

Stevens, Mike

From: Brian Gleckler <bpgleckler@gmail.com>
Sent: Wednesday, May 25, 2022 1:25 PM
To: Stevens, Mike
Subject: NO to Willowbrook Apartments

I strongly oppose and object to the proposed development of the Willowbrook Apartments, east of the Willowbrook neighborhood. This development is inconsistent with our community covenants, it would create serious traffic problems due to insufficient roadways, and it would destroy our nature preserve, which not only protects local wildlife but also provides essential walking and running paths.

Please protect our public land.

Stevens, Mike

From: Doug Anderson <dougfanderson@hotmail.com>
Sent: Thursday, May 26, 2022 5:10 PM
To: Stevens, Mike
Subject: Please No to Willowbrook Apts

Please don't approve this project. Lived through the horror of Bellevue's growth and loss of land to builders. Not opposed to growth but not at that squeezed-in parcel of land.

Doug Anderson
425-785-6512 (mobile)

Stevens, Mike

From: James Patterson <jamespatterson@charter.net>
Sent: Thursday, May 26, 2022 2:07 PM
To: Stevens, Mike
Subject: NO to Willowbrook Apartments

I strongly oppose and object to the proposed development of the Willowbrook Apartments, east of the Willowbrook neighborhood. This development is inconsistent with our community covenants, it would create serious traffic problems due to insufficient roadways, and it would destroy our nature preserve, which not only protects local wildlife but also provides essential walking and running paths.

Please protect our public land.

Sent from my iPhone

Stevens, Mike

From: reiten@charter.net
Sent: Friday, June 10, 2022 2:57 PM
To: Stevens, Mike
Cc: Jeff Reiten
Subject: Opposition To Proposed Willowbrook Place Apartment complex M2020-101 & EA2020-114
Attachments: Attachments 1 through 4.zip

Dear Mr. Stevens

I am providing comments against the proposed Willowbrook Place Apartment complex M2020-101 & EA2020-114. My wife and I have lived at 133 Broadmoor Street for over 33 years. We have grown to be very disappointed with the traffic/speeding problems which has increases significantly over the past few years.

In an effort to help mitigate this concern our HOA fully subsidized two radar signs on Broadmoor five years ago. However, since the signs were installed, growth has included hundreds of homes, an elementary school, and remodeled recreational offerings at Claybell Park (most recently pickleball courts), bringing increasingly more vehicles onto Broadmoor.

I want to express my wholehearted support and concurrence with the several hundred pages of public comments submitted by individuals to the City of Richland in opposition to M2020-101 & EA2020-114 (i.e.: Willowbrook Place Apartments).

I would also like to especially acknowledge my support and concurrence with all the hard work provided and comments compiled/submitted by our Meadow Springs Second Nine Homeowner Association members, with special acknowledgement to Lisa Dukes, Raymond Swenson and Terry Miller.

Other areas of violations regarding such issues as inappropriate zoning, traffic volumes and safety, City of Richland code violations, Secondary Access Street to Broadmoor inadequacies as well as numerous environmental impacts have been previously identified in length and although I agree, I am not going to reiterate them in these comments. Therefore, in an effort to help reduce redundancy I am going to limit my comments to the topic of violations to the Meadow Springs Second Nine Homeowner Association Covenants, Conditions and Restrictions (CCR's) Recorded: September 10, 1974 (File No. 669883).

Note: The below noted violations were also identified in Superior Court of the State of Washington - Benton County No: 19-2-01031-03 lawsuit filed by Terry E. Miller on 4/25/19. However, since the CCR's is the primary standard the Second Nine Board and associated members use regarding rules of compliance for the association's membership and related activities this presentation was limited to expressing only violations as related to the CCR's.

Lots in the Second Nine are subject to ("CCR's") for our HOA. As a result, it is the Second Nine Boards position that:

VIOLATION #1

Per Article VIII, Section #1 below the CCR's restrict use of lots in the Second Nine to single family use. Any use of Meadow Springs Second Nine Phase One, Block 1, Lot 16, Parcel 136983020001016, 245 Broadmoor Street (referred to as Lot 16) to benefit or facilitate an apartment complex violates the single-family use covenant.

