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City of Lacey Hearings Examiner

By Hand Delivery: 420 College St SE, Lacey, WA 98503

and emailed c/o City Planners:

Reace Fant, rfant@ci.lacey.wa.us

Samra Seymour sseymour@ci.lacey.wa.us

RE: Supplemental Legal Comments:
Gayteway at Hicks Lake LLC; #20-290 and Schneider Hicks Lake, #21-81

Dear Hearing Examiner:

Deschutes Law Group represents the citizens group Save Hicks Lake and submits this supplemental comment letter, in lieu of questioning of witnesses at the hearing and as a supplement to the prior letter submitted.

Traffic Issues

As noted by multiple witnesses at the hearing, the traffic impacts here are inadequately studied or addressed. The travel to and from these apartments would be to Ruddell Road, which is the nearest arterial and the street with a regular bus route running both directions. The assumption for this project is that traffic (automobile, bicycle, and pedestrian) would travel north on Hicks Lake Road and then west on 25th Ave to reach Ruddell Road. There are multiple problems with this assumption and proposed route. (See google area map attached hereto.)

First, Hicks Lake Road is an undersized street without lane markings or sidewalks or pedestrian-safe shoulders. Cars cannot safely pass each other at speed on the road without pedestrians present. This is especially true when there is overflow parking from the nearby Wanschers Park. The proposed condition, to add temporary sidewalks to the existing road, is not adequate. It does not address the issues arising from either the parking issues associated with the Park or those relating to the inadequacy of the existing road.

Second, the outflow from 25th Avenue onto Ruddell Road is an uncontrolled turn at an inflection point in the road. Oncoming traffic, into which or across which people would turn, approach that location at an acute angle, obscuring visibility and increasing risk of collision. The City has expressly failed to address this issue and has imposed no condition related to it.

Third, the proposed traffic route is not a rational route for either pedestrian or vehicle traffic given current conditions. This is apparent on the attached area map. The efficient travel route is due west. Further, there is an open route due west that can and will be traveled by both vehicles and pedestrians – through the private roads and parking lot of the Forest Grove Apartments, which opens onto both Hicks Lake Road and Ruddell Road and which, while winding slightly, results in a route that is approximately half as long as the route assumed by the planning for these projects. There is no possibility that residents in the proposed apartments would follow the route assumed by Lacey and analyzed by the proponents rather than the alternate route through Forest Grove Apartments. However, the Forest Grove Route involves a trespass onto private property through roads that are not built to a public use standard.

That said, the existing sidewalks, although private walkways, in the Forest Grove Apartments are a better and more direct route for pedestrian traffic from the proposed apartments. That route also has the advantage of going to a bus stop that allows for transit travel in both directions. (See attached schedule for route 66, the route serving Ruddell Road. While there are stops on 25th Avenue associated with that route, those stops are served “outbound only” and Intercity Transit has indicated no planned changes associated with these proposals.)

The traffic studies presented here are “Garbage In/Garbage Out” analyses based on the fundamentally flawed assumptions by Lacey that informed them. The proposal should be denied as incomplete, and the traffic impact analyses should be redone with corrected assumptions based on how humans would actually move from the project location to Ruddell Road.

The most rational current route, for both vehicle and pedestrian travel, would be through the Forest Grove Apartments pedestrian and vehicle routes – as that is the obvious route for all kinds of traffic to Ruddell. That is not a proper or lawful route and would result in systemic trespass on private property. However, if Hazelwood Lane is connected through and converted to a public street, it would serve as a legal alternate route that people would actually use. There is currently a stub connection, blocked by a fence, that could be open to allow access from Hazelwood Lane as built onto Hicks Lake Road. Hazelwood Lane also enters Ruddell Road at a safer location. Finally, while Hazelwood Lane is currently undersized and lacks sidewalks, it is wider, has wider shoulders, and is shorter than Hicks Lake Road, meaning it would be more easily and cheaply improved to public street and sidewalk standards. The traffic assumptions should be changed to a direct west route, with

Hazelwood Lane (converted to a public street) being the location of that route, and all traffic studies and traffic impact fee calculations should be redone prior to approval.

Shoreline and Impervious Surface

The analysis of the critical wetland area on the shore of Hicks Lake is another GIGO aspect of the proposals and staff analysis. The high-water-line is based on inaccurate and dated information that does not take into account the actual seasonal inundation of the hydric soils on the shore. The actual high-water-mark, marked by seasonal highs, is farther inland. That location needs to be established and all shoreline setbacks and other analysis should be recalculated based on the true high-water-line.

