

**BEFORE THE HEARINGS EXAMINER
FOR THE CITY OF LACEY**

In the Matter of the Application of)	No. 20-190
)	
Gayteway at Hicks Lake, LLC)	Gayteway Hicks Lake Proposal
)	
)	
)	
For a Shoreline Substantial Development)	
Permit, Site Plan Review, and Class IV)	FINDINGS, CONCLUSIONS,
<u>Forest Practices Permit</u>)	AND RECOMMENDATION

SUMMARY OF RECOMMENDATION

The Hearings Examiner recommends that the Lacey City Council **APPROVE** the request for a shoreline substantial development permit and a Class IV forest practices permit, and for site plan review approval, to allow construction of a 132-unit multifamily residential development with associated amenities, including a recreation building, pool, and parking, at 2801 Hazelwood Lane SE. Conditions are necessary to address specific impacts of the proposed project.

SUMMARY OF RECORD

Hearing Date:

The Hearings Examiner held an open record hearing on the request on May 26, 2022, using remote access technology.¹ The record was left open until June 6, 2022, to allow the submission of supplemental comments/arguments by the Deschutes Law Group (who participated in the hearing on behalf of several area residents), and to allow the Applicant to respond to public testimony and written comments.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Jon Graves, Applicant Representative
Reace Fant, City Planner
Victoria Byington

¹ This matter was heard simultaneously with another proposal, the “Schneider Hicks Lake Proposal” (No. 21-081), involving development of a 178-unit apartment complex on adjacent property. Although the two proposals are distinct and involve different applicants, the Hearings Examiner determined it would be appropriate to hear both matters together to ensure that members of the public had an opportunity to testify about both proposals and, further, to ensure that the cumulative impacts of the two proposals were adequately considered, given their proximity. Accordingly, all testimony from the public received at the open record hearing has been considered in relation to both proposals. Finally, the recommendations for both proposals are being issued simultaneously to help ensure that the Lacey City Council considers both proposals at the same time (again, however, with the understanding that the two proposals are distinct and that approval or denial of one should not impact the outcome in relation to the other).

Lynne Dearing
Terry Carr
Scott Goddard
Margaret Shannon
Janet Ikeda
Jeffrey McKenzie
Dana Clay
Dane Clay
Robert O'Keefe
Scott Morrison
Ben Cushman, Attorney for Save Hicks Lake
Kate Ayers
Pat Meyers
Alan Baum
Jessica Wilson
Andrew Feyerick
Dakota Diltz
James Galuso
Ted Sparkle
Karen Johnson
Cheryl Settle
Martin Hoppe, City Transportation Manager
Tom Stiles, City Development Review Manager
Doug Christenson, City Water Resources Engineer

Exhibits:

A list of the exhibits admitted into the record is provided as Attachment A, appended to this recommendation.

The Hearings Examiner enters the following findings and conclusions based upon the testimony and admitted exhibits:

FINDINGS

Application and Notice

1. Gayteway at Hicks Lake, LLC (Applicant) requests site plan review approval, and approval of a shoreline substantial development permit and a Class IV forest practices permit, to allow for the construction of a 132-unit multifamily development with a parking area, amenity building, pool, and access to the Hicks Lake shoreline. Vehicular access to the site would be provided from Hicks Lake Road, with additional emergency

fire access from 30th Avenue SE. The 5.21-acre property is located at 2801 Hazelwood Lane SE.² *Exhibit 2, Staff Report, pages 1 and 2; Exhibits 3 through 8; Exhibit 18.*

2. The City of Lacey (City) determined that the application was complete on March 6, 2021. On March 29, 2021, the City provided notice of the application by routing notice to reviewing City departments and government agencies and publishing notice in *The Olympian*, with a comment deadline of April 29, 2021. On March 26, 2021, the City posted notice of application on-site. On April 26, 2022, the City provided notice of the open record hearing associated with the application by mailing notice to all property owners within 300 feet of the site, publishing notice in *The Olympian*, and posting notice on-site. The City received several comments from reviewing City departments and agencies with jurisdiction, which are detailed below. The City also received over 120 comments on the proposal from members of the public in advance of the open record hearing, which are discussed in detail later in this recommendation. *Exhibit 2, Staff Report, page 8; Exhibits 20 through 22; Exhibit 25.*
3. The City received the following comments from reviewing departments and agencies:
 - Terry McDaniel, City Plans Examiner, commented that a fire hydrant must be installed and approved prior to issuance of building permits, fire-flow for the buildings must not be less than 1,500 gallons per minute (gpm), the residential building must be equipped with an automatic sprinkler system, the buildings require an approved fire alarm system, and an approved 20-foot wide all-weather surface fire apparatus access road would be required within 150 feet of all exterior portions of the buildings at ground level.
 - Tom Stiles, City Public Works, commented that appropriately sized water mains must be extended throughout the proposed site from Hazelwood Lane, domestic water meters would be required, an irrigation meter must be provided for all landscaped areas, the existing 8-inch gravity sanitary sewer main in Hicks Lake Road must be extended and each building must be connected to the sewer system, and treatment and infiltration facilities must be constructed to accommodate stormwater. He also noted that the Applicant must install improvements consistent with half-street commercial private road standards for Hazelwood Lane.
 - Doug Christenson, City Stormwater Engineer, commented that the stormwater plans must be revised to eliminate any stormwater discharges within the 200-foot shoreline setback from Hicks Lake, the final infiltration design must include subsurface data for each actual infiltration location, a minimum 20-foot setback is required from the edge of any infiltration facility to any property line or on-site structure, and infiltration facilities should be set in undisturbed native soil.

² The property is identified by Tax Assessor's Parcel Number 11828140700. *Exhibit 2, Staff Report, page 1.*

- Chris Stolberg, City Transportation Engineer, commented that he reviewed the Traffic Impact Analysis (TIA) submitted for the proposal and determined that the project would generate 57 additional trips during the PM peak hour and traffic mitigation fees would be calculated on the date of payment for issuance of the building permit associated with the proposal. He noted that he reviewed the cumulative traffic impacts of the proposed development and the nearby proposed apartment project under review (the Schneider Hicks Lake Proposal, No. 21-081), and determined that additional traffic impacts the intersection of Ruddell Road SE and 25th Avenue SE do not meet requirements warranting signal installation.
- Arthur Saint, Thurston County Public Works, commented that the project would have traffic impacts on roads maintained by the County requiring mitigation through payment of required mitigation fees.
- Mike Burnham, Intercity Transit (IT), requested a final site layout for access to the buildings to ensure residents would be able to access IT's Dial-a-Lift paratransit service.

Exhibit 26.

State Environmental Policy Act

4. The City acted as lead agency and analyzed the environmental impacts of the proposal, as required by the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). The City consolidated notice of the SEPA review and application comment periods under the optional process provided for by Washington Administrative Code (WAC) 197-11-355, with a comment deadline of April 29, 2021. The City's notice materials stated that it expected to issue a Mitigated Determination of Nonsignificance (MDNS) for the proposed development. The City received the following comments:
 - Rebecca Rothwell, Washington State Department of Ecology (DOE), noted that if the proposed recreation building would be within 100 feet of the ordinary high-water mark (OHWM) of Hicks Lake, this would only be permitted with a variance. DOE also provided general comments noting the requirement that the project utilize only clean fill for all grading and filling activity and about the construction activities that would require coverage under the Construction Stormwater General Permit.
 - Lauren Whybrew, Olympic Region Clean Air Agency (ORCAA), commented that the agency requires an asbestos survey for all demolition projects.
 - Sydney Hanson, Washington State Department of Archaeology and Historic Preservation (DAHP) noted that the statewide predictive model indicates that there is a high probability of encountering cultural resources within the proposed project area. DAHP recommends that that an archaeological survey of the area be conducted prior to ground disturbing activities.
 - The Nisqually Indian Tribe noted that three archaeological sites have been documented to the south of Hicks Lake and requested notification of any discovered cultural resources.

- The Squaxin Island Tribe recommended a cultural resources survey be completed for the project.

Exhibit 20; Exhibit 23; Exhibit 24; Exhibit 26.

5. The City reviewed the Applicant's environmental checklist and other information on file, including the comments submitted by reviewing government agencies described above, and determined that, with mitigation measures, the proposal would not have a significant adverse impact on the environment. Accordingly, the City issued an MDNS on April 20, 2022, with an appeal deadline of May 4, 2022. The City provided notice of its determination by publishing notice of the MDNS in *The Olympian* on April 22, 2022. The MDNS was not appealed. *Exhibit 23; Exhibit 24.*
6. The MDNS requires the following mitigation measures:
 - Traffic impact fees mitigating impacts to Thurston County roads in the amount totaling \$32,298 shall be paid prior to building permit issuance to the City of Lacey. The City of Lacey will then forward to Thurston County the collected impact fees.
 - Prior to any ground disturbing activity, an archaeological survey shall be completed, and a report submitted to the Washington State Department of Archaeology and Historic Preservation (DAHP), the Nisqually Indian Tribe, the Squaxin Island Tribe, and the City of Lacey. If the survey uncovers any archaeological resources, a permit must be obtained from the DAHP prior to any ground disturbing activity that removes or alters Native American human remains or archeological resources.
 - In the event that any archaeological or cultural resources are uncovered during site work, the Applicant shall immediately halt work in the area of discovery and notify DAHP, relevant tribes, and the City.

Exhibit 2, Staff Report, page 4; Exhibit 23.

Existing Site

7. The project area is located on a 5.21-acre parcel that slopes downward from the property's western boundary to its eastern boundary, toward the shoreline of Hicks Lake. The eastern portion of the site is developed with a single-family residence and associated infrastructure (which would be removed), and the central and western portion of the property is undeveloped and forested with big leaf maple, cherry, Douglas fir, western red cedar, and Western hemlock. The forest understory consists of salal, Oregon grape, beaked hazelnut, cascara, salmonberry, snowberry, bracken fern, sword fern, and stinging nettle. The shoreline is vegetated with a narrow strip consisting of trees and shrubs, including Oregon ash, big leaf maple, red alder, Pacific willow, Western hazelnut, Douglas's spirea, bracken fern, hard stem bulrush, and cluster rose. Invasive, nonnative plants are also found along the lakeshore, including Queen Anne's lace, yellow flag iris, English ivy, and Himalayan blackberry. *Exhibit 2, Staff Report, page 2; Exhibit 11.*

Comprehensive Plan, Zoning, and Surrounding Uses

8. The City and Thurston County prepared a joint planning document, the “City of Lacey and Lacey Urban Growth Area Comprehensive Plan” (Comprehensive Plan) under the Growth Management Act, to account for long-term growth and planning within the community. The subject property is designated “High-Density Residential” under the Comprehensive Plan and is within the Lakes Planning Area, which includes those neighborhoods significantly influenced by Hicks Lake, Long Lake, Pattison Lake, and Southwick Lake and is characterized as the City’s most environmentally sensitive area. *Comprehensive Plan 11-1*. The primary function of the Lakes Planning Area is residential, with only a very small portion of developed land use allocated to commercial uses. *Comprehensive Plan 11-1*. City staff identified the following Comprehensive Plan goals and policies as relevant to the proposal:
- Residential Goal 1: Ensure sustainable and wise use of land resources to provide an adequate amount and mix of housing types for the anticipated increase in population.
 - Residential Policy 1-A: Assign land use designations that will provide for adequate opportunity for increased densities and a diversity of housing types.
 - Residential Goal 2: Ensure that development regulation meet the current vision outlined in the Comprehensive Plan.
 - Residential Policy 2-A: Review development code provisions to provide increased density opportunities and better define the stated intent of development standards to meet the goals of the Plan.
 - Residential Policy 2-B: Achieve a level of design with innovative, creative, and efficient concepts for integration of different land use types that will facilitate development of great places that provide increased opportunities to live, work, and play.
 - Transportation Goal 2: Support land use policies and plans to allow densities and a mix of uses that reduce the number and length of vehicle trips. Increase the opportunity to use public transportation and non-motorized modes of travel.
 - Transportation Policy 2-B: Encourage land development proposals to utilize the full capacity of the existing multimodal transportation system, especially transit and non-motorized modes.
 - Transportation Goal 3: Prioritize and encourage bicycle and pedestrian trips by providing a safe, well-connected, and convenient bicycle and pedestrian circulation network throughout the City.
 - Parks and Open Spaces Goal 1: The land use policies should complement and help implement requirements of the City of Lacey Comprehensive Plan for Outdoor Recreation, Regional Trail Plan, and land use regulatory requirements for the provision of open space.
 - Parks and Open Space Policy 1-A: Continue to require open space for residential and commercial development.
 - Parks and Open Space Policy 1-B: Link pedestrian and bicycle pathways with greenways, priority habitat sites, wetlands, and open space between

neighborhoods. Open space shall be designed into a project from the outset, with sizable and meaningful pieces set aside. It shall not be left to the end, using only those restricted and small spaces that are left over.