ARTICLE VIII - GENERAL PROTECTIVE COVENANTS, SECTION 1 "Residential Character of Property"

The term "residential lots," as used herein, means all of the lots now or hereafter platted on the existing property or the additions thereto, with the exception of (1) the common properties, and (2) all properties to be used for shopping center and professional office complex development, for multiple family dwelling and for churches and church purposes. No structures or buildings of any kind shall be erected, altered, placed, or permitted to remain on any residential lot other than one detached single-family dwelling for single-family occupancy only, not to exceed two stories in height with a private garage or carport for not more than three standard size passenger automobiles.

VIOLATION #2

Per Article VIII, Section #4 and Article X, Section 1 below the CCR's ensure quiet enjoyment of the Second Nine and prohibit any development or use that would be an annoyance or nuisance. Any use of Lot 16 to benefit or facilitate an apartment complex violates the quiet enjoyment covenant and constitutes an annoyance and a nuisance.

ARTICLE VIII - GENERAL PROTECTIVE COVENANTS, SECTION 4 "Business and Commercial Use of Property Prohibited"

No trade, craft, business, profession, commercial or manufacturing enterprise or business or commercial activity of any kind shall be conducted or carried on upon any residential lot, or within any building located on a residential lot, nor shall any goods, equipment, vehicles (including buses, trucks, and trailers of any description) or materials or supplies used in connection with any trade, service, or business, wherever the same may be conducted, or any vehicles in excess of 6,000 pounds gross weight (including buses, trucks and trailers of any description) used for private purposes, be kept, parked, stored, dismantled or repaired outside on any residential lot or on any street within the property nor shall anything be done on any residential lot which may be or may become an annoyance or nuisance to the neighborhood.

ARTICLE X - USE RESTRICTIONS, SECTION 1 "Enjoyment of Property"

The owners shall use their respective properties to their enjoyment in such a manner so as not to offend or detract from other owner's enjoyment of their own respective properties.

In summary it is the recommendation by the Meadow Springs Second Nine Homeowner Board that any use of Lot 16 in connection with development of an apartment complex (including installation of a secondary access street to Broadmoor) violates the Second Nine CCR's and cannot be allowed.

Please do the right thing and REJECT this project.

Thank you for your consideration in this matter.

Sincerely,

Jeff Reiten – President “Meadow Springs Second Nine Homeowner Association”.
133 Broadmoor Street
Richland, WA 99352

Attachments:

1. Meadow Springs Second Nine Homeowner Association Covenants
2. Benton County Parcel Map Lot 16_ Parcel 136983020001016
3. Property Details_ Lot 16_Parcel 136983020001016
4. Willowbrook Place Conceptual Site Plan Sheet C2 – Secondary Access Detail

Covenants

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS SECOND NINE, A LIMITED PARTNERSHIP

Recorded: September 10, 1974
File No. 669883

Auditor's

THIS DECLARATION, made on the date hereinafter set forth by SECOND NINE, a LIMITED PARTNERSHIP, hereinafter referred to as "Declarant" or "Developer",

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in the County of Benton, State of Washington, which is more particularly described below; and

WHEREAS, Declarant will convey the said properties, subject to certain protective covenants, conditions, restrictions, reservations, easements, rights of access, liens and charges as hereinafter set forth.

NOW, THEREFORE, Declarant hereby declares that all of the properties described below shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property. These easements, covenants, restrictions, and conditions shall run with the real property and shall be binding on all

parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I -

DEFINITIONS

Section 1. "Association" shall mean and refer to SECOND NINE HOME OWNERS ASSOCIATION, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the members of the Association.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the Common Area.

Section 5. "Unit" Shall mean and refer to any individual multi-unit dwelling shown upon any recorded subdivision map of the properties with the exception of the Common Area.

Section 6. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 7. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 8. "Declarant" shall mean and refer to SECOND NINE, a LIMITED PARTNERSHIP, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II

The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration is located in the City of Richland, Benton County, Washington, and is described as follows:

Meadow Springs Second Nine Phase 1 and 3, EXCEPT Tracts A, B, and G and 400, 500, 600, as recorded in the records of Benton County, Washington.