This may impact the location of proposed buildings and parking lots. It will impact impervious surface calculations. The staff analysis for the Gayteway project correctly imposed an express condition that impervious surface not exceed 30% of the portion of the site in the Urban Conservancy Zone. The staff analysis for the Schneider project did not do so, merely stating that the impervious calculation should be completed (as it has not been). At the hearing, the planner testified that the 30% limitation is implied. An implied condition is usually no condition at all. An express condition that impervious surface not exceed 30% of the Urban Conservancy Zone as correctly located based on the true high-water-line should be imposed on both projects.

Trees

The project sites are currently heavily forested and must be cleared for any development to occur. Unlike the permits for other development activities (such as grading and building), forest practices permit is one of the permits presented for approval here. Therefore the “stand by, we’ll address that later” approach the proponents advocate on environmental issues does not apply to the tree cutting impacts.

The City proposes some, but inadequate, conditions on tree cutting. There is condition that some trees will be left, but this lacks details or standards. There should be a clear condition stating where trees should be left standing and perhaps what percentage of total current forestation should be left or mitigated through replanting onsite. Further, while the Class IV forest practice permit involved here usually includes full stump removal, the proximity of these sites to Hicks Lake warrants a modification of that practice as necessary to allow grading of building sites while reducing erosion and pollution of Hicks Lake.

Schneider Proposed Dock

The Schneider proposal includes construction of a new dock on Hicks Lake. The exact location and dimensions of this dock are not fully specified. The staff report claims, without adequate analysis or any substantial factual basis, that the proposed dock would not interfere

with public navigation on Hicks Lake. However, there are critical gaps in the information needed to make this claim.

First, the exact location and size of the dock is not known. Second, there is no analysis of the nearshore navigation on the lake. At a minimum, there needs to be an analysis of the public navigation on Hicks Lake, establishing how close boats travel to the shore where the dock is proposed. Then there needs to be an express condition that the dock will be short enough to allow this boat passage with an offset to allow safe boating and safe use of the dock, taking boat wakes into account.

Water Quality and Construction Traffic

As noted above, with regard to most impacts of the projects, the proponents recommend a “stand by, we’ll address that later” approach. While it is true that additional permits will have their own conditions, there is no good reason not to identify and impose conditions to address known impacts at this general stage of the process. Addressing known and foreseen issues now, refining them later, would avoid sunk cost and premature staff buy-in problems that often arise as project proponents work closely with planning staff.

Issues on which conditions should be imposed subject to later refinement under other permits include:

1. Known or ascertainable water quality impacts during construction or resulting from the shore use by residents of the built apartments. To the extent additional analysis and calculations are needed to approximate those impacts, that additional analysis should be a further condition.
2. Similarly, known or ascertainable wetland impacts, both during construction or resulting from the use of the wetland area (on the shore) by residents of the built apartments. To the extent additional analysis and calculations are needed to approximate those impacts, that additional analysis should be a further condition.
3. Known or ascertainable petroleum and vehicle fluid pollution impacts, both during construction or resulting from use of parking lots by residents of the built apartments. Further, there should be a condition that the apartments will prohibit vehicle repair and inoperative vehicles in their parking areas, and there is no reason not to impose this condition now. Similarly, there should be a condition that the lakeward side of all parking areas should be designed to catch and contain any stormwater run-off from impervious parking areas, or that the parking areas be graded to slope away from Hicks Lake, or both.