- Parks and Open Space Policy 1-D: Open space shall be designed to define our community, create outdoor spaces, protect wildlife habitat and the natural environment, and create public and civic spaces.
- Parks and Open Space Policy 1-E: Require means to ensure perpetual maintenance of wetlands and priority habitat sites for passive recreational opportunities.
- Utilities and Capital Facilities Goal 1: Ensure that existing utility customers, and future customers, are adequately served by water, sewer, and stormwater utility services that consider both growth demand projections and asset management.
- Utilities and Capital Facilities Policy 1-B: All proposed development should be analyzed for anticipated impact on utilities and services, either as an element of the site plan review, subdivision review, or as part of the environmental impact assessment.
- Utilities and Capital Facilities Policy 1-C: Preference should be given to providing adequate public facilities to the following:
 - Settled areas and existing customers, rather than extending new services to sparsely settled or undeveloped areas.
 - Incorporated land before serving un-incorporated areas. Sewer extension shall be encouraged in areas needing ground water protection or surface water protection or in areas with existing residential, commercial, or industrial uses operation with failing systems
- Utilities and Capital Facilities Policy 1-D: The City plans to provide water utility services within its urban growth area (UGA) consistent with planning policies in the City's Water and Wastewater Comprehensive Plans. As such, the City will support local efforts and facilitate the connection of existing septic systems to City sewer, where feasible.
- Utilities and Capital Facilities Water Resources Goal 1: Ensure the long-term protection and preservation of both the quality and quantity of groundwater and surface waters for all uses.
- Health and Human Services Goal 1: Work to achieve a safe, active, and healthy lifestyle for Lacey citizens through community planning and design.
- Health and Human Services Policy 1-A: Provide opportunity for a distribution of land use types located within planning areas and within walking distance at one another to encourage pedestrian activity and minimize the need for automobiles.
- Health and Human Services Policy 1-B: Design neighborhoods to promote bicycling and walking, encouraging these activities and healthy lifestyle choices.
- Health and Human Services Policy 1-C: Prioritize safe routes for capital improvements such as sidewalks, planter strips, street trees, traffic calming, and other pedestrian improvements. Consider incentives for infill development to add off-site traffic calming and other pedestrian amenities for designated safe routes.

- Health and Human Services Goal 2: Work to achieve a community where residents have convenient access to healthy food, clean water, and affordable shelter.
- Health and Human Services Policy 2-A: Provide opportunities for housing development to serve Lacey’s full demographic spectrum, including a full range of housing choices designed to meet life stage needs of those demographics.
- Health and Human Services Policy 2-B: Provide opportunities to integrate housing in to core areas and arterial corridors where services and transportation options can be provided.
- Health and Human Services Policy 2-D: Support environmental measures to protect critical/sensitive and resource areas and provisions for clean air, water, and soil for overall community health.
- Lakes Planning Area Goal 1: Protection of environmental resources in the planning area shall be a priority.
- Lakes Planning Area Policy 1-A: Require development to work around environmentally sensitive areas and take advantage of and promote environmental resources as an amenity.
- Lakes Planning Area Policy 1-B: All development shall be sensitive to protecting environmentally sensitive areas.
- Lakes Planning Area Policy 1-C: In balancing competing goals and interests, the City shall weigh in favor of strict application of environmental regulations and public access requirements.
- Lakes Planning Area Goal 3: Maintain existing moderate and high-density housing opportunities along major arterials with convenient access to transit where no impact to environmentally sensitive areas will occur.
- Lakes Planning Area Goal 4: Improve infrastructure in the planning area particularly related to sewer and transportation.
- Lakes Planning Area Policy 4-A: Consistent with the policies of the Shoreline Master Program, extension of sewer service shall be prioritized around lakes to protect water quality.

Exhibit 2, Staff Report, pages 4 through 7.

9. The property is located within both the City’s High-Density Residential (HDR) zoning district and Shoreline Urban Conservancy (URBCON) zoning district. The HDR zoning district permits any residential use with a density of at least 12 units per acre. *Lacey Municipal Code (LMC) 16.18.020*. The property was designated HDR in 1994, concurrent with the City’s adoption of its first Comprehensive Plan. While City staff is uncertain of the acreage of the parcel within the HDR zone, the density of the entire parcel can be calculated as approximately 25 units per acre. If the acreage of the parcel were to be reduced to reflect the true acreage of land within the HDR zone, the density would increase. City staff reviewed the Applicant’s project plans and determined that the proposed development would comply with the maximum development coverage and maximum building height requirements for the HDR zone. The URBCON zoning district

extends 200 feet landward of the ordinary high-water mark (OHWM) of Hicks Lake. The purpose of the URBCON shoreline environment designation is to protect and restore ecological functions of open space, flood plain, and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses. *City Shoreline Master Program (SMP) 17.22.065*. The URBCON designation is applied to shoreline properties where development is compatible with maintaining or restoring the ecological function of the area. *SMP 17.22.066*. A shoreline substantial development permit (SSDP) is required for multifamily development within the URBCON designation. *SMP 17.24.010*. Although the proposed multifamily units are all located outside of the shoreline jurisdiction, other structures associated with the multifamily development, detailed below, are proposed for development within (or partially within) the URBCON-designated area of the property. *Exhibit 2, Staff Report, pages 8 through 11*.

10. The subject parcel surrounds a single-family parcel on its east, north, and west borders, which is also zoned HDR and URBCON. The two parcels to the north are also zoned HDR and URBCON. The larger parcel contains multiple single-family residences on the eastern portion and consists of undeveloped forested land on the western portion. The smaller lot contains a single-family residence. The property is bordered on the west by Hicks Lake Road SE. Across Hicks Lake Road are two apartment buildings, which are zoned Moderate and Low Density Residential. East of the property is a single-family residence that is zoned URBCON. The parcel to the south currently operates as a retreat center and is zoned HDR, URBCON, and Open Space Institutional and Natural. *Exhibit 2, Staff Report, page 3*.

Critical Areas

11. Soundview Consultants prepared a Shoreline, Wetland Delineation, and Fish and Wildlife Habitat Assessment Report for the proposed project, dated February 16, 2021. After conducting site visits in 2020, Soundview Consultants identified the shoreline of Hicks Lake along the northeastern boundary of the property and an offsite Category III lake fringe wetland to the east of the property, as critical areas. The wetland has a habitat score of 4 and has high potential to improve water quality due to the surrounding land uses and presence of powerboats on the lake. The report noted that the wetland is limited in its ability to filter pollutants due to the lack of dense emergent and herbaceous vegetation within the wetland and has low potential to provide hydrologic function to the watershed due to its location near the shoreline, which can be impacted by erosion. The wetland also has low species richness, and its buffer has been degraded by prior development activities and ornamental, non-native invasive vegetation. All proposed development would be located landward of the required 80-foot wetland buffer except for the proposed pedestrian access to the beach, which is permitted under LMC 14.28.120.F. The Applicant would remove non-native, invasive vegetation and would plant native vegetation within a 100-foot vegetation management area, resulting in no net loss of ecological or wetland buffer functions. *Exhibit 2, Staff Report, page 3; Exhibit 11*.

Site Plan Review

Traffic

12. In September 2021, Transportation Engineering NorthWest prepared a Traffic Impact Analysis (TIA) in accordance with City TIA guidelines. Access to the site is provided from Hicks Lake Road SE. The TIA determined that the proposed development would generate 709 new weekday daily trips, with 57 new PM peak-hour trips. The TIA also analyzed the turning movements at a number of intersections, including the intersection of Ruddell Road SE and 25th Avenue SE. The TIA and City transportation staff determined that the level of service (LOS) impact to Ruddell Road SE and 25th Avenue SE does not warrant a signal control because 25th Avenue SE has sufficient storage to accommodate the combined queue length from both this project and the adjacent Schneider Hicks Lake project (No. 21-081). Impacts on pedestrian and bicycle volumes were also reviewed cumulatively with the Schneider project. Based on the Thurston Regional Planning Council's 1999 Household Travel Survey, the proposed development is expected to generate 50 daily pedestrian and bicycle trips, and the adjacent Schneider apartments proposal is expected to generate 67 daily pedestrian and bicycle trips. There are currently no sidewalks on Hicks Lake Road SE or between the project locations and 25th Avenue SE. The "Pedestrian and Bicycle Plan for the City and the Lacey UGA" identifies Hicks Lake Road as a recommended sidewalk connection. Due to the increased volume of vehicles and pedestrians associated with the projects, City staff recommends that a pedestrian facility that meets ADA requirements be constructed along the east side of Hicks Lake Road SE from the project frontage to 25th Avenue SE. The pedestrian facility would be temporary until the City installs the frontage improvements associated with Wanschers Park.

City transportation staff identified 13 street projects that would be impacted by the traffic generated by the proposal. The project would be assessed for traffic mitigation based on a proportionate share of the total cost of the impacted street projects, consistent with Chapter 14.21 LMC. City staff currently estimates that the project's proportionate share traffic mitigation fee would be approximately \$53,150. Thurston County would require an additional \$9,707 in mitigation fees for traffic impacts to Thurston County roads. *Exhibit 2, Staff Report, pages 11 and 12; Exhibit 14; Exhibit 15; Exhibit 26.*

Parking

13. City staff indicated that the City recently adopted new parking requirements, but the proposal has vested under the prior requirement of a minimum of 1.5 vehicle stalls per unit. The Applicant's preliminary civil plans demonstrate that the proposal would meet this minimum parking requirement. *Exhibit 2, Staff Report, page 12; Exhibit 18.*

Class IV Forest Practices Permit

14. Washington Forestry Consultants (WFC) prepared a Preliminary Tree Protection Plan for the proposal, dated February 10, 2021. WFC determined that 223 of the 279 existing

trees on-site are in healthy condition. The Applicant does not propose to retain any of the on-site trees due to intensive site use and/or due to the poor condition of existing trees. The Applicant would be required to replant a minimum of 185 trees within tree tracts amounting to a least five percent of the gross site area, or 11,761 square feet. *LMC 14.32.064.A*. WFC would review the revised site and grading plan in order to make final tree retention recommendations. Tree tract locations and calculations would be clearly identified on the site plans and landscaping plans. The City Forester would review the Applicant's final landscape plan to ensure that the proposal would meet all applicable requirements of the City's tree and vegetation protection and preservation code. *Exhibit 2, Staff Report, pages 11 and 15; Exhibit 16*.

Shoreline Substantial Development Permit

15. The State Shoreline Management Act (SMA) and the City SMP govern work within 200 feet of the Hick Lakes ordinary high-water line. *SMP 17.15.229; RCW 90.58.030(2)(f)*. Any "substantial development" within the shoreline requires approval of an SSDP. Substantial development is any development in which the total cost or fair market value exceeds \$7,047, or any development that materially interferes with the normal public use of the water or shorelines of the state. *RCW 90.58.030(3)(e)*. The project cost exceeds this threshold and does not qualify for any shoreline permit exemption under WAC 173-27-040. Additionally, an SSDP is required for any residential development associated with a multifamily development within the URBCON shoreline environment designation.³ *SMP 17.24.010*. Portions of the proposed amenity building, pool facility, pathway, and a patio with two park benches would be built within 200 feet of the ordinary high-water mark (OHWM). The proposed amenity building and pool facility would be located landward of the 100-foot shoreline setback for multifamily residential structures and accessory structures. The proposed pathway and patio with two park benches would be located within the 100-foot setback. Water-related and water-enjoyment development is subject to a 50-foot setback from the OHWM in URBCON zoning districts. *SMP 17.24.015*. Under Section 17.15.281 of the SMP, a "water-enjoyment use" is

A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the

³ *Residential development* includes single-family dwellings; duplexes; other detached dwellings; floating homes; multi-family development (apartments, townhouses mobile home parks, other similar group housing); condominiums, subdivisions; and short subdivisions, together with accessory appurtenant uses and structures normally applicable to residential uses including but not limited to garages, sheds tennis courts, swimming pools, parking areas, fences, cabanas, saunas and guest cottages. *SMP 17.15.208*.

physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

Accordingly, to qualify for the 50-foot setback from the Hicks Lake OHW, the proposed patio with park benches must be open to the general public. Pedestrian trails and shoreline access segments are allowed in the URBCON shoreline environment, with no required setback from the Hicks Lake OHW. *SMP 17.24.015. Exhibit 2, Staff Report, pages 10 and 11; Exhibit 18.*

16. SMP 17.26.025 provides standards for development within the shoreline jurisdiction. Impervious surface in URBCON zones is limited to 30 percent. The Applicant proposes to provide 13,160 square feet of impervious surface within the portion of the property zoned URBCON, which equates to 34.16 percent of the 38,529 square feet of URBCON zoning on the site. Accordingly, the Applicant must revise its site plan to reduce the amount of impervious surface that would be included within this portion of the property. City staff would review the Applicant's revised site plans to ensure compliance with the impervious surface requirement prior to commencement of any land clearing activities. *Exhibit 2, Staff Report, pages 11 and 14; Exhibit 18.*