ARTICLE III -

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation of additional properties other than properties within the general plan of development provided for in Section 2 hereof, shall require the assent of two-thirds (2/3) of the members of the Association, at a meeting duly called for this purpose, written notice

of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. At this meeting the presence of members or of proxies entitled to cast sixty (60) percent of the votes shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to the notice requirement set forth above and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. In the event the two-thirds (2/3) of the members are not present in person or by proxy, members not present may give their written consent to the action taken thereat. During the developmental period, annexation of additional properties under this Section 1 shall also require the prior written approval of the Developer.

Section 2. If within fifteen (15) years of the date of recording of this Declaration, Developer should develop additional lands within the area described in Exhibit "A" attached hereto, such additional lands may be annexed to the existing property without the assent of the members of the Association.

ARTICLE IV -

MEMBERSHIP IN THE ASSOCIATION

Every person or entity who is the contract purchaser or record owner of a fee interest in any lot or lots which are subject by Covenants of record to assessment by the Developer or the Association, shall be a member of the Association: Provided, however, that if any lot is held jointly by two or more persons, the several owners of such interest shall designate one of their number as the "member". The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of or a contract purchaser's interest in any lot which is subject to assessment by the Developer or the Association, except that the incorporators shall be eligible for membership without regard to ownership of an interest in the properties. Incorporators who are not owners or contract purchasers of any lot subject to assessment shall cease to be members of the Association at the expiration of two years from the date of incorporation of the Association. Upon transfer of the fee interest to, or upon the execution and delivery of a real estate contract for the sale of (or of an assignment of a contract purchaser's interest in) any Lot, the membership and certificate of membership in the Association shall ipso facto be deemed to be transferred to the grantee, contract purchaser or new contract purchaser, as the case may be. Ownership of, or a contract purchaser's interest in, any such lot or lots shall be the sole qualification for membership.

ARTICLE V -

VOTING RIGHTS IN THE ASSOCIATION

The Association shall have two classes of voting membership:

Class A. Class A members shall be all those Owners as defined in Article I with the exception of the Developer. Class A members shall be entitled to one vote for each Lot or Unit in which they hold the interest required for membership by Article IV. When more than

one person holds such interest in any Lot or Unit, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot or Unit.

Class B. The Class B member(s) shall be the Developer. The Class B member(s) shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by Article IV, provided that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on July 1, 1994.

ARTICLE VI -

PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Members Easements of Enjoyment: Every member shall have a right and easement of enjoyment in and to the common properties and such easement shall be appurtenant to and shall pass with the title to, or contract purchaser's interest in every assessed lot, subject to the following provisions:

- (a) The right of the Association to limit the number of guests of members;
- (b) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the common property;
- (c) The rights of the Association to take such steps as are reasonably necessary to protect any such mortgaged property against foreclosure, including, but not limited to, the right to charge admission ,and other fees as a condition to continued enjoyment by the members and, if necessary, to open the enjoyment of such properties to the public; and
- (d) The right of the Association to suspend the voting rights and right to use of the recreational facilities by a member for any period during which any assessment against his lot remains unpaid and for a period not to exceed thirty (30) days for any infraction of the Association's published rules and regulations. During the developmental period the Association shall be required to exercise its right to suspend the voting rights of, and the right to the use of the recreational facilities by a member for non-payment of an assessment, upon the request of the Developer;
- (e) The rights of the Association, to dedicate or transfer all or any part of the common properties to any governmental unit or public agency or authority or public utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the members entitled to vote has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than thirty (30) days nor more than sixty (60) days in advance; and
- (f) During the developmental period, the exercise of all of the rights and powers set forth in subparagraphs (b), (c), and (e) shall require the prior approval of both the Trustee and the Developer.

Section 2. Delegation of Use. Any member may delegate, in accordance with the Bylaws,

his right of enjoyment to the common properties and facilities to the members of his family, or his tenants, who reside on the property, and subject to regulation by the Association, to his temporary guests.

Section 3. Common Areas Described. The common properties referred to herein are more particularly described as follows:

Greenbelt: Meadow Springs Second Nine Phase III

Lot 10, Block 3, Meadow Springs Second Nine Phase 1; and

Greenbelt Meadow Springs Second Nine Phase 1, both recorded in the records of Benton County, Washington.

