beveling requirements. The examiner must interpret ambiguous language to give effect to the City Council’s intent. *Pinebrook Homeowners Ass’n v. Owen*, 48 Wn.App. 424, 428, 739 P.2d 110 (1987). However, when the language of a statute is clear and unambiguous there is no room for interpretation. *Mcallister v. Pension Board*, 180 P.3d 786, 788 142 Wash.App. 250 (2007). The examiner cannot read into the ordinance language that the City Council unintentionally failed to include. *Overton v. Washington State Economic Assistance Authority*, 96 Wn.2d 552, 556, 637 P.2d 652 (1981); *State v. Martin*, 94 Wn.2d 1, 20, 614 P.2d 164 (1980). Ordinance No. 2016-003 adopted by the City did not include the beveling requirements discussed and voted on at the May 11, 2016 City Council meeting. Therefore, those additional beveling requirements do not apply to development on this site.

5. Development on this site is subject to the beveling standards in LCMC 18.140.030(2), which provides:

New lots used for medium density residential purposes created adjacent to low density residential (LDR) districts shall employ a “beveling” technique at the perimeter of the project. New perimeter MDR-16 lots abutting LDR districts, not including public rights-of-way or dedicated public open space, shall be no less than 80 percent of the lot area of the minimum lot size of the abutting LDR district. Setbacks from the property lines of abutting LDR land shall be no less than 80 percent of the setback requirement of the abutting LDR district. For example, if the abutting property is zoned LDR-7.5, a 7,500-square-foot minimum lot size, the MDR-16 lots abutting the LDR district may not be less

than 6,750 square feet. The beveling standard does not apply to manufactured home subdivisions.²

a. The examiner finds that the beveling requirement should apply to abutting LDR (Low Density Residential) zoned properties, whether those properties are located in the City or the County. The Code requires beveling for lots abutting adjacent “LDR districts.” The Code uses the plural term “districts” and does not reference LDR-7 zoning, the only LDR zone in the City. Therefore, the examiner must construe this provision to apply to any abutting LDR (low density residential) zoned property, whether it is located in the County or the City, based on the plain meaning of the words in the Code.

b. The examiner finds that the lots abutting the north-south aligned portion of the west boundary of the site are not subject to beveling. Those properties are located outside the City’s Urban Growth Boundary and zoned rural, which is not a low-density residential designation. Therefore, based on the plain meaning of the words in LCMC 18.140.030(2), beveling is not required for these abutting lots. However, the applicant proposed to provide a 20-foot landscaped buffer and trail along this section of the boundary. The applicant should be required to install the proposed trail and buffer, unless the City, through an ordinance or the Final Development agreement, requires a more restrictive buffer or beveling requirement for Phase 6 of the development. Proposed condition of approval 16 should be modified to that effect.

c. Beveling is not required along the north boundary of the site, abutting NW Pacific Highway, or along the east boundary of the site, abutting Larsen Drive. LCMC 18.140.030(2) expressly exempts lots abutting public rights-of-way or dedicated public open space from the beveling requirement.

d. The examiner finds that beveling is required on the south boundary of the site, proposed Lots 1-9, 44-48, and 108-113. There is a conflict between the City and County zoning maps. The County maps indicate that these properties are currently zoned R-12 (Medium Density Residential). The City’s zoning maps (p. 9 of the La Center Comprehensive Plan) indicate that these properties are zoned R1-6 (Low Density Residential). However, Figure 14 of the La Center comprehensive plan indicates that these properties will be zoned LDR-7 when they are incorporated into the City. The examiner finds that the beveling requirement should be based on the planned City zoning for these properties. Proposed condition of approval 6 should be modified to that effect.

e. Beveling is not required along the northwest boundary of the site. The properties northwest of the site are currently designated urban medium density residential in both the City and County zoning maps and Figure 14 of the La Center comprehensive plan indicates that these properties will be zoned MDR when they are incorporated into the City.