Written Comments

17. As noted above, the City received a substantial number of public comments on the proposal, mostly from area residents opposed to the project. These comments generally related to the following topics:
 - **Traffic Impacts:** Comments on this topic expressed concerns that the proposal would increase traffic in the area. For example, Robert and Deanna Krell, Darryl Carver, Dana and Dane Clay, Susan Cooksey, Cheryl Moore, Crystal Ashley, Chris Gagnon, DJ and Dean Lietzau, Patti Logan, Gary Wilson, Victoria Byington, Patricia Johnson, Adam Wilson, Angela and Brandon Konen, Michael and Robert O'Keefe, Ian McKenzie, Michael and Judy Callaghan, Ken and Sue Callaghan, Jamie Schultz, Alan Baum, Kyle McKeon, Margaret and Glenn Hollinger, Janet Ikeda, Ted Saylor, James Scott Jarvis, Edgar Landazuri, Gary Ikeda, Laura Alfani, Rebecca McGinnis, Karen Mussman, Rob Myers, Steve and Ruth Rector, Linda Weible, Jay Weible, and Cheryl Sharpe raised concerns that increased traffic would exacerbate congestion, noise pollution, and accident occurrence, and existing roads are inadequate to accommodate increased traffic. Douglas Catey, Rob Myers, Scott Goddard, Alan Baum, Curtis and Diane Leigh, Dana Clay, Kate Ayers, Jeffrey McKenzie, and Scott Morrison raised concerns about the adequacy of the Traffic Impact Analysis (TIA). Many of these commenters raised concerns that the TIA did not adequately account for existing traffic, contained inaccuracies, inadequately calculated impacts on side streets, and contained inaccurate descriptions of area roads. Rob Myers, Scott Goddard,

Vern and Lynne Dearing, and Gary Wilson raised concerns about the safety of the intersection of Ruddell Road and 25th Avenue SE, particularly because signal installation at the intersection is not proposed. Scott Goddard, Vern and Lynne Dearing, and Jamie Schultz expressed concerns about the lack of sidewalks in the area, increasing risks to pedestrian safety, particularly for children. Dusty Pierpoint, Robert and Deanna Krell, Angela and Brandon Konen, Norm Mastalski, and Dean Wendice Sevier also expressed concerns that parking would increase on surrounding roads, leading to safety concerns for pedestrians and additional traffic impacts. Gary Ikeda, Kyle McKeon, and Curtis and Diane Leigh raised concerns about the adequacy of traffic mitigation measures.

- **Wildlife Impacts:** Comments on this topic expressed concerns that the proposal would result impact wildlife in the lake and forest area. For example John Von Almen, Rachel Crum, Kate Ayers, Scott Goddard, Kyle McKeon, Margaret and Glenn Hollinger, Susan Cooksey, Margaret Shannon, Patricia Tolman, DJ and Dean Lietzau, John and Julie Nierenberg, Casandra N., Amy and Greg Fisher, Victoria Byington, Haley McGinnis, Jackie and Phil Edwards, Karin Frischknecht, Dean and Wendice Sevier, Patricia Johnson, James Scott Jarvis, Laura Alfani, Angela and Brandon Konen, Shirley Topham, Beth-Anne Koval, Michael and Robert O'Keefe, Ian McKenzie, Jeffrey McKenzie, Vivienne Owens, Ken and Sue Callaghan, William and Gail Smith, John and Pat Meyers, Pamela Pearce Carver, Alan Baum, and Gary Wilson expressed concerns about the loss of habitat for eagles, ospreys, beavers, otters, fish, deer, coyote, and raccoons.
- **Environmental Impacts:** Comments on this topic expressed concerns that the proposal would degrade the surrounding natural environment. For example, Vern and Lynne Dearing, Rachel Crum, Kate Ayers, Margaret Shannon, Cheryl Tack, Adam Wilson, Ian McKenzie, Michael and Judy Callaghan, Jeffrey McKenzie, Pamela Pearce Carver, Susan Cooksey, Scott Morrison, Patrick Sprout, and Dana Clay raised concerns that proposal, and the proposed tree removal in particular, would increase pollution in Hicks Lake and an off-site wetland. Shirley Topham, Robert and Deanna Krell, Bill and Ede Broeker, Bruce Schultz, Douglas Catey, Dean and Wendice Sevier, James Scott Jarvis, Gary Ikeda, and DJ and Dean Lietzau expressed concerns that removal of soil and vegetation, and increases in impervious surface area, would increase stormwater runoff in the lake. Cheryle Tack, Alan Baum, Lynn Grotzky, Lisa Brodoff, Nancy Snyder, Sharon Herting, Dean and DJ Lietzau, Pamela Pearce Carver, and Dennis Rhodes commented about the importance of retaining trees for climate change mitigation, pollution, and cooling. Janet Ikeda and Casandra N. raised concerns about increased refuse in the area. Save Hicks Lake expressed concerns about the adequacy of the environmental analysis. John Von Almen, Rachel Crum, Kate Ayers, Casandra N., Amy and Greg Fisher, and Heather Christopher, expressed concerns that increased car use in the area would impact air quality and add carbon dioxide emissions.

- **Density:** Comments on this topic expressed concerns about the high density of the proposal. For example, Elizabeth Hicks Klingler, Savanna Small, Robert and Deanna Krell, DJ and Dean Lietzau, Gary Wilson, Amy and Greg Fisher, Michael and Robert O’Keefe, Jordan Hedlund, Ken and Sue Callaghan, Bill and Ede Broecker, Jamie Schultz, William and Gail Smith, John and Pat Meyers, Alan Baum, Jeanette DeMello, Kyle McKeon, Susan Cooksey, Dana Clay, Dane Clay, Drew Feyerick, Ted Saylor, Douglas Catey, Gary Ikeda, Rob Myers, and Marshall Krier raised concerns that the high density of the proposal was not appropriate for the area, due to its proximity to Hicks Lake and the inconsistency with the single-family residences in the area. Many of these commenters expressed concerns that the proposal would change the character of the neighborhood.
- **Lake Traffic:** Comments on this topic expressed concerns that the proposal would increase traffic on Hicks Lake. For example, Evelyn Carver, Alan Baum, Margaret Shannon, Robert and Deanna Krell, Lynn Grotsky, Lisa Brodoff, DJ and Dean Lietzau, Curtis and Diane Leigh, Bill and Ede Broecker, John and Julie Nierenberg, Patrick Sprout, Devin Brown, Steve and Ruth Rector, Dusty Pierpont, Dean and Wendice Sevier, James Scott Jarvis, Denise Demers, Dana Clay, and John and Pat Meyers expressed concerns that the proposal would increase the number of people accessing the lake, leading to increased traffic and safety concerns for boaters and swimmers. Several commenters noted that there is no law enforcement monitoring safety on the lake.
- **Noise Impacts:** Comments on this topic expressed concerns that the proposal would increase noise pollution in the area. For example, Dean and DJ Lietzau, Robert and Deanna Krell, and Evelyn Carver raised concerns that construction of the proposal would cause noise pollution.
- **Light Impacts:** Comments on this topic raised concerns that the proposal would increase light pollution and glare in the area from associate outdoor lighting.
- **Setbacks:** Comments on this topic raised concerns that the proposal did not comply with setback requirements. For example, Scott Goddard, Margaret Shannon, Bill and Ede Broecker, and Dusty Pierpoint expressed concerns that the proposal’s amenity building would be located within 200 feet of the shoreline setback.
- **Adequacy of Cumulative Analysis:** Comments on this topic expressed concerns that the reports generated for the project did not adequately address the impacts of the proposal. For example, Gary Ikeda, Douglas Catey, Wendice Sevier, DJ and Dean Lietzau, and Tom Moore raised concerns that the cumulative impacts of the subject proposal and the Schneider project were not adequately addressed.
- **School Impacts:** Comments on this topic raised concerns that the proposed use would adversely impact the schools in the area and that access to the schools is limited. For example, Rebecca McGinnis and Marshall Krier raised concerns that the project would increase school enrollment.

- **Citizen Participation:** Comments on this topic raised concerns that the proposal was not adequately permitting citizen participation and that the City Council would not be required to hear public testimony on the project.
- **Crime:** Comments on this topic expressed concerns that the proposal would increase crime in the area.
- **Property Values:** Comments on this topic expressed concerns that the proposal would negatively impact property values.
- **Housing Demand:** Comments on this topic expressed support for the proposal, noting that demand for housing in the area is greater than available supply.

Exhibit 28; Exhibit 29.

18. In addition to the individual written comments described above, the City received a petition with over 300 signatories requesting denial of the proposed development.
Exhibit 27.

Testimony

19. Applicant Representative Jon Graves testified generally about the proposal and commented that the Applicant would comply with City’s recommended conditions of approval. He noted that the Applicant would contribute to the offsite pedestrian pathway from the parcel boundary and that emergency vehicle access would be provided from 30th Avenue. He explained that the residential structures would be upland of the 200-foot shoreline jurisdiction but that portions of the proposed amenity building and the pool facility would be within the 200-foot shoreline jurisdiction, requiring approval of a shoreline substantial development permit. Mr. Graves noted that the proposal would not alter the existing residential dock on the property and would leave shoreline vegetation intact as much as possible. He clarified that the Applicant would not be pursuing a wetland development permit because the proposal does not include any development within the wetland buffer. Mr. Graves noted that the proposal has been designed to maintain a landscape buffer between the parcel and neighboring properties and to be consistent with the character of the surrounding area. He noted that a cultural resources survey of the property has been conducted, and that it did not identify any cultural resources on the property. Mr. Graves explained that the Applicant’s traffic engineer had reviewed the third-party traffic analysis and found that the conclusions between the third-party analysis and the Applicant’s analysis were consistent. *Testimony of Mr. Graves.*
20. City Planner Reace Fant testified generally about the proposal and explained how, with conditions, the proposal would be consistent with the City’s codes and ordinances. He explained that the Applicant would need to comply with the 30 percent maximum for impervious surfaces in the shoreline jurisdiction and to specify compliance with tree tract requirements and buffers on its landscaping plans. He noted that the SEPA determination had not been appealed. Mr. Fant also clarified that City parking standards have been recently changed but that this project vested under previous standards that required a minimum of 1.5 parking stalls per residence. He noted that the location of the refuse

receptacles could be addressed during design review. Mr. Fant concurred with Mr. Graves that a wetland development permit would not be required for this proposal. *Testimony of Mr. Fant.*

21. Victoria Byington expressed concerns about the dissemination of information regarding the project and the population increase from the proposal. She raised concerns about traffic impacts, including pedestrian safety and particularly for children walking to school, and speeding on side streets. Ms. Byington also expressed concerns that the Traffic Impact Analysis was completed during the winter months, when people were telecommunicating and using the roads less frequently. She inquired about the benefit of the project, noting that the development would not be used to address homelessness or affordable housing. Ms. Byington requested that the scope of the project be significantly decreased. *Testimony of Ms. Byington.*
22. Lynne Dearing raised concerns about the lack of sidewalks, construction vehicles, and increased traffic, noting the risks to child safety and impacts to air quality. She inquired into whether this project and the Schneider Hicks Lake project (No. 21-081) would be built concurrently, as this could increase the impacts of deforestation. Ms. Dearing also expressed concerns about impacts to wildlife and the importance tree retention for carbon sequestration. *Testimony of Ms. Dearing*
23. Terry Carr raised concerns about the clearcutting of trees, resulting in more sunlight on Hicks Lake and contributing to algal blooms. *Testimony of Mr. Carr.*
24. Scott Goddard raised concerns that a study was never done for the zoning change of the twenty acres that includes the subject property. He testified that such a study would have identified necessary infrastructure improvements to accommodate growth. Mr. Goddard expressed concerns that additional traffic would exacerbate current traffic conditions and would lead to increased traffic on neighborhood streets that are not designed to accommodate a high level of traffic. *Testimony of Mr. Goddard.*
25. Margaret Shannon echoed concerns about traffic and environmental impacts. She also noted that there is no longer any police presence on the lake to enforce safety measures. *Testimony of Ms. Shannon.*
26. Janet Ikeda echoed concerns about traffic, increased accidents, and the necessity of infrastructure improvements. She raised concerns about loss of trees and impacts to wildlife and the lake ecosystem. Ms. Ikeda also expressed concerns about the size and scale of the projects, as well as their proximity to the lake. She testified that people park their cars on Hicks Lake Road where the pedestrian pathway would be located. She noted that there are no nearby amenities or bus stops. *Testimony of Ms. Ikeda.*

