

## NOTICE OF DECISION

### NEW LACAMAS HEIGHTS ELEMENTARY SCHOOL

**Decision Issued:** May 5, 2017

**City Contact:** Sarah Fox, Senior Planner   
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**LOCATION:** 1111 NE 232nd Avenue (Tax Parcel #175724-000)

**APPLICANT:** Camas School District, 841 NE 2nd Ave., Camas, WA 98607

**THIS IS TO SERVE AS NOTICE** that a decision of **APPROVAL** has been rendered for the consolidated permit application for the **Lacamas Heights Elementary School** (City file #CUP16-02) to build a new two-story school, which will be 73,500 square feet to include a gymnasium, commons, administration offices, classrooms, and play fields for approximately 700 students.

The decision includes conditions of approval, which are included at the end of the attached Final Order of the city's hearings examiner.

#### **RECONSIDERATION** (Refer to CMC§ 18.55.235)

Any party of record believing that a decision of the hearings examiner is based on erroneous procedures, errors of law or fact, or the discovery of new evidence which could not be reasonably available at the public hearing, may make a written request to the examiner, filed with the city clerk, to be accompanied by an appeal fee, for reconsideration by the examiner.

A. Time Frame. The request for reconsideration shall be filed **within fourteen (14) calendar days** of the date the decision was rendered.

B. Content. The request for reconsideration shall contain the following:

1. The case number designated by the city and the name of the applicant;
2. The name and signature of each petitioner;
3. The specific aspect(s) of the decision being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error. If the petitioner wants to introduce new evidence in support of the appeal, the written appeal must explain why such evidence should be considered.

C. The hearings examiner may, after review of the materials submitted in conjunction with the reconsideration request, and review of the open record hearing transcript, take further action as he or she deems proper; including, but not limited to, denying the request, modifying the decision, or affirming the decision.

D. The hearings examiner shall issue a decision on a request for reconsideration within forty-five (45) days of the filing of the request for reconsideration. When a request for reconsideration has been timely filed, any appeal to Clark County Superior Court under the Land Use Petition Act shall be filed within twenty-one (21) days after a hearings examiner issues its decision on the request for reconsideration.