² The example provided in the text of the Code includes a mathematical error. 80-percent of 7,500 square feet equals 6,000 square feet, not 6,750 square feet.

f. The examiner has no authority to address Mr. Peterson's assertions that the City rezoned his and his mother's properties without notice. The Petersons' properties are currently zoned R-12 (Medium Density Residential) in both the City and County zoning maps. Figure 14 of the La Center comprehensive plan indicates that these properties will be zoned MDR-16 when they are incorporated into the City.

6. The applicant did not propose, and the Code does not require, very large lots along the section of the site abutting the Urban Growth Boundary. Comprehensive plan policy 1.2.5 cited by Mr. Nuttbrock allows, but does not require, lot sizes up to 11,000 square feet abutting the Urban Growth Boundary. The term "allow" is permissive, not mandatory.

7. It was argued that the applicant should be required to fence the site to separate the proposed development from adjacent properties. LCMC 18.245.060 establishes standards for landscaping and screening. Based on Table 18.245.060 screening and buffering is limited to an "L1 standard" when development is proposed on MDR-16 zoned properties abutting LDR or MDR-16 zoned property. The L1 standard "[c]onsists principally of groundcover plants; trees and high and low shrubs also are required." LCMC 18.245.060 (2)(a)(i). Fences are not required. The applicant should be required to provide an L1 buffer along the north, east, and south boundaries of the site as required by LCMC 18.245.060. This is required by condition of approval 13.

a. A fence or hedge is required when development is proposed on LDR zoned property adjacent to MDR-16 zoned property. Table 18.245.060 requires an L2 buffer when development is proposed on LDR zoned property across the street from MDR-16 zoned property and an L3 buffer when development is proposed on LDR zoned property abutting MDR-16 zoned property. An L2 buffer requires a three-foot hedge or wall in addition to landscaping. An L3 buffer requires a six-foot fence or wall in addition to landscaping.

b. LCMC Table 18.245.060 does not require screening or buffering along the west boundary of the site, abutting the Urban Growth Boundary. However, the applicant will provide either a 20-foot buffer and pedestrian path or park along the entire western boundary of the site. *See* the Parks & Open Space Plan, October 2, 2017 update.

c. There is no basis for concluding residents of the proposed subdivision will pose a hazard to the use of abutting properties or will be reasonably likely to trespass on abutting properties. The boundaries of the site will be adequately marked by proposed and required landscaping, as well as roads on the east and north boundaries. The owners of abutting properties have adequate legal (civil) recourse to address any trespass problems that may arise. Also, owners of surrounding properties are free to install fences on their properties to reduce the potential for trespass and other issues. The examiner understands Mr. Harris' concerns that residents of the site may interfere with his horses. However, the current screening, buffering, and fencing requirements are based on the zoning, not the use, of adjacent properties. Therefore, the examiner has no authority to require a fence on this site.

d. The examiner has no authority to redesign the proposed development to require single-family development along the west boundary of the site to provide a density transition between the City and abutting rural properties. If the proposed development complies with the Code as proposed it must be approved, regardless of whether a subjectively “better” design may be feasible.

8. Neighbors expressed concerns with the impact of the future multi-family development in proposed Phase 6 of this development. The examiner understands those concerns, but they are not relevant to the current application. The City can consider those concerns when actual development is proposed in the future, to the extent relevant to the Code standards in effect when a development application is submitted for that portion of the site. The public will have an opportunity to review and comment on any application for development in proposed Phase 6. The City will review such an application through a Type II process, which requires public notice and an opportunity to comment. In the interim the City Council can consider adopting additional beveling or buffering regulations to separate and buffer this portion of the development from the rural properties to the west.

a. The examiner notes that the language the City Council considered prior to adopting Ordinance No. 2016-003 would not require buffering or beveling on this portion of the site. The “Option 2” language set out in the May 6, 2016 memo to the City Council requires “lots” of 7,000 square feet or more abutting land outside the UGA. The proposed Phase 6 “lots” are significantly larger than 7,000 square feet. Therefore, no beveling would be required between Phase 6 and the abutting rural properties under the language considered by the City Council.

