



June 17, 2022
EMAIL: sseymour@ci.lacey.wa.us

City of Lacey Hearing Examiner
c/o Ms. Samra Seymour
City of Lacey
420 College Street SE
Lacey, WA 98503

RE: Schneider Hicks Lake Apartments
Response to Supplemental Legal Arguments
City File No. 21-81
Our Job No. 18680

Dear Mr. Hearing Examiner:

On Friday, June 10, 2022, the applicant received a copy of the letter identified as "Supplemental Legal Comments" from Deschutes Law Group (DLG) dated June 1, 2022. In response to the supplemental comments, the applicant's civil engineer, traffic engineer, and critical areas biologist have provided feedback that is summarized in this letter; however, the applicant asserts that the existing record has already adequately addressed these issues. The DLG letter broke subject matter into groups, which are similarly addressed in the same order below.

Traffic Issues

As stated in the Public Hearing by both the city's staff and the applicant's traffic consultant, the city's scoping process directs which intersections should be evaluated by the applicant's traffic engineer. Further, it is the intent of connected public streets to allow for traffic to follow alternative routes to achieve arrival at a destination. There are many alternative routes in the surrounding neighborhood for existing and future traffic to reach other parts of the city, which tends to a dilution of the impacts to any singular route.

The applicant's Traffic Impact Analysis has demonstrated that (1) signal warrants are not met for any impacted intersection, and (2) that level of Service (LOS) at 25th Avenue SE and Ruddell Road SE will be within City standard after project development.

The alleged access option through the fully fenced and gated Timbers Apartments property is flawed for several reasons as noted by the DLG letter, including the most important: lack of legal access. Simply put, there is not a reasonable nexus for the city to demand public access from Timbers Apartments and there is little likelihood that the owners of Timbers Apartments would grant or be required to grant public access if a condemnation lawsuit were pursued.

Shoreline and Impervious Surface

The Shoreline Management Plan (SMP) requires compliance with the 30 percent limitation on impervious areas within the Urban Conservancy Zone. The project is required to comply with the SMP so an additional specific condition regarding impervious surface limits is not necessary, although since compliance will be demonstrated such a condition would be acceptable.

Trees

The application materials for the Schneider Hicks Lake Apartments included a detailed tree survey, a Forest Practice Application, and identified areas for tree retention and/or planting as allowed by city codes. The project's consultant team is required to design a Temporary Sediment and Erosion Control (TESC) Plan and Stormwater Pollution Prevention Plan (SWPPP) to demonstrate compliance with city codes as well as obtain an NPDES permit from Department of Ecology, which requires that regular site inspections be conducted by a Certified Erosion and Sediment Control Lead (CESCL) during construction. Specific conditions to follow city, state, or federal codes are duplicative and unnecessary.

Schneider Proposed Dock

The applicant disagrees that the location of the proposed pier and dock are not fully specified. The proposed dock's location, shape, elevation, size, and design are shown in the plan set and reports. The determination of Ordinary High Water was determined based on existing city and state regulations as reviewed (and concurred) by the city's and Department of Ecology's review of the Critical Areas Report.

It is theoretically possible that the presence of the dock may incrementally alter boat traffic or "nearshore navigation" on the lake to force waterski boats farther from shore in the area of the new dock. However, the proposed dock will lay over top of an existing shallow water area/wetland and navigation is already limited due to the shallow water/wetland vegetation already present. It is the responsibility of each boater and lake user to be aware of their surroundings and operate safely. The installation of the new dock is not likely to significantly increase any safety issues that may already exist from boat traffic on the lake.

The applicant's application materials have sufficiently demonstrated that the new pier and dock will not interfere with public use of navigable waters and the need for the length of pier and dock as proposed (see page 19-20 of the Soundview Consultants Report).

"In addition, the fetch across Hicks Lake (distance from the onsite shoreline to the closest point of land on the opposite shoreline) in this area is approximately 1,500 linear feet and the replacement of the existing solid surface float with a dock/pier that extends over Wetland A (160 linear feet) is 11 percent of the fetch and would not present an obstacle to the use of Hicks Lake by neighboring properties."

"Docks and piers shall be designed and constructed to avoid, or minimize and mitigate the impacts to ecological functions, critical areas, and processes (City of Lacey SMP 17.61.020.6). The use of the proposed dock for launching and temporarily mooring small watercraft will assist in minimizing impacts to the shoreline of Hicks Lake that could otherwise occur from repeated launching and temporary anchoring of small watercraft along the shoreline. The proposed pier cannot avoid impacts to the Wetland A as the wetland extends across the entire length of the subject property shoreline. However, the proposed dock design will minimize impacts to Wetland A by locating the float outside of Wetland A and using grated surface materials to allow light transmittal."

"The proposed dock is 4 feet wide throughout its length and consists of a 128-foot long pier, 12-foot long ramp, and two floats comprising the ell-shape that are 20 and 48-feet long, which exceeds the dimensional length standard given in City of Lacey SMP 17.61.020.16.G and may require a shoreline variance. However, total overwater coverage of this dock is 832 square feet and as such, does not exceed the 1,000 square foot maximum surface area standard for docks serving multiple residences, per SMP 17.61.020.16.A."

Water Quality and Construction Traffic

The applicant's materials have adequately addressed requirements for storm water control, which are dictated by the city's adoption of the 2016 City of Lacey Stormwater Manual including retention (infiltration) and water quality. This project site is located within a Category 1 Critical Aquifer Recharge Area and is therefore subject to Enhanced Basic Water Quality Treatment and Phosphorous Control. Both Enhanced Basic Water Quality Treatment and Phosphorus Control will be provided via a Modular Wetland System preceding infiltration. Stormwater from targeted surfaces is proposed to be collected and conveyed to a Modular Wetland System for water quality treatment. Post water quality, water will be conveyed to one of three StormTech chamber infiltration galleries. Roof downspouts will be tight-lined directly into the infiltration galleries. Two Modular Wetland Systems and three separate infiltration galleries are proposed for the project.

The DLG letter does not provide any evidence or legal basis for the assertion that the project is flawed or why it should be denied. The DLG letter's requested conditions on page 5 have no basis in the city's code (Condition (1)), are inaccurate (Condition (2)), or are already covered by code requirements (Condition (3)).

The applicant has provided detailed professional analysis, plans and reports to demonstrate compliance with local, state, and federal regulations pertaining to the size and type of development planned. We look forward to receiving the Hearing Examiner's decision in the near future. Thank you.

Respectfully,



Ivana Halvorsen
Senior Planner

IH/mf

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enc: As Noted

cc: Mr. Harry Schneider, Schneider Homes
Mr. Zack Schneider, Schneider Homes
Mr. Neil Thompson, Roger Newell Architects
Ms. Racheal Villa, Soundview Consultants LLC
Mr. Ryan Shea, SCJ Alliance
Mr. Mark Sumrok, Barghausen Consulting Engineers, Inc.