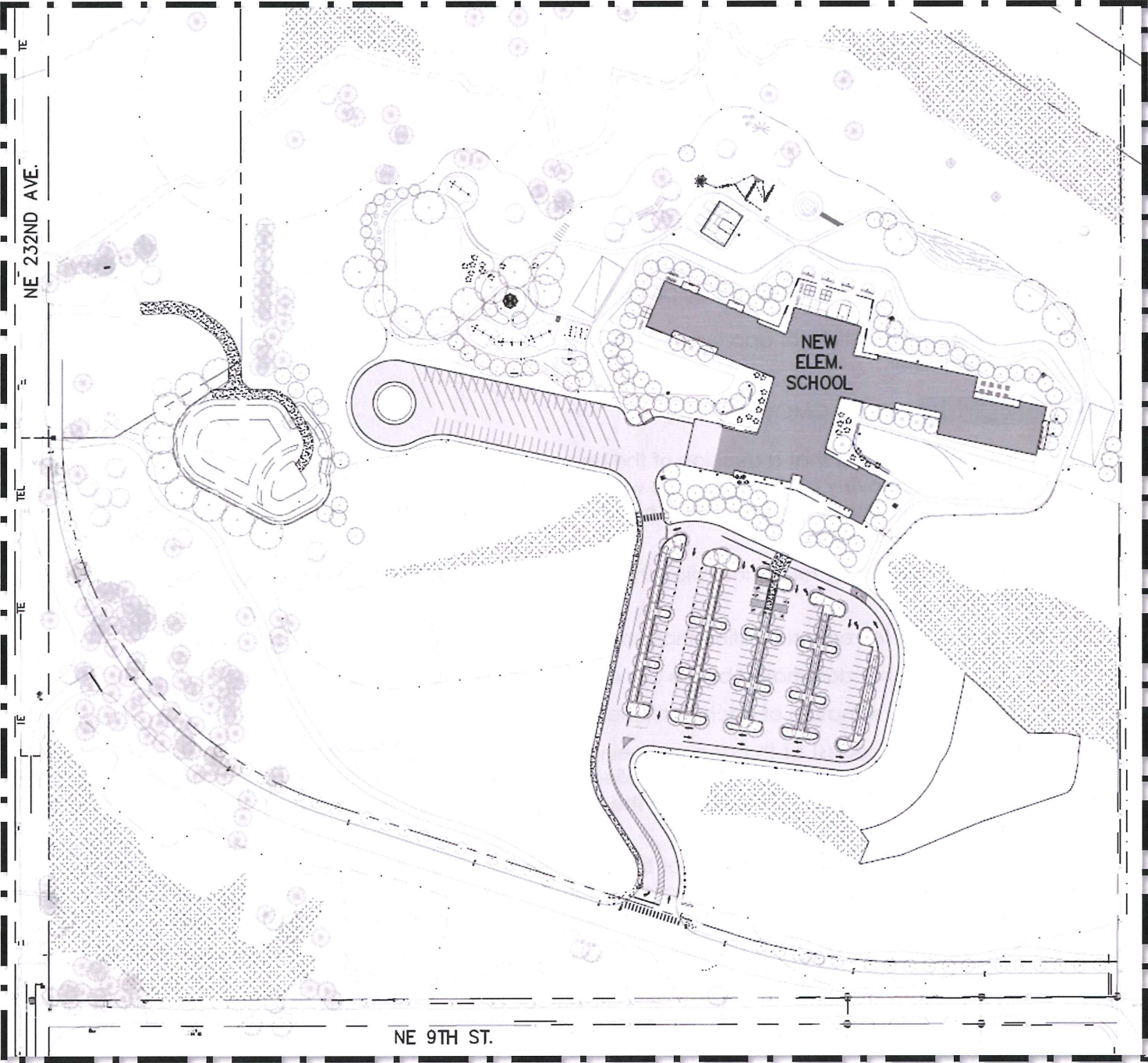
#### **JUDICIAL APPEALS** (Refer to CMC§ 18.55.240)

The city's final decision on an application may be appealed by a party of record with standing to file a land use petition in Clark County superior court. Such petition must be filed within twenty-one days after issuance of the decision, as provided in Chapter 36.70C RCW.

# SITE PLAN FOR LACAMAS HEIGHTS ELEMENTARY SCHOOL

(FILE #CUP16-02)

1 -Excerpt from drawings. Full size renderings available for review at City Hall.



**BEFORE THE LAND USE HEARINGS EXAMINER  
FOR THE CITY OF CAMAS, WASHINGTON**

Regarding an application by the Camas School District )  
for CUP approval to construct a new 73,500 square foot )  
two-story elementary school on a 30-acre parcel at 1111 )  
NE 232<sup>nd</sup> Avenue in the City of Camas, Washington )

**FINAL ORDER**

**CUP16-02  
(Lacamas Elementary)**

**A. SUMMARY**

1. The applicant, Camas School District, requests Conditional Use Permit ("CUP") approval to build and operate a new 73,500 square foot two-story elementary school and two future portable classrooms. The applicant also requests a building height variance for the proposed gymnasium. The school is proposed on a 40-acre parcel located at 1111 NE 232<sup>nd</sup> Avenue; also known as tax parcel #175724-000 (the "site"). The site is currently vacant; two single-family residences, a barn and several outbuildings were recently demolished. The site is zoned R-7.5 (Single-Family Medium, 7,500 square foot minimum lot size). Additional basic facts about the site and surrounding land and applicable approval standards are provided in the Staff Report to the Hearing Examiner dated March 22, 2017 (the "Staff Report").