8. This development will generate additional traffic on streets in the area. That increased traffic will be perceptible to area residents. However, based on the applicant’s traffic analysis, it will not exceed the capacity of the streets nor create a hazard, provided the City constructs the planned roundabout at the 4th Street and Pacific Highway. The City has funded the roundabout and construction is scheduled for 2018. There is no substantial evidence to the contrary.

a. Neighbors testified that traffic from the development will exacerbate existing hazards. Neighbors’ observations of existing traffic are substantial evidence. But their opinions that the traffic from the proposed subdivision will make the streets unsafe are not supported by substantial evidence, because they are not experts in such matters. The examiner finds that the expert testimony by the applicant’s traffic engineer is more persuasive than neighbors’ testimony about the impact of traffic from the proposed development on area streets. The traffic study was prepared by a licensed professional engineer based on actual traffic volumes, including traffic generated by all previously approved developments in the City as well as a “background growth factor.” Future traffic volumes and trip distribution were estimated using accepted methods of calculation based on the type and amount of development proposed. Neighbors’

unsupported opinions do not have enough probative value to rebut the expert testimony of the applicant's engineer.

b. The additional traffic generated by this subdivision may pose an increased risk for drivers, cyclists and pedestrians in the area. Higher vehicular traffic volume creates a marginally higher risk for pedestrians and bicyclists. It may well warrant a heightened degree of attentiveness to traffic when driving, cycling or walking in the neighborhood. However, those risks are consistent with the location of the site in the urban area where City plans call for the sort of development being proposed. Reasonably prudent drivers will observe the posted speed limit and other applicable traffic regulations. 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.

c. The applicant will dedicate right-of-way and contribute funds to the City for construction of sidewalks and other improvements on the portion of NW Pacific Highway abutting the site, but the applicant is not required to fund or construct additional off-site sidewalks. The need for sidewalks along the offsite sections of NW Pacific Highway is an existing problem to which all adjoining properties contribute, not just the lots being created in this case. Sidewalks will interconnect over time as other properties in the area develop, but the applicant is not required to make such connections at this time. The applicant is not required to remedy all perceived and existing deficiencies in the vicinity of a development. The Code only requires an applicant to mitigate impacts a development causes or to which it contributes significantly. It would be inequitable to require an applicant to bear the full burden of improvements where the proposed development is only responsible for a portion of the problem. The applicant will be required to pay Traffic Impact Fees ("TIFs"), which the City can use to fund transportation improvements in the area.

d. As noted at the hearing, all site-generated traffic must enter the site at the proposed NW 15th Avenue/Pacific Highway intersection. Therefore, all traffic entering and exiting the site, as well as inbound traffic that currently uses NW Larsen Drive will pass the lots proposed near this intersection. However, such traffic impacts will be obvious to future homebuyers and may affect the price of those lots. But the Code does not prohibit such impacts, because the projected traffic volumes will not exceed the requirements of the Code. The applicant will construct NW 15th Street to a Neighborhood Street standard to accommodate this higher traffic volume. Future development of the properties abutting the northwest boundary of the site will extend NW 17th Place and provide a secondary access to the site, which will allow traffic to disperse onto multiple roads, reducing the traffic volumes at this intersection.

9. The applicant must modify the existing NW Larsen Drive/Pacific Highway intersection to right-out only because this intersection does not comply with the City's minimum arterial intersection spacing requirements from the proposed NW 15th Avenue/Pacific Highway intersection.

a. Assertions that partial closure of this intersection will impact the value of properties served by this intersection are irrelevant. Even if the development will have an adverse impact on surrounding property values --- and there is no substantial evidence to that effect in the record --- protection of property value is not relevant to the applicable approval standards for this development.

b. The applicant will construct half-width frontage improvements, including a minimum 25-foot paved width and curb and sidewalks on the west side of NW Larsen Drive abutting the site.

10. As Mr. Boulanger noted at the hearing, the City intends to retain the name NW Larsen Drive for the existing street abutting the east boundary of the site.

11. The applicant is not required to dedicate right-of-way or construct half-width improvements on the section of NW 339th Street abutting the site. This development will not generate any traffic on NW 339th Street. Therefore, there is no nexus between the impacts of this development and the need for such street improvements. Absent such a nexus, a requirement that the applicant construct such improvements would result in an unconstitutional taking. *Benchmark Land Co. v. City of Battle Ground*, 146 Wash.2d 685, 49 P.3d 860, 865 (Wash., 2002).