27. Jeffrey McKenzie inquired as to what non-residential amenities would be within the 200-foot shoreline setback. *Testimony of Mr. McKenzie.*
28. Dana Clay raised concerns that the project would not meet impervious surface requirements. She expressed concerns that the number of parking stalls proposed would not accommodate the residences' needs. Ms. Clay noted that pedestrian pathways would need to be ADA accessible. She raised concerns that the traffic impact analysis did not address impacts to Shady Lane. *Testimony of Ms. Clay.*
29. Dane Clay testified that, from his experience in construction, he expected to see a compromise between the two projects. He echoed concerns about the density of the projects. *Testimony of Mr. Clay.*
30. Robert O'Keefe noted that Lacey is designated "Tree City U.S.A." He raised concerns about the accuracy of the TIA, noting that 25th Avenue is a one-lane road travelling in both directions. Mr. O'Keefe expressed concerns about the capacity of the roads to accommodate construction vehicles and equipment, child safety, diesel pollution, and noise pollution. *Testimony of Mr. O'Keefe.*
31. Scott Morrison raised concerns that cumulative impacts have not been adequately addressed and that Shady Lane and Lilac Road were not addressed in TIAs for the two proposals (the subject proposal and the Schneider Hicks Lake project). *Testimony of Mr. Morrison.*
32. Ben Cushman, an attorney representing a community group, raised concerns about the adequacy of the analysis of the impacts of the project, including traffic impacts, effluent control, and environmental impacts. He argued that the TIA was flawed because data was taken during the COVID-19 pandemic, and it did not include analysis of undeveloped roads that connect to Ruddell Road. Mr. Cushman noted that it was unclear in the project's application materials whether the 30 percent impervious surface area limitation would be exceeded. *Argument of Mr. Cushman.*
33. Kate Ayers asked whether the City and Applicant have plans to address traffic concerns and whether the pedestrian pathway would connect to a bus stop. *Testimony of Ms. Ayers.*
34. Pat Meyers inquired into whether the City Council would be listening to the hearing. She also asked how the SEPA information was disseminated and the reasons for the development. Ms. Meyers also raised concerns about increases in wakeboarding, leading to impacts to docks and shorelines. She also expressed concerns about noise pollution and increased population in the area. *Testimony of Ms. Meyers.*

35. Alan Baum echoed concerns that the TIA did not accurately account for current traffic demands and impacts of construction on noise pollution and water quality. *Testimony of Mr. Baum.*
36. Jessica Wilson echoed concerns about loss of trees and wildlife habitat. *Testimony of Ms. Wilson.*
37. Ted Sparkle expressed concerns that the amenity pool is within 200 feet of the OHWM and about the lack of mitigation for impacts on neighboring properties. *Testimony of Mr. Sparkle.*
38. Dakota Diltz echoed concerns about safety, construction, loss of wildlife habitat, and environmental impacts. She also raised concerns about increased enrollment at Lacey Elementary. *Testimony of Ms. Diltz.*
39. James Galuso voiced his support for the proposal, noting that the city and Thurston County need more housing and if this project were not to be approved, the housing would go elsewhere, potentially outside of the urban growth area, which could lead to more greenhouse gas emissions due to increased vehicle use. *Testimony of Mr. Galuso.*
40. Karen Johnson reiterated concerns about loss of wildlife habitat, noise pollution, and the density of the project. She also raised concerns about the consistency of the project with the surrounding area and about development of Wanschers Park. *Testimony of Ms. Johnson.*
41. Cheryl Settle testified that, in her experience, any road widening would require additional environmental review. She commented that road improvements should be finished prior to construction of the proposed development. Ms. Settle raised concerns about migratory and nesting birds on the subject parcel. She also expressed concerns about maintenance of the stormwater filtration system, sewer impacts, and the presence of asbestos in the existing structures. *Testimony of Ms. Settle.*
42. City Transportation Manager Martin Hoppe testified that traffic impacts at 25th Avenue and Ruddell Road would be minimal, as determined by City traffic guidelines. He clarified that the TIA accounted for cumulative impacts between the subject proposal, the Schneider Apartment proposal, and for future projects currently undergoing review through the permitting process. Mr. Hoppe noted that plans for construction vehicles would be made during pre-construction meetings and that the surrounding roads are designed to accommodate construction vehicles. *Testimony of Mr. Hoppe.*
43. City Development Review Manager Tom Stiles testified that the Applicant would be required to install a pedestrian pathway either along the roadway or through the site. He noted that the projects would utilize City sewer services and that an erosion control

inspector would ensure compliance with erosion control measures during construction. Mr. Stiles explained that frontage improvements and utilities would be installed prior to occupation of the residential structures. *Testimony of Mr. Stiles.*

44. City Water Resources Engineer Doug Christenson clarified that the parcel owner would be responsible for maintaining stormwater facilities and would be issued a manual to assist in that maintenance. *Testimony of Mr. Christenson.*

Additional Comments

45. Ben Cushman, Deschutes Law Group, on behalf of the citizens group Save Hicks Lake, submitted a supplemental letter after the hearing. Specifically, the letter noted:
- Traffic impacts were not adequately addressed. In particular, Hicks Lake Road is a small street without lane markings, sidewalks or pedestrian shoulders and cars cannot safely pass each other on the road when pedestrians are present. Hicks Lake Road also experiences overflow parking from Wanschers Park. Visibility at 25th Avenue onto Ruddell Road is obscured, and the City has failed to require conditions to increase safety at the intersection. The traffic route used by the TIA would not be the route used by residents.
 - The high waterline is inaccurately marked, which would impact the location of proposed buildings and parking lots.
 - The subject parcel is heavily forested, and the City has not proposed sufficient conditions on tree cutting.
 - Water quality and construction impacts should be addressed at this stage of the process, rather than at later stages during additional permitting.

Exhibit 30.

46. The Applicant submitted a letter in response to public testimony and the supplemental letter from Deschutes Law Group. In particular, the Applicant noted:
- With minor design modification, the project would result in 30 percent or less in impervious surface within the shoreline jurisdiction.
 - The Applicant would preserve existing shoreline landscaping and maintain a landscape buffer and fencing between the proposal and neighbors.
 - The proposed refuse area works well with truck turning operations but could be switched with adjacent parking.

Applicant Representative Barghausen Civil Engineering also submitted supplementary information, noting:

- The Applicant would preserve trees where possible, mostly around the site perimeter. Existing trees are in poor condition due to intensive site use. Most of the preserved existing trees would be located in the new tree tract area in the southeast corner of the site that would meet 5 percent tree tract requirements.
- Existing healthy, non-invasive vegetation along the Hicks Lake shoreline would be preserved.

- An erosion control plan would be prepared in accordance with City and state erosion control measures. A geotechnical engineer would be on-site during construction to inspect earthwork activity.
- The proposal would not discharge any stormwater directly into Hicks Lake. The project would utilize multiple on-site infiltration galleries spread throughout the site. Infiltration rates are very favorable on the site.
- Permeable pavement is proposed in multiple areas throughout the site

TENW Traffic Engineering, after reviewing the third-party analysis, submitted the following supplementary comments:

- Overall, the third-party analysis does not change the conclusions included in the Applicant’s Traffic Impact Analysis (TIA).
- Alternative routes exist to avoid the Ruddell Road and 25th Avenue SE intersection, making mitigation for impacts at the intersection unnecessary.

Exhibit 31.

Staff Recommendation

47. City staff recommend approval of the SSDP and Class IV forest practices permits, and site plan approval, with conditions. *Exhibit 2, Staff Report, page 14.*

CONCLUSIONS

Jurisdiction

The Hearings Examiner has jurisdiction to hear applications for shoreline substantial development permits and, through the City’s consolidated review process, applications for a Class IV forest practice permit and for site plan review approval, and to issue a recommendation to the City Council to grant, grant with conditions, or deny the applications. *LMC 2.30.090.B.3; LMC 2.30.110; LMC 2.30.140; LMC 14.32.045.E; Chapter 16.84 LMC.*

Criteria for Review – Site Plan Review

Under LMC 16.84.020, the site plan must be approved or approved with conditions to comply with the standards, provisions, and policies of the City as expressed in its various adopted plans and ordinances. Whenever a site plan is disapproved, such disapproval must be set forth in written findings that specify the particular standards, provisions, and policies to which the site plan fails to conform and the reasons why it fails to conform. *LMC 16.84.020.*

Land Clearing/Class IV Forest Practices Permit

The Hearings Examiner reviews applications for a Land Clearing/Class IV Forest Practices Permit for consistency with the regulations and purposes of the City’s tree and vegetation protection and preservation ordinance, Chapter 14.32 LMC, which include the following:

:

- A. To implement strategies for the management and protection of Lacey’s urban forest resources pursuant to the goals and policies of the Lacey Urban Forest Management Plan;

- B. To implement the purposes of the State Growth Management Act relating to conservation of natural resources, including Lacey's urban forest resources, pursuant to RCW 36.70A.050, 36.70A.060 and 36.70A.080;
- C. To implement the purposes of the State Growth Management Act pursuant to RCW 36.70A.172, considering the many environmental benefits of the urban forest as described in Lacey's Urban Forest Management Plan;
- D. To promote the public health, safety, and general welfare of the citizens of Lacey without preventing the reasonable development of land;
- E. To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of trees and ground cover and to ensure the protection of trees chosen to remain during construction;
- F. To minimize surface water and ground water runoff and diversion and to prevent erosion and reduce the risk of slides;
- G. To retain and utilize trees to assist in site planning, considering the abatement of noise, visual screening, protection from wind, and other site design issues;
- H. To acknowledge that trees and ground cover have significant environmental and quality of life benefits as identified in Lacey's Urban Forest Management Plan, such as the production of pure oxygen from carbon dioxide, the reduction of air pollution, help in providing clean water, control of soil erosion, use in design for energy efficiency and temperature control, noise attenuation, and wildlife habitat;
- I. To promote building and site planning practices that are consistent with the city's natural topography, soils, and vegetation features. At the same time certain factors may require the removal of certain trees and ground cover for things such as, but not limited to disease, danger of falling, proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, protection of solar access and the realization of a reasonable enjoyment of property;
- J. To insure prompt development, restoration, replanting, and effective erosion control of property after land clearing;
- K. To reduce water pollution from siltation in the city's streams and lakes;
- L. To implement the goals and objectives of the Washington State Environmental Policy Act;
- M. To implement and further the City's Comprehensive Land Use Plan and its Environmental Protection and Resource Conservation Element;
- N. To encourage protection of wildlife and/or wildlife habitat whenever possible.

LMC 14.32.020.

Shoreline Substantial Development Permit
Shoreline Management Act

The Shoreline Management Act is codified at Chapter 90.58 RCW. Applicable policies of RCW 90.58.020 include those to foster “all reasonable and appropriate uses”; protect against adverse effects to the public health, the land, and vegetation and wildlife; and give priority to single-family residences and appurtenant structures in authorizing alternations to the natural condition of the shoreline. Nonetheless, “private property rights are ‘secondary to the SMA’s primary purpose, which is to protect the state shorelines as fully as possible.’” *Samson v. City of Bainbridge Island*, 149 Wn. App. 33, 49, 202 P.3d 334 (2009) (internal quotation marks omitted) (quoting *Lund v. Dep’t of Ecology*, 93 Wn. App. 329, 336-37, 969 P.2d 1072 (1998)). Permitted shoreline uses must be designed to “minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public’s use of the water.” *RCW 90.58.020*. See also *Buechel v. Dep’t of Ecology*, 125 Wn.2d 196, 203, 884 P.2d 910 (1994).

In promulgating the Shoreline Management Act of 1971, the legislature recognized that “ever increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development” of the state’s shorelines. *RCW 90.58.020*. The legislature also determined that “unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest.” *RCW 90.58.020*. Accordingly, the Shoreline Management Act requires local governments to develop a master program to regulate shoreline uses consistent with its guidelines. *RCW 90.58.080(1)*.

Shoreline Management Act Regulations

The Department of Ecology shoreline regulations are located in Chapters 173-26 and 173-27 of the Washington Administrative Code (WAC). Chapter 173-26 WAC sets forth procedures and guidelines for local adoption of shoreline master programs that are not applicable to the Applicant’s permit request. Chapter 173-27 WAC sets forth permitting procedures and permit criteria. The Hearings Examiner reviews the shoreline substantial development permit (SSDP) application under the following criteria:

- (1) A substantial development permit shall be granted only when the development proposed is consistent with:
 - (a) The policies and procedures of the act;
 - (b) The provisions of this regulation; and
 - (c) The applicable master program adopted or approved for the area. Provided that where no master program has been approved for an area, the development shall be reviewed for consistency with the provisions of chapter 173-26 WAC, and to the extent feasible, any draft or approved master program which can be reasonably ascertained as representing the policy of the local government.

- (2) Local governments may attach conditions to the approval of permits as necessary to assure consistency of the project with the act and the local master program.

WAC 173-27-150.

Thus, the Hearings Examiner must review the SSDP application against the City SMP policies and regulations. The City SMP contains policies and regulations related to residential development, impervious surfaces, vegetation management, and piers and docks, as detailed in the findings. Consistent with the requirements under WAC 173-27-150, the City SMP provides that SSDP applications shall be reviewed in accordance with the following criteria:

- A. All regulations of this program appropriate to the shoreline environment designation and the type of use or development proposed shall be met, except those bulk and dimensional standards that have been modified by approval of a shoreline variance under Section 17.30.020;
- B. All general goals and policies of this program, and goals, policies and standards specific to the appropriate shoreline environment designation and the type of use or development activity proposed shall be considered and substantial compliance demonstrated.

City SMP, Section 17.30.010.2

In addition to the above criteria:

Consideration shall be given to the cumulative environmental impact of additional requests for like actions in the shoreline vicinity. For example, if shoreline substantial development permits were granted for other developments in the area where similar circumstances exist, the sum of the permitted actions should also remain consistent with the policy of RCW 90.58.020 and should not produce significant adverse effects to the shoreline ecological functions and processes or other users.