ARTICLE VII -

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each owner or contract purchaser of any lot or lots by acceptance of a deed or real estate contract therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Developer during the developmental period, and thereafter to the Association as hereinafter provided: (1) Monthly assessments or charges, and (2) Special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The monthly and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest and costs of collection thereof (including reasonable attorney's fees) shall also be the personal obligation of the person who was the owner or contract purchaser of such property at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them: Provided, however, that in the case of a sale or a contract for the sale of (or an assignment of a contract purchaser's interest in) any lot which is charged with the payment of an assessment or assessments payable in installments, the person or entity who is the owner or contract purchaser immediately prior to the date of any such sale, contract or assignment shall be personally liable only for the amount of the installments due prior to said date. The new owner or contract purchaser shall be personally liable for installments which become due on or after said date.

Section 2. Purpose of Assessments. The assessments shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the properties, including, without limitation, the construction, establishment, improvement, repair and maintenance of the common properties and services and facilities related to the use and enjoyment of the common properties, the establishment and operation of the Second Nine Patrol, a private patrol supplementing municipal fire and police protection for residents of the properties, the payment of taxes and insurance on the common properties, and the installation and maintenance of the entry gate and gate house, and the cul-de-sac planters on streets located within the subdivision, and the payment of Trustee's fees to the Trustee appointed hereunder.

Section 3. Amount of Monthly Assessments. The amount of the monthly assessments shall be as follows: Each owner or contract purchaser shall pay the amount of \$3.00 per month per lot and in addition, in the case of multiple family dwellings constructed on any such lot or lots, \$1.00 per month for each separate living unit within a multiple family dwelling. During such time as title to the common properties is held by the Trustee such sum shall be payable to the Developer. Upon termination of the trust and conveyance of the common properties to the Association the sum shall be payable to the Association. Said monthly assessments may be increased by the Association with the consent of two-thirds (2/3) of the members voting in person or by proxy at a meeting duly called for such purpose, written notice of which shall be sent to all members not later than thirty (30) nor more than sixty (60) days in advance of the meeting. After consideration of current maintenance costs and future needs of the Association the Board of Trustees may fix the monthly assessment at an amount not in excess of the maximum. The monthly assessment may be increased by the Association without the assent of two-thirds (2/3) of the members in an amount not in excess of three (3) per cent per year.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvements upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Date of Commencement of Monthly Assessments -Due Dates. As to each particular lot involved, the liability for the monthly assessments provided for in Section 3 of this Article VII shall begin on the first day of the calendar month following the expiration of six (6) months from the date of any deed or real estate contract of sale for the Lot, or on the first day of the calendar month following occupancy of the premises, whichever is earlier. Said assessment shall be due and payable on such date and on the first day of each calendar month thereafter. The due date of any special assessments under Section 4 of this Article VII shall be fixed by the Trustee, or as to the Association, by the resolution authorizing such assessment. No assessments shall be due until the Developer conveys title to the Trustee or the Association to the fully developed common properties.

Section 6. Uniform Rate of Assessment. Both monthly and special assessments shall be fixed at a uniform rate for all Lots, including Lots upon which multiple family dwellings are constructed, that portion of the assessment which is determined on the basis of an additional amount per living unit shall always be fixed at a uniform rate and shall never exceed one-seventh (1/7) of the assessment amount per lot.

Section 7. Effect of Non-payment of Assessments - Remedies. If any assessment is not paid within thirty (30) days after it was first due and payable, the assessment shall bear interest from the date on which it was due at the rate of ____% (interest corresponding to the then current FHA interest rate then in effect at the time of delinquency) and the Developer or, upon termination of the trust, the Association may bring an action at law against the one personally obligated to pay the same and/or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment and all such sums shall be included in any judgment or decree entered in such suit. No owner or contract purchaser shall be relieved of liability for the assessments provided for herein by non-use of the common properties or

abandonment of his lot.

Section 8. Subordination of the Lien to Mortgagee. The Lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage (and to the lien of any second mortgage given to secure payment of the purchase price) now or hereafter placed on any lot. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot which is subject to such first mortgage, or purchaser money second mortgage, pursuant to a decree of foreclosure under such mortgage or in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 9. Exempt Property. The following property subject to this declaration shall be exempt from the assessments created herein:

- (a) All properties owned by Developer;
- (b) All properties dedicated to and accepted by a local public authority;
- (c) All common properties; and
- (d) All properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Washington.