12. The applicant is not required to provide access to Mr. Wohler's property (tax lot 258689000) from streets within the site. Such a street connection is not required to meet the City's 500-foot spacing requirement. Future development on Mr. Wohler's property can provide access to NW Pacific Highway in compliance with the City's arterial street intersection spacing requirements.

13. The proposed development will not cause or exacerbate flooding and other stormwater issues on adjacent properties. Based on the existing topography, stormwater falling on the site currently flows offsite to the south and west, including into the stormwater facilities serving the East Fork Estates development south of the site. The proposed development will replicate this existing condition, collecting runoff from streets, sidewalks, roofs and driveways and directing it to on-site stormwater facilities throughout the site for treatment and detention. The applicant will release stormwater from the detention facilities to existing draineways at less than pre-development rates. Stormwater from this site will continue to flow into the stormwater facilities serving the East Fork Estates development at or below the current rate of flow. However, all treatment and detention will occur on this site. The applicant is prohibited from increasing or concentrating stormwater runoff onto adjacent properties. The City will review the applicant's engineering and design to confirm compliance with applicable requirements.

14. The proposed development is unlikely to impact the existing pond on Ms. DeLong's property. Based on Ms. DeLong's testimony, runoff from the pond on the site currently flows into her pond and maintains the pond hydrology. The applicant proposed to replicate that existing condition. The applicant will expand the capacity of the existing pond to detain stormwater on the site. However, the applicant will release stormwater

from the modified pond to the same drainage way that the existing pond discharges to, which should maintain the hydrology of the pond on Ms. DeLong's property.

15. The applicant will provide gravity flow sanitary sewer service between all lots within the site and the proposed sanitary sewer pump station in the southeast corner of the site. The applicant will provide sanitary manholes, sewer stubs, and easements as necessary to allow for future connection when upstream properties within the sanitary sewer basin served by the pump station redevelop.

a. Properties to the south of the site may be too low to allow for gravity flow connection to the proposed pump station. Sanitary sewer service can be provided to those properties in the future through the use of grinder pumps to move effluent from the lots to the gravity lines in the site or by extending additional sewer mains at lower elevations south of the site.

b. The applicant proposed to size the pump station to serve this development and the Highlands Terrace development, because the Highlands Terrace developer will contribute towards the cost of the pump station. The applicant is not required to provide additional capacity to accommodate future development in the area. The applicant is only required to remedy problems created by the development. The cost of additional pump station needed to serve future development within the sanitary sewer basin must be borne by those future developers.

16. The applicant is not required to extend sanitary sewer lines or other utilities to the boundaries of the site, because the need for such extensions is not created by this development. The applicant is only required to provide easements and utility stubs necessary to allow for such future connections. The cost of such extensions should be born by the future developers. The applicant may be willing to work with the owners of abutting properties to extend utilities to the boundaries of abutting properties, provided the adjacent property owners are willing to bear the cost of such extensions. Conditions B.28 and B.29 should be modified to that effect.

17. Bullet seven on page 29 of the Staff Report requires the applicant provide a paved or aggregate base access road along the length of the offsite sanitary sewer easement between the pump station and NW Pacific Highway. The applicant argued that it is not feasible to provide such a roadway due to topography and critical areas (streams) along the easement route. The Staff Report did not recommend a condition of approval to that effect and the examiner is unable to find any applicable approval criteria requiring such a roadway. If such a roadway is required by the City's engineering standards, the applicant can seek approval of a modification pursuant to Section 1.16 of the engineering standards. The examiner has no authority to review such a modification request. Review and approval of design modifications is within the exclusive jurisdiction of the Director, subject to appeal to the City Council.

18. There is conflicting information regarding the existence and extent of critical areas on the site. The applicant's consultant reviewed the site and determined that there

are no riparian areas or jurisdictional wetlands on the site. However, the Department of Ecology questioned that analysis as outlined in the October 2, 2017 email from Rebecca Rothwell. The applicant and the City agreed to modify SEPA condition 1 to require the applicant:

a. Undertake a new delineation in the early part of the growing season to avoid the effects of drought in order to achieve a more accurate wetland delineation. That field mowing shall be suspended prior to performing a reevaluation so that the delineator will be able to determine the species and area of cover; or

b. Reimburse the City for the cost of hiring a 3rd party wetland biologist identified by the City to evaluate the entire site for critical areas prior to undertaking any land disturbing activities within potential critical areas on the site and comply with that 3rd party determination.