City SMP, Section 17.30.010.3.

The criteria for review adopted by the Lacey City Council are designed to implement the requirement of chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with County development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusions Based on Findings

- 1. With conditions, the proposal would meet the requirements for site plan review under LMC 16.84.020.** The City provided reasonable notice and opportunity to comment on the proposal and to testify at the open record hearing. The City received numerous comments expressing opposition to the proposed development from members of the public in response to its notice materials, and several members of the public raised

*Findings, Conclusions, and Recommendation
City of Lacey Hearings Examiner
Gayteway Hicks Lake Proposal, No. 20-190*

concerns about the proposal at the open record hearing. Members of the public opposing the project generally raised concerns about the density of the proposed development, the proposal's traffic impacts, impacts to wildlife habitat, tree clearing that would be required to facilitate the development, impacts to schools, increased water traffic on Hicks Lake, noise impacts, light impacts, impacts to surrounding property values, potential increases in crime, and the cumulative impacts from development of this proposal in conjunction with the adjacent Schneider Hicks Lake Apartments development proposal. At the outset, it must be noted that community displeasure, alone, cannot be the basis of a permit denial. *Kenart & Assocs. v. Skagit Cy.*, 37 Wn. App. 295, 303, 680 P.2d 439, *review denied*, 101 Wn.2d 1021 (1984). Increased density associated with the proposed development (and with the adjacent Schneider proposal), resulting traffic impacts, and concerns over multi-family and/or high-density residential development significantly altering the character of the existing neighborhood represented a significant portion of the concerns expressed by area residents in both written comments and public testimony, as noted above. Absent inclusion of some appurtenant recreational amenities, however, review of the 132-unit complex would have occurred administratively as this type of development is permitted in the HDR zoning district and encouraged by the Comprehensive Plan. Concerns over adopted zoning regulations or Comprehensive Plan designations and policies are beyond the scope of the review authority granted to the Hearings Examiner. Rather, the Hearings Examiner must review the proposal for compliance with governing regulations. In doing so, the Hearings Examiner determines that, as conditioned, the Applicant's site plan conforms to the standards, provisions, and policies of the City as expressed in its various adopted plans and ordinances, as required for site plan review approval.

The proposal to develop the 5.31-acre property with 132 multifamily residential units and associated infrastructure and amenities would be consistent with several goals and policies of the Comprehensive Plan and the Lakes Planning Area that encourage the provision of an adequate amount and mix of housing types for the anticipated increase in population in appropriate areas with existing or planned public facilities, while ensuring the protection of environmentally sensitive areas. The City reviewed the environmental impacts of the proposal and determined that, with mitigation measures, it would not have a probable significant adverse impact on the environment. Accordingly, the City issued an MDNS for the proposal on April 20, 2022, which was not appealed. The MDNS would require the Applicant to pay traffic impact fees to Thurston County, complete an archaeological survey of the site, and notify appropriate agencies in the event that any archaeological or cultural resources are uncovered during site work.

The property is located within both the HDR and URBCON zoning districts. The portion of the property located within 200 feet of the Hicks Lake OHWM is within the URBCON zoning district, and the remaining portion of the property landward of Hicks Lake is zoned HDR. The proposed multifamily residential buildings and a majority of the infrastructure supporting the residential units would be located in the HDR zone, which

permits any residential use with a density of at least 12 units per acre. The HDR zone does not have a maximum density requirement, and the proposed development would provide a residential density of at least 25 dwelling units per acre (with a higher density calculation when accounting only for the portion of the property within the HDR zone). Accordingly, the proposal would comply with the density requirements for the HDR zoning district. Although several members of the public expressed concerns about the proposed density of the project impacting the existing character of the Hicks Lake area, this area was zoned for higher density development many years ago to encourage lakeside residential housing options beyond the predominately single-family development that is typical of the area surrounding Hicks Lake. The Applicant's project plans demonstrate that the proposal would comply with the maximum surface coverage and maximum building height requirements of the HDR zone, as well as with applicable off-street parking standards.

The portion of the property located in the URBCON zone and within the shoreline jurisdiction would contain a portion of the proposed amenity building, the pool facility, pedestrian pathway, and patio with two park benches. As detailed in Conclusion 3 below, as conditioned, the proposal would meet all applicable requirements for development within the shoreline jurisdiction. An offsite Category III lake fringe wetland is located to the east of the property, abutting Hicks Lake. All proposed development would occur outside of the buffer associated with the offsite wetland. The Applicant would remove non-native, invasive vegetation and would plant native vegetation within a 100-foot vegetation management area, resulting in no net loss of ecological or wetland buffer functions from adjacent site development.

A Traffic Analysis Impact (TIA) was performed, analyzing the cumulative impacts of the proposed development, the Schneider apartment project, and future projects, which determined that the proposal would generate 57 new vehicle trips during PM peak hours. The TIA did not identify any intersections that warrant signal installation. The Applicant's traffic engineer reviewed the third-party traffic analysis and concluded that it did not alter their traffic impact determinations. To mitigate traffic impacts, the Applicant would be required to pay fees to the City and to Thurston County. The Applicant would be required to submit a final stormwater site plan demonstrating compliance with the requirements of City of Lacey 2016 Stormwater Design Manual for review and approval from the City Public Works Department. The Applicant would be required to pay school impact fees to mitigate for the proposal's impacts to area schools. City Transportation Manager Martin Hoppe testified at the hearing that the roads surrounding the project site have been designed to accommodate construction vehicles and that specific plans for the use of construction vehicles serving the development would be addressed during pre-construction meetings. Conditions, as detailed below, are necessary to ensure that the proposal complies with applicable standards, provisions, and policies of the City as expressed in its various adopted plans and ordinances. *Findings 1 – 13, 15 – 47.*

2. **With conditions, the proposal would meet the requirements for a Class IV forest practices permit.** The Applicant's preliminary tree protection plan indicates that the proposed development would remove all 279 existing trees on-site, 223 of which are in healthy condition. The Applicant would be required to replant a minimum of 185 trees within tree tracts amounting to a least five percent of the gross site area, or 11,761 square feet. The City Forester would review the Applicant's final landscape plan to ensure that the proposal would meet all applicable requirements of the City's tree and vegetation protection and preservation code. Conditions, as detailed below, are necessary to ensure that the proposed development would satisfy the requirements of the municipal code and would be consistent with the criteria for approval of a Class IV forest practices permit.
Finding 14.

3. **With conditions, the proposal would be consistent with the policies of the Shoreline Management Act (SMA), the SMA shoreline regulations, the City of Lacey Shoreline Master Program (City SMP), applicable City SMP regulations, and the specific criteria for approval of an SSDP under WAC 173-27-150 and Section 17.30.010.2 of the City SMP.** The Applicant requests approval of an SSDP for portions of the proposed development that would be located within 200 feet of the Hicks Lake ordinary high water mark (OHWM). As noted above in Conclusion 1, these portions of the proposed development would include a portion of the proposed amenity building, the pool facility, pedestrian pathway, and patio with two park benches. As conditioned, the proposed development within the shoreline jurisdiction would provide accessory recreational opportunities for multifamily residential development, which is a reasonable and appropriate use of property within the URBCON shoreline environment.

The Department of Ecology shoreline regulations are located in Chapters 173-26 and 173-27 of the Washington Administrative Code (WAC). Chapter 173-26 WAC sets forth procedures and guidelines for local adoption of shoreline master programs that are not applicable to the Applicant's permit request. Chapter 173-27 WAC sets forth permitting procedures and permit criteria. The SSDP request is being reviewed under the criteria set forth in WAC 173-27-150. These criteria are intended to implement the policies of the SMA, which require that all shoreline projects be consistent with an approved local Shoreline Master Program.

The City SMP requires all residential development, including accessory appurtenant uses and structures, be set back a minimum of 100 feet from the Hicks Lake OHWM. The proposed amenity building and pool facility would be located landward of the 100-foot shoreline setback for multifamily residential accessory structures. The proposed pathway and patio with two park benches would be located within the 100-foot setback. Pedestrian trails and shoreline access segments are allowed in the URBCON shoreline environment, with no required setback from the Hicks Lake OHWM. The proposed patio and park benches would be allowed to be located no less than 50 feet from the Hicks

Lake OTHM as a water-enjoyment use provided that this amenity would be available for use by the general public. The URBCON shoreline environment designation provides a 30 percent impervious surface limitation. Preliminary plans indicate that the development would result in 34.16 impervious surface coverage in the URBCON shoreline environment, exceeding this limitation. The Applicant would therefore be required to revise its site plans to reduce the amount of impervious surface that would be included within this portion of the property, and indicated at the hearing and through additional written comments that it would do so. The City would review the Applicant's revised site plans to ensure compliance with the impervious surface requirement. The Applicant would remove non-native, invasive vegetation and would plant native vegetation within a 100-foot vegetation management area and would submit a vegetation management plan to ensure that the proposed development would result in no net loss of ecological or wetland buffer functions. Conditions, as detailed below, are necessary to ensure that the proposal meets the criteria for approval of an SSDP and complies with all other local, state, and federal requirements. *Findings 1 – 11, 15 – 47.*

RECOMMENDATION

The Hearings Examiner recommends that the Lacey City Council **APPROVE** the request for a shoreline substantial development permit and a Class IV forest practices permit, and for site plan review approval, to allow construction of a 132-unit multifamily residential development with associated amenities, including a recreation building, pool, and parking, at 2801 Hazelwood Lane SE, with the following conditions:⁴

1. This proposal shall be developed in substantial conformance with the plans submitted on November 2, 2021, except as modified by the conditions below.
2. All requirements of the MDNS issued on April 20, 2022, shall be satisfied.
3. Prior to building permit issuance, the developer shall receive multifamily design review.
4. The following note shall be on the building, grading and land clearing permits:

When an unanticipated discovery of protected cultural materials (e.g. bones, shell stone tools, beads, ceramics, old bottles, hearths, etc.) or human remains are discovered, the property owner or contractor will immediately stop all work, completely secure the location, and contact the Washington State Department of Archeology and Historic Preservation and other contacts as identified in the City of Lacey Standard Inadvertent Archeological and Historic Resources Discovery Plan (LMC 16.53.080).

⁴ This decision includes conditions designed to mitigate impacts of this proposed project as well as conditions required by City code.

5. Prior to building permit issuance, a revised site plan shall be submitted to the Community and Economic Development Department for review and approval. The site plan shall be revised to include the following items:
 - Tree tract locations and calculations;
 - Reduction in impervious surface areas within Urban Conservancy zoning that satisfies the 30 percent maximum impervious surface standard set forth in SMP 17.24.015.
6. No trees shall be removed until a grading permit has been issued. Grading plans shall be designed to consider tree retention on the site. Prior to any site clearing and/or construction activities occurring all tree protection fencing shall be placed around the perimeter or the tree protection and tree tract areas, and around any individual trees selected to be retained. Tree protection fencing shall be shown on the grading plans for the proposed project. A detail of the tree protection fencing can be found in the tree report prepared for this project by Washington Forestry Consultants, dated February 10, 2021.
7. The final landscape plan shall identify and incorporate trees for retention in the designated tree tract area and within required landscaping. Tree replanting shall also be required within the tree tract if existing trees are not sufficient to meet canopy coverage requirements of Chapter 14.32 LMC. The trees to be planted within the tree tracts shall be identified on the landscaping plans prepared for this project and shall be subject to review and approval by the City of Lacey Forester. All evergreen tree species shall be resistant to laminated root rot. Landscape and a separate irrigation plan shall be submitted to the Planning section of the Community and Economic Development Department for review and approval prior to the issuance of the vertical building permits for the project.
8. The following note shall be shown on the site and landscape plans for the project:

The tree tract is designated in accordance with Chapter 14.32 LMC and shall be dedicated to the growing, protection, and preservation of trees in perpetuity. No tree removal in the tree tract, without the prior written authorization of the City of Lacey, is allowed.
9. Tree protection shall follow the Timeline for Tree Protection Activity outlined on page six of the report dated February 10, 2021. Trees identified for protection shall be protected throughout all phases of construction activity, with orange, mesh, construction fencing on steel driven posts. A detail of the tree protection fencing, the locations of the tree protection fencing, and the Timeline for Tree Protection Activity, shall be shown on the grading plans for the project.
10. Prior to any site construction activities taking place, a preconstruction meeting shall be held with Washington Forestry Consultants to review the location of the tree protection fencing. A note stating that a preconstruction meeting shall be held with Washington

Forestry Consultants shall be shown on the grading plans for the project. Confirmation from the Forester that the meeting has been held shall be provided to the Community Development Department prior to the start of site construction or grading activity.