However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VIII -

GENERAL PROTECTIVE COVENANTS

Section 1. Residential Character of Property. The term "residential lots," as used herein, means all of the lots now or hereafter platted on the existing property or the additions thereto, with the exception of (1) the common properties, and (2) all properties to be used for shopping center and professional office complex development, for multiple family dwelling and for churches and church purposes. No structures or buildings of any kind shall be erected, altered, placed, or permitted to remain on any residential lot other than one detached single-family dwelling for single-family occupancy only, not to exceed two stories in height with a private garage or carport for not more than three standard size passenger automobiles.

No house trailers shall be allowed to stop on the property. No trailer or unmounted camper shall be stored or parked on the premises nearer the front property line than the minimum setback line.

Section 2. Architectural Control. No building shall be erected, placed or altered on any lot (residential or nonresidential) on the property until the building, plans, specifications, plot plan, landscaping and fencing plan, showing the nature, kind, shape, height, materials, and location of such building have been approved in writing as to conformity and harmony of external design with existing structures in the subdivision, and as to location of the building with respect to topography and finished ground elevation, by a committee composed of Milo Bauder, Lou Prues, Jim Magnuson, Edris Phillips and F. M. Cochrane, or by a representative designated by a majority of the members of said committee. In the event

said board or its designated committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it approval will not be required and this Article will be deemed to have been fully complied with. Neither the members of such committee, nor its designated representatives shall be entitled to any compensation for services performed pursuant to the Covenant. The powers and duties of said committee members shall cease upon the termination of the developmental period, or upon the prior death of all three of said members. Thereafter, the committee approval described in this Covenant shall be obtained from The Architectural Control Committee of the Association. The Architectural Committee shall be composed of three or more representatives who shall be appointed by the Board of Trustees of the Association.

All plans, specifications and plot plans which must be submitted for approval hereunder shall be submitted to said committee at the following address:

Second Nine Architectural Control Committee
c/o Walla Walla Federal
Vista Way.
Kennewick, Washington 99336

or to such other address as may hereafter be given in writing to the owners or contract purchasers involved by the Developer or by said committee.

Section 3. Lot Size. No residential structure shall be erected or placed on any residential lot which has a (lot) area less than eight thousand (8,000) square feet or an average width of seventy (70) feet.

Section 4. Business and Commercial Use of Property Prohibited No trade, craft, business, profession, commercial or manufacturing enterprise or business or commercial activity of any kind shall be conducted or carried on upon any residential lot, or within any building located on a residential lot, nor shall any goods, equipment, vehicles (including buses, trucks, and trailers of any description) or materials or supplies used in connection with any trade, service, or business, wherever the same may be conducted, or any vehicles in excess of 6,000 pounds gross weight (including buses, trucks and trailers of any description) used for private purposes, be kept, parked, stored, dismantled or repaired outside on any residential lot or on any street within the property nor shall anything be done on any residential lot which may be or may become an annoyance or nuisance to the neighborhood.

No lot or tract shall be used as a dump for trash or rubbish of any kind. All garbage and other waste shall be kept in appropriate sanitary containers for proper disposal. Yard rakings, such as rocks, lawn and shrubbery clippings, and dirt and other material resulting from landscaping work shall not be dumped into public streets or ditches. The removal and disposal of all such materials shall be the sole responsibility of the individual lot owner. Should any individual lot owner or contract purchaser fail to remove any such trash, rubbish, garbage, yard rakings and other such materials from his property or the street and ditches adjacent thereto, within ten (10) days following the date on which notice is mailed to him by the Developer or the Association informing him of such violation, then the Developer or the Association may have said trash removed and charge the expense of removal to said lot owner or purchaser. Any such charge shall become a continuing lien on the property, which shall bind the property in the hands of the then owner or contract purchaser, and his successors in interest. Such charge shall also be a personal obligation of the one who is the owner or contract purchaser of the lot involved on the date of removal.