2. City staff recommended that the examiner approve the application subject to conditions in the Staff Report. The applicant accepted those findings and conditions without exceptions. A representative of the Green Mountain Estates residential development ("Green Mountain") submitted written testimony regarding the school's impact on the NE 28<sup>th</sup> Street/NE 232<sup>nd</sup> Avenue intersection (Exhibits 28 and 30). The only contested issue in this case is whether the applicant can be required to mitigate the failing traffic condition at the NE 28<sup>th</sup> Street/NE 232<sup>nd</sup> Avenue intersection.

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

**B. HEARING AND RECORD HIGHLIGHTS**

1. The examiner received testimony at a public hearing about this application on April 13, 2017. All exhibits and records of testimony are filed at the City of Camas. At the beginning of the hearing, the examiner described how the hearing would be conducted and how interested persons could participate. The examiner disclaimed any *ex parte* contacts, bias or conflicts of interest. The following is a summary by the examiner of selected testimony and evidence offered at the public hearing.

2. City planner Sarah Fox summarized the Staff Report.

a. She noted that engineer Kurt Stonex submitted written testimony on behalf of the Green Mountain regarding the project's traffic impact on the NE 28<sup>th</sup> Street/NE 232<sup>nd</sup> Avenue intersection (Exhibits 28 and 30). Mr. Stonex requested the examiner hold the record open to allow his client an opportunity to submit additional written testimony and evidence.

b. She noted the applicant is requesting approval to use an electronic message board sign on the site with this application. The specific location and design of the sign will be subject to future permit review and approval.

3. City engineer James Carothers noted that the NE 28<sup>th</sup> Street/NE 232<sup>nd</sup> Avenue intersection is within Clark County's jurisdiction. This intersection is projected to operate at a failing Level of Service ("LOS") with traffic from full buildout of the proposed school and prior in-process developments. The County reviewed the traffic impacts of the proposed school and determined that the applicant cannot be required to mitigate this failing intersection because the school will generate less than five trips to the failing northbound left turn movement and the intersection volume to capacity ("v/c") ratio will not exceed 0.9. The applicant's traffic analysis considered future traffic generated by the Green Mountain PRD and Green Mountain Estates developments.

4. Project manager Cathy Carlson, stormwater engineer Jeremy Fick, and transportation engineer Frank Charbonneau appeared on behalf of the applicant, Camas School District.

a. Ms. Carlson summarized the design of the proposed school. The school is designed and intended to accommodate projected population growth in the northern portion of the School District. The proposed school will accommodate up to 700 students with the two proposed future portable classrooms.

i. The applicant can locate the portable classrooms in compliance with the 15-foot setback requirement from the east boundary as required by condition 25. She submitted a revised site plan, Exhibit 29, demonstrating compliance with this requirement.

ii. The applicant will obtain all required permits prior to installing the electronic sign in the parking lot as required by condition 26.

iii. The applicant is requesting a variance to the maximum building height for the gymnasium portion of the building. The additional building height is needed to accommodate standard gymnasium facilities: bleachers, basketball courts, etc.

c. Mr. Fick testified that all stormwater will be treated in the proposed wetpond. No treatment is proposed in the parking lot.

d. Mr. Charbonneau responded to Mr. Stonex's letter. The NE 28<sup>th</sup> Street/NE 232<sup>nd</sup> Avenue intersection is within Clark County's jurisdiction. The County may only require applicants to mitigate unsignalized failing intersections where:

- (1) The proposed development adds at least five (5) peak period trips to a failing intersection approach;
- (2) The projected volume to capacity ratio for the worst lane movement on the approach with the highest delay exceeds nine-tenths (0.9) during the peak traffic period; and
- (3) That same movement is worsened by the proposed development.

Clark County Code ("CCC") Section 40.350.020.G(1)(c).

The proposed school does not meet two of these criteria: the school will only add three vehicle trips to the failing northbound left turn movement at this intersection and the left turn movement at the intersection will not exceed 0.9 v/c.

a. The applicant's traffic study included future traffic generated by all "in process" developments identified by the City, including the Green Mountain PRD and Green Mountain Estates developments noted by Mr. Stonex.