Conclusion

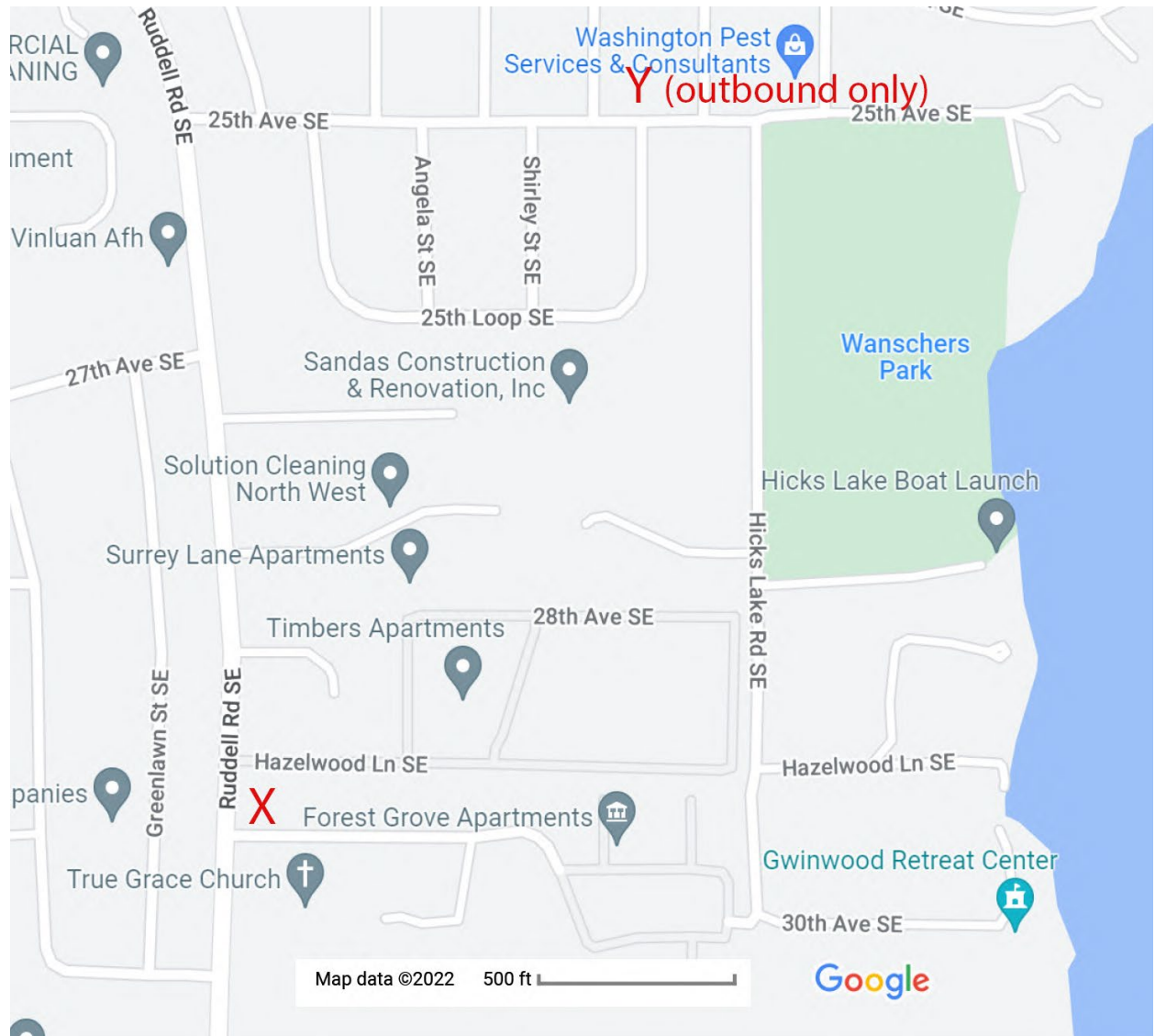
The current permits should be denied based on the inadequacy of the proposal to analyze and address actual traffic impacts and to properly identify and mitigate shoreline use.

The traffic and shoreline issues are not addressable merely through conditions on approval. Revision of the proposals and substantial new analysis are necessary. However, if there is conditioned approval, additional conditions should be imposed (1) on the tree cutting (requiring a clear end-goal for trees onsite, either as left during the cutting or replanted in mitigation), (2) on the size and location of any dock, and (3) on known and ascertainable pollution and other environmental impacts that will result from construction or occupancy of the project.

Very truly yours,



Ben D. Cushman



Route 66

Schedule effective through June 12, 2022

RUDELLE RD					66					
to Lacey Corporate Center					to Olympia Transit Center					
DEPART OTC (Bay J)	Pacficat Pattison	LTC (Bay J)	22 nd at Lilac	Ruddell at 45 th	Corporate Center at College	Ruddell at 45 th	Ruddell at 22 nd	LTC (Bay D)	Pacficat Pattison	ARRIVE OTC
1	2	3	4	5	6	7	4	3	2	1
<i>Weekdays & Weekends</i>										
—	5:23	5:35	5:44	5:48	5:56	6:02	6:06	6:20	6:26	6:40
—	5:53	6:05	6:14	6:18	6:26	6:32	6:36	6:50	6:56	7:10
6:15	6:23	6:35	6:44	6:48	6:56	7:02	7:06	7:20	7:26	7:40
6:45	6:53	7:05	7:14	7:18	7:26	7:32	7:36	7:50	7:56	8:10
7:15	7:23	7:35	7:44	7:48	7:56	8:02	8:06	8:20	8:26	8:40
7:45	7:53	8:05	8:14	8:18	8:26	8:32	8:36	8:50	8:56	9:10
8:15	8:23	8:35	8:44	8:48	8:56	9:02	9:06	9:20	9:26	9:40
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10:15	10:23	10:35	10:44	10:48	10:56	11:02	11:06	11:20	11:26	11:40
10:45	10:53	11:05	11:14	11:18	11:26	11:32	11:36	11:50	11:56	12:10
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