19. The examiner has the authority to modify SEPA conditions of approval without a SEPA appeal. The MDNS conditions do not become binding until the examiner incorporates them into the preliminary plat approval. A SEPA appeal is only required to address the City's threshold determination; the City's decision whether or not to require an EIS. *City of Olympia v. Thurston County Bd.*, 131 Wn. App. 85, 125 P.3d 997, 1000 (2005). The City's decision to issue an MDNS in this case was not appealed and is therefore final. However, the examiner can modify the SEPA conditions without a SEPA appeal. The examiner finds that the revised SEPA condition proposed by the applicant and the City is sufficient to resolve the conflict regarding the existence and extent of critical areas on the site.

20. The applicant's analysis identified two Oregon white oak trees on the site; a mature tree and a sapling. The applicant proposed to retain the mature tree, but did not address preservation of the sapling. There is insufficient evidence in the record to determine whether the sapling is large enough to warrant protection under applicable regulations. The applicant should be required to: provide evidence that the Oregon white oak sapling on the site is not a regulated tree; preserve and protect the tree; or mitigate for its removal, consistent with applicable regulations. Condition A.14 and SEPA condition 2 should be modified to that effect.

21. Two "precontact archaeological sites" were identified on the site. As noted in the August 16, 2017 DAHP letter, a permit is required from DAHP prior to any ground disturbing activities within these archaeological sites. The applicant should be required to flag and protect these sites or obtain a DAHP permit prior to any ground disturbing activities. A condition of approval is warranted to that effect.

22. Although the applicant initially objected to proposed condition of approval B.12, which requires the applicant contribute a proportionate share of the cost of improvements to the La Center Road/Timmen Road intersection, Mr. Johnson accepted that condition on behalf of the applicant. Therefore, the examiner will not address the proportionality of that condition.

23. As Mr. Eisemann noted, future development on this site (Phase 6) will be subject to a Development Agreement between the applicant and the City. Such an agreement is necessary to ensure, among other things, that development on this site complies with LCMC 18.140.030(4). That section provides that development in the MDR-16 zone may not include more than 75 percent of one housing type, i.e., multifamily, single-family attached, or single-family detached. The applicant should be required to enter into a final Development Agreement consistent with the current draft agreement prior to final plat approval for any phase of this development. A condition of approval is warranted to that effect.

D. CONCLUSION

The examiner concludes that the applicant sustained the burden of proof that the proposed subdivision 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. 2017-0007-SUB (Riverside Estates Subdivision) in general conformance with the applicant's preliminary plat, subject to the following conditions:

A. Planning Conditions

1. As-constructed drawing(s) will be provided in '*.dwg' electronic format as well as Mylar and paper.
2. Construction plans shall identify staging areas for all equipment, contractors, deliveries, and supplies prior to construction plan approval.
3. Construction plans shall identify and show all utilities with trench and location details.
4. Prior to final plat approval, the Developer shall identify the setbacks for all lots on the face of the final plat. To minimize impacts to pedestrian safety and mobility, garage doors shall be setback a minimum of 18 feet from the interior edge of a sidewalk.
5. New residential developments shall provide street or front yard trees at a minimum of 30-foot intervals near the street frontage of each lot. Prior to final plat approval, the Developer shall provide the Public Works Director with a scaled plan showing the type, location, and planting method of street or front yard trees. A Street Tree bond shall be provided to the City guaranteeing the performance and maintenance of planted trees for two years. LCMC 18.130.100