5. Clark County concurrency engineer David Jardin concurred with Mr. Charbonneau's analysis of the NE 28<sup>th</sup> Street/NE 232<sup>nd</sup> Avenue intersection. The County cannot require this applicant to provide mitigation at this intersection because the proposed school will generate three vehicles to the northbound left turn movement and the northbound left turn movement will not exceed 0.9 v/c.

6. City planning manager Robert Maul noted that the development application for the Green Mountain PRD and Green Mountain Estates developments were both submitted prior to this application. Therefore, the School District must consider traffic from those developments in its traffic analysis.

7. At the end of the hearing the examiner held open the public record for one week to allow all parties to submit new testimony and evidence into the record regarding the NE 28<sup>th</sup> Street/NE 232<sup>nd</sup> Avenue intersection. The examiner held the record open for a second week to allow all parties to respond to the new evidence. The examiner held the record open for a final week to allow the applicant to submit a closing argument. The record closed at 5 PM on April 28, 2017 pursuant to the applicant's email request.

### **C. DISCUSSION**

1. City staff recommended approval of the application, based on the affirmative findings and subject to conditions of approval in the Staff Report. The applicant accepted those findings and conditions without exceptions.

2. The examiner concludes that the affirmative findings in the Staff Report show that the proposed school does or can comply with the applicable standards for a Conditional Use Permit review, provided that the applicant complies with recommended conditions of approval. The examiner adopts the affirmative findings in the Staff Report as his own, except to the extent they are inconsistent with the following findings.

3. The only disputed issue in this case is whether the applicant can be required to mitigate the failing northbound left turn movement at the NE 28<sup>th</sup> Street/NE 232<sup>nd</sup> Avenue intersection. This intersection is subject to Clark County jurisdiction and the Clark County Code.

a. CCC 40.350.020.G(1)(c) provides:

All unsignalized intersections of regional significance in the unincorporated county shall achieve LOS E standards or better (if warrants are not met). If warrants are met, unsignalized intersections of regional significance shall achieve LOS D standards or better. The signalization of unsignalized intersections shall be at the discretion of the Public Works Director and shall not obligate the county to meet this LOS standard. However, proposed developments shall not be required to mitigate their impacts in order to obtain a concurrency approval unless:

- (1) The proposed development adds at least five (5) peak period trips to a failing intersection approach;
- (2) The projected volume to capacity ratio for the worst lane movement on the approach with the highest delay exceeds nine-tenths (0.9) during the peak traffic period; and
- (3) That same movement is worsened by the proposed development.

b. There is no dispute that this development meets CCC 40.350.020.G(1)(c)(3). Based on the applicant's January 6, 2017 Traffic Study (Exhibit 34A), traffic from the school will cause the northbound approach at this intersection to fall from LOS C and E to LOS F during the a.m. and p.m. hours.

c. The applicant and the County argue that this development does not meet CCC 40.350.020.G(1)(c)(1) and (2). The proposed development will only contribute three vehicle trips to the failing northbound left-turn movement, CCC 40.350.020.G(1)(c)(1), and the northbound left-turn movement will operate with a v/c ratio of 0.54 during the a.m. and 0.68 during the p.m. peak hours CCC 40.350.020.G(1)(c)(2).

d. Green Mountain argued that, because there is a single shared northbound left/through/right lane at this intersection, these standards should apply to the entire lane, not just the northbound left turn movement. The proposed development will generate more than 100 vehicles to the northbound intersection approach and the overall intersection v/c ratio will exceed 0.9. (Exhibit 33). Therefore, the applicant should be required to provide mitigation needed to bring this intersection to LOS E or better.

e. The examiner finds that the proposed development will not meet the standard in CCC 40.350.020.G(1)(c)(2), based on the plain meaning of the words in the Code.

i. CCC 40.350.020.G(1)(c)(1) applies where a development adds at least five (5) peak period trips to "[a] failing intersection approach."

ii. CCC 40.350.020.G(1)(c)(2) only applies to "[t]he worst lane movement on the approach with the highest delay..."