11. Prior to site construction activity the contractor completing any tree removal or logging work shall sign and submit the “Acknowledgement of Responsibilities for Professionals Doing Tree Removal in the City of Lacey.” The form shall be submitted to the Planning Department prior to issuance of the grading permit.
12. School impact fees shall be collected from the Applicant by the City of Lacey prior to issuance of the building permit for each residential building. Fees shall be forwarded to the North Thurston School District and shall be as generated by the formula for calculating impacts fees as set forth in the Capital Facility Plan for the North Thurston 16 School District, which has been incorporated by reference into the Lacey Municipal Code.
13. A detailed landscaping plan shall be prepared by a licensed landscape architect, nursery person, or landscaper and submitted to the Planning Department for review and approval. The plan shall include the type, number, and location of the vegetative improvements as well as a specific timeline for completion of the improvements. A separate irrigation plan must also be submitted showing the location of all irrigation lines, location of sprinkler heads, and approximate coverage areas. The plans must include a note stating that the property owner is responsible for maintaining all plants in a healthy growing condition for the life of the project. All requirements of Chapter 16.80 of the Zoning Code shall be satisfied. *Chapter 16.80 LMC.*
14. All requirements of the SMP Vegetation Management Plan shall be met within the shoreline zoning and be depicted in the landscape plans. *SMP 17.41.*
15. A detailed estimate from a landscape installer must be submitted to the Planning Department. The estimate should include all costs associated with installing landscaping and irrigation as called out on the approved plans, including labor. *Chapter 16.80 LMC.*
16. A letter of credit or assignment of savings must be provided to the Planning Department in the amount of 150 percent of the above-mentioned landscape estimate. The City shall release this financial security once the landscaping for the project is installed and approved by the Planning Department and a financial security is in order to ensure that all plant materials are properly maintained. This security device shall be in the amount of 20 percent of the value of the vegetative improvements and shall be held for a period of one year. *Chapter 16.80 LMC.*
17. A note shall be placed on the face of the landscaping and irrigation plans stating that any irrigation lines placed within tree protection zones established for the project must be

installed in such a manner as to not cause damage to the root protection zone, such as by cutting roots, digging trenches, operation of machinery, etc. Special care must be taken (hand digging trenches, designing lines to stay out of these areas where possible, etc.) to ensure damage to the trees does not occur. In the event damage to these areas does occur, the city may require, at their discretion, replacement of the comparable landscape value of the trees damaged or other means to make up that loss. *Chapter 16.80 LMC.*

18. All applicable requirements of the City Zoning Code shall be satisfied (LMC Title 16).
19. The Applicant/developer shall be responsible for obtaining all applicable permits required for the project, including National Pollutant Discharge Elimination System Permit (NPDES) and any others. These permits will require additional review time from the appropriate agencies.
20. One fire hydrant shall be installed, tested and approved prior to vertical building permit issuance. *LMC 14.07.501.4.*
21. An approved 20-foot-wide all-weather surface fire apparatus access roads shall be provided to within 150 feet of all exterior portions of the buildings at ground level. Said fire apparatus access road shall be located not less than 10 feet from the building. *IFC Section 503.1.*
22. An approved aerial fire apparatus access roadway shall be provided along one entire side of the building when any portion of the building is in excess of 30 feet in height from the grading median of the building to the roofing eaves. Said aerial fire apparatus access road shall be not less than 26 feet in width and be not less than 15- feet away or further than 30 feet away from the building. Aerial fire apparatus access roadways shall be constructed in accordance with AASHTO HB-17 Standards for a single axle weight load of 46,000 lbs. and a gross weight load of 65,000 lbs. *IFC Section D105.*
23. The inside turning radius along fire apparatus access roadways shall be not less than 28 feet. *IFC Section D103.3.*
24. The required fire-flow for the building shall be not less than 1,500 gallons per minute (gpm) in accordance with IFC Appendix B. Said fire-flow is based on square footage of Type V-B Construction including a 50% credit for the installation of automatic fire sprinkler systems. *IFC section 507.1; LMC 14.07.015.*
25. A minimum of two fire hydrants shall be provided in accordance with IFC table C102.1 and LMC 14.07 for the building, there shall never be less than two fire hydrants available for any occupancy other than group R-3 and U occupancies, larger than five hundred square feet of ground floor area. Fire hydrants shall be placed no closer than 40 feet from the building or structure protected. In addition, a fire department connection

shall be installed in accordance with LMC 14.07 a fire department connection shall be located within 40 feet of a fire hydrant. Hydrant spacing shall be every 330 feet around the complex. More than likely more than two hydrants will be needed for the site with FDC distance so far apart.

26. An approved addressable fire alarm system with supervised monitoring shall be provided throughout the buildings in accordance with the City of Lacey Municipal Code (LMC) and NFPA 72 Standards (2016 Edition). Each building needs its own fire panel, and they can report back to one monitoring account.
27. The purposed buildings shall be equipped with an approved automatic sprinkler system and shall be installed in accordance with NFPA 13 (2016 Edition) standards.
28. Approved 12" address numbers shall be provided on the buildings in a location facing the fire apparatus access roadway. *IFC Section 505.1; LMC 14.07.015.*
29. Fire Dept. Knox Boxes shall be provided for all buildings. The clubhouse shall have a Police and Fire Knox box.
30. The City of Lacey fire code official shall conduct the necessary inspections or witness required tests to ascertain compliance with applicable fire codes. The Applicant shall contact the City of Lacey Building Department, at (360) 491-5642, to schedule the required inspection or to request witness of required tests. At least 24 hours shall be allowed for scheduling. *IFC Section 106.2.*
31. Appropriately sized water mains shall be extended throughout the proposed site to provide domestic water service to each individual building, meet water quality and satisfy Lacey Fire requirements. Mains shall be extended through the site from the 10-inch main in Hicks Lake Road and connected to the 6-inch main in Hazelwood Lane. All mains installed on site shall be looped, dead end mains will not be permitted. A minimum of an 8-inch main shall be extended throughout the site; however, depending on fire protection requirements, a larger main and possibly upsizing of the existing 6-inch mains may be required. Actual main size requirements will be dependent on the fire flow requirements and modeling results.
32. A domestic water meter shall be provided for each building. Each domestic water meter shall be equipped with a Reduced Pressure Backflow Assembly device. *City of Lacey 2017 Development Guidelines and Public Works Standards Manual (DG&PWS), Water 6.120 F and Appendix P.*
33. An irrigation meter with a City of Lacey approved backflow prevention device shall be provided for all landscaped areas. *DG&PWS, Water 6.120 F.*

34. For Irrigation lines located in the Right-of-Way, the following shall be stated on the irrigation plans and is a condition of approval: “The property owner adjacent to the public Right-of-Way will be responsible for maintaining and locating all irrigation lines located in the public Right-of-Way.” *DG&PWS, Water, Irrigation 6.210.*
35. Water system improvements shall meet the requirements of the City of Lacey, the Coordinated Water System Plan (CWSP), Department of Health (DOH), City of Lacey Water System Plan, AWWA, Department of Ecology, Thurston County Environmental Health and City of Lacey Fire Code Official’s standards. Actual main size, loop closures, and possible off-site improvements including the number and location of fire hydrants, will depend on the fire flows required and available to the site. *DG&PWS, Water 6.010.*
36. Show all adjacent wells within 100 feet of the proposed project with their protective radii. (DG&PWS, Subdivisions and Short Plats, Chapter 2 – plat checklist). If site improvements encroach on existing well radii, provisions shall be made to assure wells are properly protected.
37. Extend water mains throughout the project to satisfy City of Lacey Water Comprehensive Plan requirements. Also, extend water mains throughout the site to assure fire, water quality and domestic requirements can be satisfied. *DG&PWS, Water 6.020.*
38. Public water mains shall be located on either the North or East side of the roadway or drive aisle 6 feet off centerline. Prior to initial civil review of this project, mains shown on the current site plan not meeting this requirement shall be relocated to their required locations. *DG&PWS, Water 6.020.*
39. To assure adequate water is present for your project. Modeling of the water system shall occur. Please contact Brandon McAllister (360.413.4386) to coordinate the fire flow modeling.
40. If utility extensions are needed for the proposed project for roads that were paved in the last five years and the roads must be “cut,” a disruption fee will be charged in accordance with Lacey Municipal Code 12.16.055.
41. The builder/Applicant/owner is required to purchase each water meter prior to the issuance of each building permit. *DG&PWS Water 6.121.*
42. Each apartment building shall connect to gravity sewer. The amenity building can connect to sewer with a grinder system. Appropriately sized gravity mains shall be installed onsite to service the project with sewer. If each apartment building cannot connect to gravity sewer, a lift station shall be constructed to serve all apartment units and the amenity building with sewer. The area needed for lift station improvements shall be 85 feet by 60 feet. In order to size the lift station, the force main and other

improvements associated with the lift station, a lift station report will be needed. Prior to submitting the report, the Applicant's engineer shall work with Brandon McAllister of the City of Lacey (360-413-4386) to determine the service area for the lift station and other lift station criteria.

43. The City of Lacey will not install gravity sewer within Hicks Lake Road for this project. If sewer is not installed "by others" as indicated on the site plan, installation of an 8- inch gravity sewer main within Hicks Lake Road connecting to where the existing sewer terminates will be the responsibility of this project.
44. If a lift station is installed, appropriately sized force mains exiting the site and discharging to the gravity main on Hicks Lake Road shall be installed.
45. Confirmation that the site layout satisfies maintenance vehicle requirements needs to the provided. The layout must allow a 40-foot long vector truck with an inside turning radius of 45 feet to maneuver through the site (auto-turn confirmation is needed). Covered parking along the route may be prohibited. Parking may also be prohibited within the vicinity of the lift station to allow for vector truck movements.
46. There are capacity issues at the next lift station downstream from this site. Depending on timing of other projects in the area. Lift station upgrades at that site may be required. Possible lift station upgrades will be determined during the civil review of this project.
47. Public sewer mains shall be located on either the South or West side of the roadway or drive aisle 6 feet off centerline. Prior to initial civil review of this project, mains shown on the current site plan not meeting this requirement shall be relocated to their required locations.
48. All existing on-site septic tanks and drain fields shall be removed per Department of Ecology and Thurston County Department of Health.
49. All existing and proposed structures shall be connected to sanitary sewer. *DG&PWS, Sewer 7A.010*. Public mains with associated appurtenances shall be installed to serve the proposed project with sewer.
50. Provide sewer stubs to each building connecting to the public main. Side sewers for each building shall be connected to a manhole, pipes shall not connect to manholes with an angle less than 90 degrees in relation to the outlet pipe. *DG&PWS, Sewer 7A.010*.
51. Sanitary sewer improvements associated with this project shall meet the requirements of the City of Lacey Comprehensive Sanitary Sewer Plan, Thurston County Health Department, Washington State Department of Health (DOH), the LOTT Clean Water

Alliance and Department of Ecology. *DG&PWS, Sewer 7A.010 and Subdivisions and Short Plat 2-21.*

52. Treatment and infiltration facilities shall be constructed for stormwater associated with the site, adjacent properties currently discharging to the site along with the half street stormwater associated with the frontages along Hicks Lake Road SE, Hazelwood Lane and 30th Avenue.
53. Since the project is located in a Category I Critical Aquifer Recharge Area, stormwater will require basic, metals, and phosphorous treatment.
54. In Section 1 of the drainage report, please provide descriptions and data tabulation for drainage subareas, including the surface areas of existing and proposed surface types and pollution-generating surfaces.
55. For each proposed infiltration facility location, please provide the following: proposed facility bottom elevation; seasonal high groundwater levels and evidence of adequate vertical separation from bottom of each proposed infiltration facility to seasonal high groundwater levels; presence of stratification that may impact the infiltration design; and determination/confirmation of design infiltration rate of soils at each proposed infiltration facility location and depth. *2016 SDM, Section 7.2.2.*
56. Infiltration galleries shall be designed in conformance with the criteria in Section 7.4.8 of the 2016 SDM. Please ensure the plan details illustrate the applicable design criteria. The constructed infiltration facilities may be subject to testing and/or monitoring for verification of performance. *2016 SDM, Section 7.2.* Add a note on the plans and in the Maintenance and Source Control Manual clearly stating that pavement may need to be removed for gallery maintenance, repair, or replacement. *2016 SDM, Section 7.4.8.*
57. The proposed infiltration galleries are considered “UIC wells” per the Washington State Department of Ecology’s Underground Injection Control (UIC) program. The UIC program requirements include submittal of a registration form 60 days prior to construction. *2016 SDM, Section 7.3, and Ecology’s UIC Program, 2019 update.*
58. To comply with Core Requirement #6, stormwater runoff from pollution-generating surfaces requires enhanced treatment due to location within a Category I Critical Aquifer Recharge Area, plus phosphorus control due to the proximity to the lake. This treatment level is proposed to be met with manufactured runoff water quality treatment systems, which are subject to City approval for use. Provide Ecology’s “General Use Level Designation” (GULD) documentation for the proposed treatment systems in the drainage report and provide sizing calculations per the GULD conditions. Also, please provide detail drawings and specifications for the water quality treatment systems in the plan set.