6. All lots on the south boundary of the site, abutting LDR properties, shall comply with the beveling standard of LCMC 18.140.030(2).
7. The preliminary plat shall expire within five years of the date of preliminary plat approval if the date of preliminary plat approval is on or after January 1, 2015. LCMC 18.210.050(1) and RCW 58.17.140(3)(a).
8. The Applicant, prior to final plat approval, shall provide a detailed parks and amenities plan that:
 - a. Demonstrates compliance with the code section for Family Parks LCMC 18.147.030(1)(b)(viii);
 - b. Meets the requirements in LCMC 18.230.080 including a plan key and full-sized plan sheet(s); and
 - c. Aligns with other plans, such as stormwater, and accommodates these facilities. The City recommends that the active playfield be sized to accommodate a small soccer field, as these fields are in short supply locally for younger athletes.
9. If the Development cannot meet the Family Park standards for each phase or for all phases, then the Applicant shall redesign the plat to meet the requirements.
10. The Applicant shall provide a detailed planting list per LCMC 18.340 prior to final plat approval.
11. The Applicant, prior to final plat approval, shall provide a detailed narrative and figures demonstrating how the parks plan meets the Crime Prevention Through Environmental Design (“CPTED”) guidelines, street access, and lighting per LCMC 18.147.030(1)(b)(xi)(A) thru (C).
12. Oregon white oak trees - The Applicant shall provide a detailed plan that demonstrates compliance with the code section LCMC 18.300.120(2) and secondarily modifies the grading plan to stay outside the dripline of all protected trees and establish such a tract and or conservation easement for such trees before any work starts. The plan should consider how to integrate all regulated trees into park planning for the tracts reserved for future development.
13. The Applicant shall confirm that the preliminary plat reflects the zoning of abutting sites and provides a buffer and landscaping equal or greater than that required LCMC Table 18.245.060.
14. Development of one or more of the tracts reserved for future development shall provide a 20-foot landscaped buffer and trail between the western property line and any site development including buildings, structures and parking lots, unless the City requires a more restrictive buffer or beveling requirement for Phase 6 of the development, in which case the more restrictive standard should apply.
15. The application for final plat approval must provide information regarding proposed fencing, hedging, landscaping, solid waste, lighting, and noise impacts

- to the extent as regulated by Chapter 18.245 – Supplementary Development Standards.
16. The applicant shall install the proposed trail and buffer along the entire west boundary of the site, unless the City, through an ordinance or the Final Development agreement, requires a more restrictive buffer or beveling requirement for Phase 6 of the development.
 17. Pursuant to RCW 27.53.060 it is unlawful to remove or alter any archaeological resource or site without having obtained a written permit from the Washington State Office of Archaeology and Historic Preservation. Upon any discovery of potential or known archaeological resources at the subject site prior to or during on-site construction, the Developer, contractor, and/or any other parties involved in construction shall immediately cease all on-site construction, shall act to protect the potential or known historical and cultural resources area from outside intrusion, and shall notify, within a maximum period of twenty-four hours from the time of discovery, the City of La Center Public Works Department of said discovery.
 18. Prior to undertaking any ground disturbing activities on the site, the applicant shall:
 - a. Obtain a DAHP permit under RCW 27.53; or
 - b. Mark the boundaries of the identified archaeological sites (sites 45CL1234 and 45CL1235), unless the archaeological sites are located entirely within the marked boundaries of a critical area or similar protected area where land disturbance is otherwise prohibited.
 19. Prior to final plat approval for any phase of this development the applicant shall enter into a final Development Agreement with the City of La Center. Such agreement shall be consistent with the current draft agreement.

B. Public Works Engineering and Transportation Conditions

1. The Applicant, at time of engineering approval, shall demonstrate compliance with all applicable La Center regulations, goals and policies contained herein including the requirements and condition in Section III.H, Public Works and Engineering Analysis in the Final Staff Report.
2. The development shall construct the street improvements noted in section III, Public Works and Engineering Analysis, of the Staff Report.
3. The development shall pay a fee in lieu and donate any needed right-of-way for Pacific Highway half street improvements per city standard detail ST-13A along the site frontage between the boundary of parcel 258689 and parcel 258741. The fee will be based on a construction estimate of public improvements. The developer provided a cost, and the city review cost is approximately \$65,000.