iii. The examiner finds that the terms "intersection approach" and "[l]ane movement on the approach with the highest delay..." must have different meanings. ("[A] fundamental rule of statutory construction is that the legislature is deemed to intend a different meaning when it uses different terms." *State v. Roggenkamp*, 153 Wash.2d 614, 106 P.3d 196, 201 (2005)). Therefore, even if CCC 40.350.020.G(1)(c)(1) applies to the entire northbound approach at this intersection, CCC 40.350.020.G(1)(c)(2) only applies to a subset of this approach: "[t]he worst lane movement..." on that approach. In this case, the worst lane movement on the northbound approach is the left-turn movement. That movement will continue operating at a v/c ratio of 0.68 or better, based on the applicant's January 6, 2017 Traffic Analysis.

iv. There are no separate left and through/right lanes at this intersection. However, in the examiner's experience it is standard engineering procedure to refer to distinguish between "lane movements" at such shared intersections; where a single shared approach lane accommodates left, through and right turn movements, each movement is analyzed separately for LOS and v/c ratio. The Code should be interpreted consistently with this standard engineering procedure.

v. In this case, the worst lane movement is the northbound left turn movement. Based on the applicant's January 6, 2017 Traffic Analysis, that movement will continue to operate at a v/c ratio below 0.9. Therefore, this development will not meet CCC 40.350.020.G(1)(c)(2) and the County has no authority to require mitigation from this applicant.

(A) This is consistent with Mr. Charbonneau's Memo (Exhibit 39), which notes that the northbound approach to the NE 28<sup>th</sup> Street/NE 232<sup>nd</sup> Avenue intersection provides a single shared approach lane that accommodates 163 left turning vehicles and 142 right turning vehicles. The northbound left turn movement represents the critical movement. Without left turning traffic the northbound approach operates at LOS B and 11 seconds of delay. With no right turning traffic the northbound approach operates at

LOS F and 66 seconds of delay. Clearly, the left turn movement on this shared approach is "[t]he worst lane movement on the approach with the highest delay..." The proposed school will only add three vehicle trips to this left turn movement during the p.m. peak hour.

d. The examiner is not ruling on Green Mountain's assertion that the phrase "[f]ailing intersection approach" in CCC 40.350.020.G(1)(c)(1) does not distinguish between separate turn/through movements at intersections with a single approach lane. For purposes of this application the examiner assumes, without deciding, that that argument is correct. Given the examiner's finding that this application does not meet CCC 40.350.020.G(1)(c)(2), it is unnecessary to resolve that issue here. Based on the County's findings and Mr. Jardin's testimony, the County appears to conclude that CCC 40.350.020.G(1)(c)(1) applies to the individual traffic movements of a shared lane. However, the County failed to provide any support for this conclusion or demonstrate how the language of the Code and/or standard engineering practices support that conclusion. The examiner encourages the County to consider revising its code to clarify this issue.

#### **D. CONCLUSION**

Based on the above findings and discussion provided or incorporated herein, the examiner concludes that CUP16-02 (Lacamas Elementary) should be approved, because it does or can comply with the applicable standards of the Camas Municipal Code, the Revised Code of the State of Washington.

#### **E. DECISION**

Based on the findings, discussion, and conclusions provided or incorporated herein and the public record in this case, the examiner hereby approves CUP16-02 (Lacamas Elementary), subject to the following conditions of approval:

#### **CONDITIONS OF APPROVAL**

The following conditions are in addition to any conditions required from other permits or approvals issued to this project. Unless otherwise waived or modified in this decision, the development must comply with the minimum requirements of the Camas Municipal Code.