59. In Section 3 of the drainage report, please describe the provisions and flow paths in the event of overflow, blockage or failure of the on-site infiltration facilities; provisions for spill control upstream of each infiltration facility; and sizing data for each infiltration facility. *2016 SDM, Sections 3.3.3 and 7.2.3.*
60. The infiltration section of the geotechnical report references a Thurston County drainage manual, which is not applicable within the City of Lacey. Please reference the City of Lacey 2016 Stormwater Design Manual for applicable requirements, criteria, and procedures.
61. Pool maintenance shall conform to state and local requirements for source control of pollutants and prevention of illicit discharges. Please include appropriate guidance in the Maintenance and Source Control Manual for the site owner. *2016 SDM Chapter 9, Ecology's 2019 SWMMWW Volume IV, and LMC Chapter 14.29.*
62. This project shall comply with the City of Lacey 2016 Stormwater Design Manual (LMC 14.27). Stormwater drainage and erosion control submittals shall be in conformance with the design, formatting and content requirements described in Chapter 3 of the 2016 Stormwater Design Manual.
63. A final Stormwater Site Plan, including a drainage report and drainage plans in conformance with current Stormwater Design Manual standards, shall be provided prior to final Public Works civil approval. Some key elements to be included within the report are: the project engineer's certification; descriptions of how each of the Core Requirements is being addressed; construction SWPPP; basin map and plan drawings; hydrologic modeling inputs and results (including the WWHM 2012 Data files produced with the model); summary data of sub-basin areas, design calculations, and facility sizing; soils report and infiltration analysis; soil management plan; maintenance agreement/covenant; and a stormwater facilities maintenance manual. *SDM 2.2.1.*
64. This project shall retain, disperse, and infiltrate stormwater on-site to the maximum extent feasible. Design of infiltration facilities requires site infiltration analysis, to determine wet-season soil and groundwater conditions and to establish a long-term design infiltration rate. *SDM 2.2.5 & 7.2.*
65. In conformance with the City of Lacey 2016 Stormwater Design Manual, soil quality and depth design criteria shall be incorporated into the site design and construction.
66. The following note shall be shown on the face of the civil engineering drawings and is a condition for approval: "Individual roof downspout infiltration systems shall be installed for each building. Each system shall be sized to accommodate storm runoff per the City of Lacey 2016 Stormwater Design Manual"

67. If site conditions cannot support downspout infiltration or dispersion systems, a note must be included on the civil drawings indicating that roof and foundation drains shall be tied into stormwater system with perforated stub-out connections. *SDM 2.2.5 and 7.4.10.*
68. A Construction Stormwater Pollution Prevention Plan (SWPPP) shall be submitted to and approved by the City prior to beginning site work or construction of the project. A complete SWPPP consists of both a narrative report and a temporary erosion and sediment control plan drawing. Each of the 13 SWPPP Elements as identified in Chapter 5 of the City of Lacey 2016 Stormwater Design Manual shall be addressed and included in the construction SWPPP. If site conditions render any SWPPP elements unnecessary, exemptions for each element shall be clearly justified in the narrative report.
69. A Stormwater Facility Maintenance Manual per chapter 3 of the City of Lacey 2016 Stormwater Design Manual shall be submitted to and approved by the City of Lacey. The maintenance manual shall be included in the drainage report as part of the stormwater site plan. The maintenance manual shall be prepared as a stand-alone document for the post-development facility owner(s). The maintenance plan shall be submitted to and approved by the City prior to civil drawing approval.
70. The maximum depth of an infiltration facility is 20 feet below the surrounding finished (developed) ground elevation, in order to provide for long-term maintenance access to the facility.
71. From October 1 through April 30, clearing, grading, and other soil disturbing activities shall be prohibited unless shown to the satisfaction of the City of Lacey that sediment-laden runoff will be prevented from leaving the site. *SDM 5.2.3.*
72. The traffic mitigation identified as of March 9, 2022, is \$53,150.40 and will mitigate off site traffic impacts for this project. The actual fee will be determined at the date of payment for issuance of building permits, water meters, or other approval process. The fees increase annually in an amount equal to the increase in the Engineering News Record Construction Cost Index over a date one year earlier. *Chapter 14.21 LMC.*
73. Hicks Lake Road SE is classified as a Major Local Residential roadway. This section of roadway requires 27 feet of half street Right of Way. See Detail 4-4.0 dated 12/15/14 from the City of Lacey 2017 Development Guidelines and Public Works Standards Manual. Right-of-way dedication may be required if sufficient Right-of-Way is not currently present. Prior to Certificate of Occupancy of any building associated with this project, the installation and approval of half-street frontage improvements is required.
74. Prior to occupancy of the first residential building the developer shall install a pedestrian connection from the northern property boundary on Hicks Lake Road to 25th Avenue SE.

75. Hazelwood Lane is classified as a private road. Half street commercial private road standards shall be installed for this road. This standard typically requires a half street section of 11 feet of roadway, curb and gutter and a 5-foot sidewalk. For this application in lieu of installation of a sidewalk along this roadway, the request was made to utilize internal sidewalks to provide pedestrian access to Hicks Lake Road instead of installing a sidewalk along Hazelwood Lane. In order to permit this alteration to the City standards, the sidewalk adjacent to Building 'D' shall connect to Hazelwood Lane and be designed for pedestrian connectivity. An access easement shall be provided to allow pedestrians that would typically utilize the sidewalk required along Hazelwood Lane to utilize the sidewalks within the Hick Lake Multifamily project. Section 4B.080 E of the City of Lacey 2017 Development Guidelines and Public Works Standards Manual, provides for exceptions to frontage improvements when addressed through a condition of approval.
76. 30th Avenue is classified as a Minor Local Residential roadway. This section of roadway requires 25 feet of half street Right of Way. See Detail 4-4.1 dated 12/15/14 from the City of Lacey 2017 Development Guidelines and Public Works Standards manual. It appears Right of Way for this roadway is currently dedicated. Within the existing Right of Way, half-street road improvements shall be installed. Also since this roadway is the secondary emergency vehicle access to the site, rather than 14 feet of pavement being installed, 20 feet shall be installed to support emergency vehicles. Prior to Certificate of Occupancy of any building associated with this project, the installation and approval of half street frontage improvements is required.
77. Traffic Mitigation fees shall be paid to the City of Lacey and all traffic mitigations as determined by the Traffic Impact Analysis shall be installed by the Applicant and approved by the City of Lacey prior to Certificate of Occupancy of any building. Conditions of Lacey Municipal Code 14.21 shall be satisfied.
78. Street lighting levels shall satisfy City of Lacey requirements for roadways and intersections. Street lighting is required for all streets fronting this project (Street lighting per City of Lacey spacing Standards). All street light designs shall be prepared by an engineering firm capable of performing such work. *DG&PWS, Transportation, Illumination 4E.010.*
79. As a condition of final Public Works Approval, electrical services associated with street lighting, pump stations, or other applications (for the Public benefit as agreed to by the City) shall be transferred into the City's name. In order to change service, the Applicant/owner must provide a copy of a billing statement to the City. If service has not been established, the Applicant/owner must provide the following information to the City to establish service: Project Name (final subdivision name), service meter's number, address of the service meter, owner's contact number and address, and the type of items are being energized by the service. All fees associated with the installation of the service shall be the responsibility of the developer. Without the information outlined above or a

copy of a previous billing statement, the service will remain in the Applicant/owner's name, and they will be responsible for payment of the bills until such time as the information is received by the City.

80. Fiber optic conduit shall be installed and conform to the standards and requirements as set forth in Chapter 4 (Transportation) from the Development Guidelines & Public Works Standards. *DG & PWS, Transportation 4E.035.*
81. Access shall be provided to the property as determined and approved by the City. All access points shall meet minimum access spacing, minimum corner clearance, sight distance and minimum or maximum width requirements as outlined in the Development Guidelines & Public Works standards. *DG & PWS, Transportation 4B.025.*
82. All public streets within the City and the City's UGA boundary will be planted with trees to create a distinct and pleasant character for those roadways. The street trees located in the Development Guidelines shall be required in or along the public Right-of-Way, including medians. *DG&PWS, Transportation 4G.100.*
83. The following is a condition for approval: "The City of Lacey has no responsibility to build, improve, maintain, or otherwise service the private roads within or providing access to the property associated with this project." *LMC 15.32.190.*
84. The following note is a condition for approval: "The owner shall be responsible for maintaining the private streets (along with associated parking areas) and planter strips (weeding, mowing, pruning of the street trees, etc.) in a healthy and growing manner in perpetuity." *DG&PWS, Transportation 4G.100D.*
85. Utility easements are required for all mains, water and sewer located on private property. Easements shall include fire hydrants, water meters, sewer improvements and future extensions of mains to adjacent properties. Easements and stub outs shall be provided to serve adjoining properties as determined by the City. Rather than being designated as water or sewer, all easements shall be identified as "utility" easements on the civil drawings and in the easement document. Specific requirements will be determined at the of plan review. All easements shall be prepared by a licensed land surveyor and submitted prior to release of approved civil drawings. *DG&PWS Chapter 3.110.*
86. Landscaping within easement areas shall be limited to shrubs and other low growing vegetation without major root systems. Trees are prohibited within easement areas.
87. The City of Lacey Coordinate System is a ground scale coordinate system derived from the Washington Coordinate System, NAD 83/91. Units are expressed in feet. Data can be obtained from Lacey Public Works Department. Civil drawings shall be submitted utilizing the City of Lacey Coordinate System. *DG&PWS 3.025.*

88. City of Lacey Vertical Datum has elevations referenced to the National Geodetic Vertical Datum of 1929 (NGVD29). Units are expressed in feet. A benchmark listing can be obtained from Lacey Public Works Department. Civil drawings shall be submitted utilizing the City of Lacey Vertical Datum. *DG&PWS 3.025.*
89. Right-of-Way shall be dedicated for a project that requires Site Plan Review or for a conditional use permit approval. The requirement to dedicate Right-of-Way shall be determined by the City or Regional Transportation plans, by a Traffic Impact Analysis, or as determined by Public Works. Dedications shall be determined by a professional Land surveyor. Dedication shall be submitted and approved by the City prior to plan approval. *DG&PWS, Transportation 4B.060.*
90. Immediately adjacent to the public Right of Way a 10-foot joint utility easement area shall be dedicated to accommodate the installation of private and public utilities (2017 DG&PWS details).
91. All improvements shall satisfy City of Lacey Development Guideline Standards in place at the time complete application is obtained (Complete application is determined by the City of Lacey Community Development Department).
92. If any part of these comments as established by existing plans, guidelines, codes and the like as established by ordinances shall be found invalid, all other parts shall remain in effect. *DG&PWS 3.035.*
93. All Public Works improvements must be designed by an engineer licensed in the State of Washington and submitted to the City of Lacey Public Works Department for review and approval. *DGPWS 3.040.*
94. Prior to submitting civil drawings for review, Land Use Approval must be obtained.
95. All structures associated with this site shall be connected to City of Lacey utilities. *DG&PWS 6.010 and 7A.010.*
96. Prior to civil drawing approval, one paper set of drawings along with a PDF copy of the drainage report and civil drawings shall be submitted for all approved final plans. *DG&PWS Chapter 3.040,B.*
97. Prior to final Public Works Construction approval, “as-built” bonded paper drawings along with the revised civil drawings in AutoCAD and PDF formats shall be submitted for all approved final plans. *DG&PWS Chapter 3.040, J.*

98. Certificate of Occupancy for the building (s) will not be issued until all paperwork required for the project is submitted and approved and all improvements shown on the approved civil drawings are installed by the Applicant and approved by the City. *DG&PWS 4B.080.*
99. A 20 percent maintenance bond or financial guarantee of the engineer's estimate or approved bid estimate is required for a period of 24 months upon construction completion and approval of Public Works improvements. The financial guarantee may be released after 18 months if all conditions of approval have been satisfied. The financial guarantee applies to sewer, stormwater, water, frontage, landscaping/irrigation, roadway and street lighting improvements. *LMC 14.20.025.*
100. If building permits are desired prior to improvements shown on the civil drawings being constructed by the Applicant and approved by the City, a financial guarantee at a rate of 150 percent of the outstanding improvements within the Public Right-of-Way shall be submitted to the City. *DG&PWS 3.090 A.*
101. Along with the civil review application and the completed, signed and stamped checklist from Chapter 3 of the Development Guidelines, please provide three sets of civil drawings, two drainage reports and one electronic copy of the civil drawings (PDF format). These drawings shall be submitted directly to the City of Lacey Public Works Department. Drawings submitted to other City departments will not satisfy this requirement. *DG&PWS 3.040, B.*
102. The property owner(s) adjacent to the public Right-of-Way shall be responsible for maintaining the planter strip, median and area within the Right-of-Way between the sidewalk and property line (weeding, pruning, irrigating, mowing, etcetera of the landscaping and street trees.) in the public Right-of-Way in a healthy and growing manner in perpetuity. If these areas are being maintained by another group or organization, then a maintenance agreement (or adequate documentation) that verifies these areas are being (and will continue to be) maintained shall be submitted to the City for review. *DG&PWS, Transportation 4G.100D.*
103. To protect the public interest on private property, utility mains located on private property shall be protected from damage. If on-site settling or other phenomenon occurs causing valve boxes, sewer manholes or other appurtenances to protrude above or settle below the driving surfaces or ground elevations, the owner will be notified, and the problem shall be fixed within 30 days of notification. If the problem is not fixed within the 30-day time period, the City will fix the problem and bill the property owner. This language shall be included on the face of any binding site plan or easement documents submitted to the City.