4. The development shall install a northbound left-turn lane on NW Pacific Highway at NW 15th Street.
5. The development shall extend proposed NW 17th Place to the northwest property border (parcel 258741) to allow a future connection to the adjacent property (per LCMC 12.10.250).
6. The Applicant shall dedicate to the City the half-street right of way at Lot 7 (Phase 2) to be used for the future street connection to Pacific Highway and remove the hammerhead at Lot 6 (Phase 2) once this new half-street segment is constructed to Pacific Highway.
7. The development shall extend the sidewalk on the north side of NW 14th Street to connect with the sidewalk on the west edge of NW Larsen Drive.
8. The applicant shall:
 - a. Provide a pedestrian connection between the north side of NW 13th Street and the south boundary of Phase 6, near lots 31 and 32 (Phase 3); or
 - b. Provide a pedestrian connection through Phase 6, between the hammerhead at the west end of NW 13th Street and the west end of NW 15th Street with development of Phase 6.
9. The development shall provide a south sidewalk connection and temporary AC concrete ramp from NW 14th Street to the south shoulder of the Old Pacific Highway for ADA access.
10. The development shall close the existing Larson Drive access to Pacific Highway upon completion of a public roadway connection to a second Pacific Highway access that complies with city access spacing requirements. Larsen Drive will remain as a right turn exit only for Riverside Estates for the interim.
11. Minimum sight distance requirements shall be met at all site intersections and driveways. The City Public Works Director prior to final site plan approval shall approve sight distances on the internal street system.
12. The development shall pay a proportionate share contribution towards improvements at the La Center Road/ Timmen Road intersection.
13. The Developer shall verify left turn capacity from Pacific Highway to NW 15th Avenue prior to City approval of Larsen Drive as right turn exit onto Pacific Highway.
14. The Developer shall provide each dwelling unit, at the time of construction, with at least three (3) off-street parking spaces (per LCMC Table 18.280.010).
15. The Developer shall coordinate with the City Engineer regarding the City's future street naming procedure prior to final plat approval.

16. Street lighting installed shall be installed consistent with City and Clark Public Utility standards.
17. The Developer will conduct further hydraulic analysis to determine where the upper and lower water service areas will be for this project. Then an emergency flow PRV will be installed between the two pressure zones. The water mains will be looped where physically possible.
18. The Developer is required to construct the sanitary sewer and pump station for the upstream basin. As a result, the city will require that the project's wet well, vault, force main and pumps be sized for the Riverside Estates Development and future Highland Terrace as shown on the basin map submitted by PLS (May 16, 2017). According to sewer review, the 6-foot wet well is large enough for entire basin
19. The Developer is responsible for all costs associated with the service installation, hydrant installations, and any other needed water improvements.
20. The design and construction of storm drainage shall be in accordance with the LCMC and applicable city engineering standards for public works.
21. The project shall not increase the rate of stormwater runoff entering the Larson Road Storm pond serving the East Fork Estates development.
22. Site development earthwork for site grading and construction of sewer, storm drain, water, and street systems should occur during the dry weather season between May 1st and October 31st with planting and seeding erosion control measures completed by October 31st.
23. Site improvements shall not proceed without an approved erosion control plan. All erosion control measures shall be designed, approved, installed and maintained consistent with Chapter 18.320 LCMC and City Engineering Standards. The applicant is required to have a construction stormwater permit in place with a SWPPP per D.O.E. before construction begins. Where these standards differ, the more stringent shall apply. All erosion control measures shall be in place prior to removal of vegetation or any construction activity and shall be maintained during all phases of construction.
24. Prior to site disturbance, the applicant shall consult with the City Public Works Director and Public Works Engineer to incorporate the design recommendations in Section 6.0 of the Geotechnical Site Investigation prepared by Columbia West Engineering dated January 31, 2008.
25. The Developer shall inspect and confirm any property markers before grading and add new markers as may be necessary.
26. The City shall assess and charge the home-builder School, Park, Sewer and Traffic impact fees in effect at the time of building permit application for each dwelling.