#### **ENGINEERING:**

1. Stormwater treatment, including phosphorous removal, and detention facilities shall be designed in accordance with the 2014 Stormwater Management Manual for Western Washington and the Camas Stormwater Design Standards Manual. Final stormwater calculations shall be submitted at the time of final construction plan submittal.
2. All construction plans will be prepared in accordance with City Design Standards Manual and City Standards. The plans will be prepared by a licensed civil engineer in Washington State and submitted to the City for review and approval.
3. Underground (natural gas, CATV, power, street light and telephone) utility plans shall be submitted to the City for review and approval prior to approval of the construction plans.
4. The applicant will be required to purchase all permanent traffic control signs, street name signs, street lighting and traffic control markings and barriers for the improved subdivision. The applicant is

responsible for installation of all required signage and striping in accordance with requirements of the 2009 Manual on Uniform Traffic Control Devices (MUTCD).

5. A 3% construction plan review and inspection fee shall be required for this development. The fee will be based on an engineer's estimate or construction bid. The specific estimate will be submitted to the City for review and approval. The fee will be paid prior to the construction plans being signed and released to the applicant. Under no circumstances will the applicant be allowed to begin construction prior to approval of the construction plans.
6. The applicant shall remove all temporary erosion prevention and sediment control measures from the site at the end of the two-year warranty period, unless otherwise directed by the Public Works Director.
7. Final as-built construction drawing submittals shall meet the requirements of the CMC 17.11.060, CMC 17.01.050 and the Camas Design Standards Manual for engineering as-built submittals.
8. All on site fire hydrants shall be painted red to indicate their private ownership. The applicant shall be responsible for the operation and maintenance of the onsite private fire hydrants.
9. A separate permit through the Fire Marshal's Office will be required for the installation of the dedicated fire line.
10. The applicant shall construct a minimum 10-foot wide paved trail located within an acceptable easement granted to the City of Camas. Construction of the T-27 Trail, consistent with the PROS Plan, is Park Impact Fee creditable.
11. Prior to occupancy, the applicant shall record a covenant or other document designating the property at the northwest corner of the parcel for public use.
12. Prior to occupancy, the applicant shall dedicate to the City of Camas right-of-way necessary to meet a minimum 37-foot half-width from the centerline of NE 232<sup>nd</sup> Avenue.
13. The applicant shall coordinate the joint utility trench design at the time of the civil site improvement design and extension of utilities serving the site.
14. The applicant shall not construct improvements in the current Clark County right of way until such time as the City and County agree that jurisdictional authority for road standards is transferred to the City of Camas; otherwise, the applicant will be required to acquire the necessary permits from Clark County and adhere to Clark County's road standards for improvements within Clark County's right of way.
15. Prior to engineering plan approval, the applicant shall coordinate closely with the City to specifically design the proposed roadway centerline profile and the east terminus of the proposed roadway to match existing grades.
16. Prior to final approval of infrastructure, dedicate to the City as right-of-way the approximate 5.13-acre area bounded by the northerly side of the proposed arterial and by NE 9th Street and NE 232<sup>nd</sup> Avenue.
17. Prior to final approval of infrastructure, the applicant shall construct the proposed arterial roadway, including pavement, curb, gutter, streetlights, street trees and landscaping.
18. Prior to occupancy, construct the proposed detached T-27 trail that will provide for pedestrian movement through the site and record an easement granted to the City of Camas for the future access and maintenance of the trail.
19. Prior to occupancy, the North Shore Sewer Transmission System Project and extension of gravity sewer to the site by the applicant shall be completed. If the North Shore Sewer Transmission System Project is not completed, the applicant will be responsible for finding other approved means to provide sewer service or shall wait for the City's project to be completed before occupying the building.
20. Prior to occupancy, the North Shore Sewer Transmission System Project, which includes construction of the new 12-inch water system in Leadbetter Road shall be completed. If the North Shore Sewer Transmission System Project and associated waterline is not completed, the applicant will be responsible for finding other approved means to provide water service or shall wait for the Project to be completed before occupying the building.