104. A Bill of Sale for water, sewer and street lighting improvements being installed with this project is a requirement for approval. Prior to Final Public Works approval of the project, Bill of Sale documents shall be submitted to and approved by the City.

RECOMMENDED this 22nd day of July 2022.



ANDREW M. REEVES
Hearings Examiner
Sound Law Center

Attachment A

The following exhibits were admitted into the record:

1. Exhibit List
2. Staff Report, dated May 26, 2022
3. General Land Use Application, dated February 18, 2021
4. Site Plan Review Supplemental, undated
5. Shoreline Permit Application, dated February 18, 2021
6. Wetland Development Supplemental, undated
7. Joint Aquatic Resources Permit Application Form, dated February 18, 2021
 - a. Joint Aquatic Resources Application Map, dated February 11, 2021
8. Land Clearing/Class IV Forest Practices Application, dated February 18, 2021
9. SEPA Environmental Checklist, dated February 18, 2021
10. Preliminary Civil Drawings
11. Shoreline, Wetland, and Fish and Wildlife Habitat Assessment Report, Soundview Consultants, dated February 2021
12. Preliminary Drainage Report, Barghausen Consulting, dated February 12, 2021
13. Geotechnical Report, Soundgaard Geoscience, dated January 28, 2021
 - a. Soil Infiltration Report, dated February 8, 2022
14. Transportation Generation Worksheet, TENW, dated March 8, 2021
15. Updated Traffic Impact Analysis, TENW, dated September 24, 2021
16. Tree Report, Washington Forestry Consultants, dated February 10, 2021
 - a. Topographic Survey, dated September 17, 2020
17. Stormwater Pollution Prevention Plan, dated February 12, 2021
18. Civil and Site Plans, dated November 2, 2021
19. Landscaping Plan, dated November 3, 2021
20. Notice of Application with Optional DNS Process, dated March 26, 2021
 - a. Notice of Application with 16-Day Comment Period Extension, undated
21. Notice of Hearing, undated
22. Certification of Public Notice, dated May 17, 2022
23. Mitigated Determination of Nonsignificance, issued April 20, 2022
24. Public Notice of Mitigated Determination of Nonsignificance, undated
25. Agency Routing Sheet, dated March 29, 2021
 - a. Agency Routing Sheet with 16-Day Comment Period Extension, dated April 12, 2021
26. Staff and Agency Comments
 - a. Comment from Terry McDaniel, City Plans Examiner, dated April 2, 2021
 - b. Comment from Tom Stiles, City Public Works, dated March 11, 2022
 - c. Comment from Doug Christenson, City Stormwater Engineer, dated April 29, 2021
 - d. Comment from Chris Stolberg, City Transportation Engineer, dated March 9, 2022

*Findings, Conclusions, and Recommendation
City of Lacey Hearings Examiner
Gayteway Hicks Lake Proposal, No. 20-190*

- e. Comment from Arthur Saint, Thurston County Public Works, dated April 19, 2022
- f. Comment from Stephanie Jolivette, Department of Archaeology and Historic Preservation, dated April 12, 2021
- g. Comment from Department of Ecology, dated April 12, 2021
- h. Comment from Mike Burnham, Intercity Transit, dated April 2, 2021
- i. Comment from Lauren Whybrew, Olympic Regional Clean Air Authority, dated April 5, 2021
- j. Comment from Brad Beach, Nisqually Indian Tribe, dated March 30, 2021
- k. Comment from Shaun Dinubilo, Squaxin Island Tribe, dated March 30, 2021
- 27. Public Petition
- 28. Public Comments from April 5, 2021, to April 14, 2022
 - a. Comment from Scott Goddard, dated December 13, 2021
 - b. Comment from Robert and Deanna Krell, dated April 26, 2021
 - c. Comment from John Von Almen, dated April 11, 2021
 - d. Comment from Rachel Crum, dated April 9, 2021
 - e. Comment from Kate Ayers, dated April 9, 2021
 - f. Comment from Vern and Lynne Dearing, dated April 13, 2021
 - g. Comment from Scott Goddard, dated April 13, 2021
 - h. Comment from Scott Goddard, dated April 27, 2021
 - i. Comment from Scott Goddard, dated February 19, 2022
 - j. Comment from Margaret Shannon, undated
 - k. Comment from Cheryl Tack, dated April 14, 2022
 - l. Comment from Vern and Lynne Dearing, dated March 9, 2022
 - m. Comment from Chris Gagnon, dated July 21, 2021
 - n. Comment from Lynn Grotzky and Lisa Brodoff, dated April 28, 2021
 - o. Comment from Eduardo Maldonado, dated April 27, 2021
 - p. Comment from DJ and Dean Lietzau, dated April 13, 2021
 - q. Comment from Lynn Grotzky and Lisa Brodoff, dated April 28, 2021
 - r. Comment from Patti Logan, dated May 15, 2022
 - s. Comment from Savanna Small, dated May 14, 2022
 - t. Comment from Gary Wilson, dated May 14, 2022
 - u. Comment from Amy and Greg Fisher, dated May 10, 2022
 - v. Comment from Kyle McKeon, dated April 25, 2022
 - w. Comment from Nancy Snyder, dated January 31, 2022
 - x. Comment from Sharon Herting, dated January 31, 2022
 - y. Comment from Rob Myers, dated November 25, 2021
 - z. Comment from Dennis Rhodes, dated July 17, 2021
 - aa. Comment from Save Hicks Lake, dated July 12, 2021
 - bb. Comment from Erin Puente, dated June 24, 2021
 - cc. Comment from Victoria Byington, dated June 23, 2021
 - dd. Comment from Haley McGinnis, dated May 28, 2021
 - ee. Comment from Karin Frischknecht, dated May 20, 2021

- ff. Comment from Patricia Johnson, dated May 8, 2021
- gg. Comment from Curtis and Diane Leigh, dated April 26, 2021
- hh. Comment from Elizabeth Hicks Klingler, dated April 30, 2021
- ii. Comment from Adam Wilson, dated April 30, 2021
- jj. Comment from Angela and Brandon Konen, dated April 29, 2021
- kk. Comment from Shirley Topham, dated April 29, 2021
- ll. Comment from Beth-Anne Koval, dated April 29, 2021
- mm. Comment from Michael and Robert O'Keefe, dated April 29, 2021
- nn. Comment from Ian McKenzie, dated April 29, 2021
- oo. Comment from Jordan Hedlund, dated April 29, 2021
- pp. Comment from Michael and Judy Callaghan, dated April 29, 2021
- qq. Comment from Jeff McKenzie, dated April 29, 2021
- rr. Comment from Vivienne Owens, dated April 29, 2021
- ss. Comment from Scott Goddard, dated April 29, 2021
- tt. Comment from Ken and Sue Callaghan, dated April 29, 2021
- uu. Comment from Bill and Ede Broeker, dated April 28, 2021
- vv. Comment from Jamie Schultz, dated April 28, 2021
- ww. Comment from Darryl Carver, dated April 28, 2021
- xx. Comment from Lynn Grotzky and Lisa Brodoff, dated April 28, 2021
- yy. Comment from William and Gail Smith, dated April 28, 2021
- zz. Comment from John and Pat Meyers, dated April 28, 2021
- aaa. Comment from Pamela Pearce Carver, dated April 28, 2021
- bbb. Comment from Gary Wilson, dated April 28, 2021
- ccc. Comment from Bruce Schultz, dated April 27, 2021
- ddd. Comment from Alan Baum, dated April 27, 2021
- eee. Comment from Jeanette DeMello, dated April 27, 2021
- fff. Comment from Douglas Catey, dated April 27, 2021
- ggg. Comment from Kyle McKeon, dated April 27, 2021
- hhh. Comment from Margaret and Glenn Hollinger, dated April 27, 2021
- iii. Comment from Alan Baum, dated April 27, 2021
- jjj. Comment from Darryl Carver, dated April 27, 2021
- kkk. Comment from Kate Ayers, dated April 27, 2021
- lll. Comment from Dana and Dane Clay, dated April 26, 2021
- mmm. Comment from Susan Cooksey, dated April 26, 2021
- nnn. Comment from Robert and Deanna Krell, dated April 26, 2021
- ooo. Comment from Drew Feyerick, dated April 26, 2021
- ppp. Comment from Evelyn Carver, dated April 25, 2021
- qqq. Comment from Scott Goddard, dated April 15, 2021
- rrr. Comment from Janet Ikeda, dated April 25, 2021
- sss. Comment from Patricia Tolman, dated April 23, 2021
- ttt. Comment from John and Julie Nierenberg, dated April 20, 2021
- uuu. Comment from Casandra N., dated April 19, 2021
- vvv. Comment from Jackie and Phil Edwards, dated April 16, 2021

- www. Comment from Patrick Sprout, dated April 16, 2021
- xxx. Comment from Ted Sayler, dated April 16, 2021
- yyy. Comment from Devin Brown, dated April 15, 2021
- zzz. Comment from Steve and Ruth Rector, dated April 15, 2021
- aaaa. Comment from Cheryl Moore, dated April 14, 2021
- bbbb. Comment from DJ Lietzau, dated April 13, 2021
- cccc. Comment from Dusty Pierpoint, dated April 12, 2021
- dddd. Comment from Dean and Wendice Sevier, dated April 12, 2021
- eeee. Comment from James Scott Jarvis, dated April 12, 2021
- ffff. Comment from Alan Baum, dated April 5, 2021
- gggg. Comment from DJ Lietzau, dated April 5, 2021
- hhhh. Comment from Jordan Hedlund, dated April 5, 2021
- iiii. Comment from Denise Demers, dated April 2, 2021
- 29. Public Comments from May 15, 2022, to May 26, 2022
 - a. Comment from Alan Baum, dated May 26, 2022, with Traffic Technical Memorandum, dated May 20, 2022
 - b. Comment from Deschutes Law Group, dated May 25, 2022, with Signalized Intersection Summary, dated May 19, 2022
 - c. Comment from Curtis and Diane Leigh, dated May 20, 2022
 - d. Comment from Dana Clay, undated, with Photographs
 - e. Comment from Dane Clay, undated
 - f. Comment from Edgar Landazuri, dated May 21, 2022
 - g. Comment from Douglas Catey, dated May 25, 2022
 - h. Comment from Gary Ikeda, dated May 21, 2022
 - i. Comment from Kate Ayers, dated May 26, 2022
 - j. [omitted]
 - k. Comment from Hicks Lake Management District Steering Committee, dated May 23, 2022
 - l. Comment from Laura Alfani, dated May 25, 2022
 - m. Comment from Marshall Krier, dated May 26, 2022
 - n. Comment from Norm Mastalski, dated May 26, 2022
 - o. Comment from Rebecca McGinnis, dated May 19, 2022
 - p. Comment from Rebecca McGinnis, dated May 19, 2022
 - q. Comment from Heather Christopher, dated May 25, 2022
 - r. Comment from Jamie Schultz, dated May 26, 2022, with Photographs
 - s. Comment from Jeffrey McKenzie, dated May 26, 2022
 - t. Comment from Karen Mussman, dated May 25, 2022
 - u. Comment from Steve and Ruth Rector, dated May 25, 2022
 - v. Comment from Susan Cooksey, dated May 16, 2022
 - w. Comment from Wendice Sevier, dated May 26, 2022
 - x. Comment from Vern and Lynne Dearing, dated May 16, 2022
 - y. Comment from Adam Wilson, dated May 26, 2022
 - z. Comment from DJ and Dean Lietzau, dated May 26, 2022

- aa. Comment from Dusty Pierpoint, dated May 26, 2022
 - bb. Comment from John and Julie Nierenberg, dated May 26, 2022
 - cc. Comment from Robert and Deanna Krell, dated May 25, 2022
 - dd. Comment from John and Pat Meyers, dated May 26, 2022
 - ee. Comment from John and Pat Meyers, dated May 26, 2022
 - ff. Comment from Pat Meyers, dated May 26, 2022
 - gg. Comment from Patrick Sprout, dated May 26, 2022
 - hh. Comment from Rob Myers, dated May 27, 2022
 - ii. Comment from Shirley Topham, dated May 26, 2022
 - jj. Comment from Kate Ayers, dated May 26, 2022
 - kk. Comment from Linda Weible, Jay Weible, and Cheryl Sharpe, dated May 20, 2022
 - ll. Comment from Crystal Ashley, dated May 25, 2022
 - mm. Comment from Scott Morrison, dated May 25, 2022
 - nn. Comment from Janet Ikeda, dated May 15, 2022, with Photographs
 - oo. Comment from Scott Goddard received May 26, 2022, with Photographs and Oral Testimony Transcript
30. Letter from Ben Cushman, Deschutes Law Group, on behalf of Save Hicks Lake, dated June 1, 2022
31. Letter from Applicant Representative, with Letter from Barghausen Consultants and Letter from TENW Transportation Engineering, dated June 6, 2022