27. The Developer shall confirm functionality of existing wastewater facilities and capacity to treat proposed loads from all phases of proposed development, and make design modifications to the proposal if such is found deficient.
28. The Developer shall add utility stubs and easements to allow future connection of adjoining developments to the public sanitary sewer service and water service.
29. The Developer shall provide sanitary sewer stubs for properties with higher elevations to the north to be served by the proposed pump station. The cost of any future hook-up will be the responsibility of the property owners.
30. The Developer shall extend water, sanitary sewer, and other utilities to the appropriate extremities of the project, either to the site boundaries or into easements that allow for future extension and connection when abutting properties redevelop. Future sewer service to these properties will need to be connected by the owner of said property and at their cost.
31. The developer shall dispose of stormwater on-site per LCMC. The applicant is required to treat stormwater and detain on-site meeting the city ordinance. The applicant's engineer shall review the existing pond for structural stability and leakage prior to approval of the final stormwater design.

C. SEPA Documentation and Mitigation

1. The Developer shall:
 - a. Undertake a new delineation in the early part of the growing season to avoid the effects of drought in order to achieve a more accurate wetland delineation. That field mowing shall be suspended prior to performing a reevaluation so that the delineator will be able to determine the species and area of cover; or
 - b. Reimburse the City for the cost of hiring a 3rd party wetland biologist identified by the City to evaluate the entire site for critical areas prior to undertaking any land disturbing activities within potential critical areas on the site and comply with that 3rd party determination.
2. Oregon white oak:
 - a. The Developer or their consultants shall review the Oregon white oak (*Quercus Garryana*) sapling on the site to determine whether it is large enough to qualify as terrestrial habitat that warrants protection under applicable regulations.
 - b. The Developer or their consultants will coordinate with the appropriate state agency to update the environmental review documents to address the mature Oregon white oak tree(s) identified on site as terrestrial habitat.

- c. All regulated Oregon white oak tree(s) must be included in any updated analysis and proposed mitigation or must be preserved in a separate tract.
- d. The Applicant shall complete the required notice for development permit that would require or result in any tree removals, and shall include a site plan indicating the location of any trees proposed for removal and an approved mitigation plan.
- e. Trees remaining on site must be protected and such approved by the City before construction activities begin. (LCMC 18.350). The dripline of preserved trees shall be fenced and flagged with yellow tape and inspected by the City so that no compaction of the soil and root zone within the drip line occurs. Such fencing and flagging shall be maintained until the City approves removal, after construction is completed adjacent to the fenced/flagged areas.

D. CCFR FIRE

1. Fire hydrants must be provided on fire access roadways so that average spacing does not exceed 500 feet maximum distance from any point on the street frontage to a hydrant is no more than 250 feet per IFC C102.³ The Fire District must approve the location of all the hydrants.
2. The perimeter of all structures must be within 150 feet an approved access road with a minimum clear width of 20 feet per IFC 503.1.1/D102. The Fire District must approve access to all the lots per the IFC.
3. Combustible construction above ground should not occur until the required, paved access roadways and fire hydrants are in place and functional.
4. Any dead-end road longer than 150 feet must be provided with an approved cul-de-sac or hammerhead turn-around in accordance the International Fire Code design criteria per IFC D103.4.
5. Roadways must have signage for parking restrictions as follows: Signs for no-parking must be provided on both sides of all streets that are less than 26 feet wide. Signs for no-parking must be provided on one side of all streets that are between 26 feet and 32 feet wide in accordance with local standards for future enforcement. Roadways that are 32 feet or greater in width do not require parking restrictions or related signage. IFC D103.6
6. One and Two Family Residential Developments with more than 30 dwelling units must be provided with two separate and remote fire apparatus access roads.

³ Hydrant spacing was assessed based on structures that are non-sprinklered, type V-B Construction and no larger than 4,800 combined square feet. Additional hydrants may be required for streets providing access to structures greater than 4,800 SF per (IFC Table B105.1(2) / C102.1).

from Larson Drive and 339th Street must meet the minimum clear, unobstructed width of 20 feet.

7. Residential sprinklers (NFPA 13D) may not be required, but are recommended for any dwelling units and may be considered as an alternate method to increase hydrant spacing or to address access issues.

DATED this 17th day of October 2017.

A handwritten signature in black ink, appearing to read "Joe Turner", written over a horizontal line.

Joe Turner, AICP
City of La Center Hearing Examiner