## PLANNING:

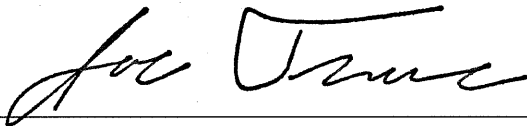
21. The applicant shall install landscaping and irrigation prior to building occupancy permit issuance.
22. Site irrigation must ensure vegetation and tree survival for the first three years after installation. Mitigation areas must be irrigated for five years after installation.
23. Applicant shall provide vinyl coated chain link fencing. Fencing of mitigation areas may differ.
24. Applicant must incorporate public information in regard to the historical importance of the site, such as a plaque or other signage.
25. The future expansion of the educational use of the site to include two portable classrooms is included with this decision. The school district may install two (2) classroom portables with the following provisions:
  - a. Portable classrooms will need building permits.
  - b. The classrooms must not be placed closer than 15-feet to the eastern property line or 30-feet from any public street. A minor modification to the Site Plan (SPRV16-05) will be required for changes to the location of the structures.
  - c. Landscaping with the intent to screen the structure from adjoining properties must be installed prior to occupancy.
26. The following signs were considered with this decision and permitted as specified:
  - a. A monument sign may be located near the southern entrance to the site. Sign may be up to five feet high and twenty feet in length, and must be attached to the ground with a wide base of solid appearance, per CMC§ 18.15.040 (B)(12).
  - b. A wall-mounted sign is allowed on the front building face, which will provide the name of the school and is consistent with CMC§ 18.15.040 (B)(22).
  - c. An electronic message board sign is allowed to be located at the northern end of the parking lot. The sign shall not exceed 100 square feet, and must not be visible to adjacent properties, and may be mitigated by either by height or landscaping. This may require submittal of a site photo or landscape plan to demonstrate compliance.
  - d. Building permit approval will be required for signs.
27. **Final Mitigation Plan.** The applicant shall provide a final wetland mitigation plan for approval by the Planning Division prior to commencement of grading or other earthwork on the property. The submittal and approval of a final mitigation plan shall be consistent with CMC§ 16.53.050(E)(3) Final Mitigation Plan, which requires (at a minimum) detailed construction plans. Submittal of the final mitigation plan will also include the following:
  - a. The applicant shall provide verification that field markings have been installed as required by CMC§ 16.53.040(C)(2);
  - b. The applicant shall provide verification that temporary construction fencing is in place around conservation areas. This temporary fencing shall be maintained throughout construction, and shall not be removed until installation of permanent signs and permanent fencing.
  - c. The conservation areas shall include the wetlands and associated buffers for high intensity use, the Oregon white oak groves, and the streams with associated buffers.
  - d. The applicant shall provide a copy of the recorded conservation covenant as required by CMC§ 16.53.040(C)(3). Reference to the recording number shall be added to final construction site plans as per CMC Section 16.53.040(C)(4);
  - e. The applicant shall provide documentation of posting of a performance assurance as required by CMC§ 16.53.050 (J) Wetland Permit Financial Assurances.
  - f. The Final Mitigation Plan will provide a calculation of impacts to the standard buffer widths unless it is determined that the proposal is eligible for buffer reductions, per CMC§ 16.53.050(C)(1)(a or b).

- g. Final plan will clarify the impacts to the buffer of Wetland A in the narrative of the report, mitigation goals of the overall project, and within the supporting Figures.

28. **Mitigation Installation.** The applicant shall install wetland and Oregon White Oak mitigation consistent with the Final Mitigation Plan prior to being granted a certificate of occupancy. The applicant shall provide the Building Division with a letter from the biologist of record that verifies that the installation is consistent with the approved plan. Along with the installation of the vegetation, other items shall include:

- a. Permanent fencing (42" high) must be installed along the boundary of wetland buffer areas and Oregon White Oak mitigation areas. No fencing along stream buffer is required due to potential to block wildlife movement.
- a. Permanent signage must be installed, which provides information on the type of protected area and is a minimum of twelve inch (12") by eighteen inch (18"). Signs shall be posted on a six-foot high green steel post at an interval of every two hundred feet. No signage along stream corridors are required.

DATED this 5<sup>th</sup> day of May 2017.



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Joe Turner, AICP

City of Camas Land Use Hearings Examiner