No owner or contract purchaser of any residential lot shall permit any vehicle owned by him or by any member of his family or by any acquaintance, and which is in an extreme state of disrepair, to be abandoned or to remain parked upon any street within the existing property for a period in excess of forty-eight (48) hours. Should any such owner or contract purchaser fail to remove such vehicle within two (2) days following the date on which notice is mailed to him by the Developer or the Association informing him of a violation of this provision, the Developer or the Association may have such vehicle removed and charge the expense of removal to said owner or purchaser in accordance with the provisions of the immediately preceding paragraph. A vehicle shall be deemed to be in an extreme state of disrepair when in the opinion of the Architectural Control Committee Board its presence offends the reasonable sensibilities of the occupants of the neighborhood.

Section 5. Residential Use of Temporary Structures Prohibited. No trailer, basement, tent, shack, garage, barn or other outbuildings or any structure of a temporary character erected or placed on the property shall at any time be used as a residence temporarily or permanently.

Section 6. Minimum-Dwelling Cost. No single family dwelling shall be permitted on any lot at a cost less than \$35,000.00 exclusive of land, based upon cost levels prevailing on the date these covenants are recorded, it being the intent and purpose of the Covenant to assure that all dwellings shall be of quality and workmanship and materials substantially the same or better than that which can be produced on the date these Covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling size. The ground floor area of the main structure, exclusive of open porches and garages, shall not be less than one thousand three hundred fifty (1,350) square feet for a one-story dwelling, or the top two levels of a split level dwelling, nor less than one thousand (1,000) square feet for the ground floor area of a dwelling of more than one story. (For the purpose of this provision, a home with a daylight basement shall be considered a dwelling of more than one story.)

Section 7. Utility Easements. The grantors for themselves, their successors and assigns, dedicate easements for public utility purposes over the public utility easement strips as shown in the recorded plats. Said easements are hereby granted to maintain, construct and reconstruct and repair sewer lines, domestic water lines, telephone lines and lines for the delivery of electric energy as the same are constructed and installed at the time of the conveyance of each of the lots in said plat; and whenever the uses of said easement shall cease, the same shall revert to the owner of the land affected by said easement.

Section 8. Date for Completion of Construction. Any dwelling or structure erected or placed on any residential lot shall be completed as to external appearance, including finished painting, within nine (9) months from date of commencement of construction and shall be connected to the public sewer system. Landscaping shall be completed within six (6) months after completion of dwelling unit.

Section 9. Animals. No animal, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats, birds or other household pets may be kept if they are not kept, bred, or maintained for any commercial purposes, and that they shall not be kept in numbers or under conditions reasonably objectionable in a closely built up residential community.

Section 10. Signs. No signs shall be erected or maintained on any residential lot in the tract, except that not more than one approved FOR SALE or FOR RENT sign placed by the owner or builder or by a licensed real estate broker, not exceeding eighteen (18) inches

high and twenty-four (24) inches long, may be displayed on any lot.

Section 11. Use Restriction Applicable to Lakes. Bulkheads may be erected and maintained on lots fronting on any lake, but no boathouses, docks or piers shall be erected or maintained on any such lots, nor shall any structures whatsoever, including but not limited to, fences, docks, piers or railroad tracks for boat launching, be permitted to extend from any lake front property out into such lake.

No power boats of any kind whatsoever and no swimming rafts or swimming floats of any kind shall be permitted on any lake with-in the subdivision.

Section 12. Mortgages Protected. Nothing herein contained shall impair or defeat the lien of any mortgage or deed of trust now or hereafter recorded covering any lot or lots, but title to any property obtained as a result of foreclosure shall thereafter be held subject to all of the provisions herein.

Section 13. Building Setback and Fence Requirements. No building or structure shall be located nearer to the front line of the lot or nearer to the side street line than the building setback lines shown on the recorded plat. In any event, no building shall be located on any residential lot nearer than 25 feet to the front lot line nor nearer than 20 feet to any side street line, except a detached garage and nearer than 20 feet to any rear lot line. No building shall be located nearer than ten feet to any (non-street) side lot line (chimney, porches and decks excepted). On the following described lots the minimum setback shall be 35 feet from the back lot line and 20 feet from the front lot line.

Lots 29, 30, 31, 32, Block 5; Lots 7, 8, 9, 10, 11, 12, 13, 14, Block 4; and Lots 1, 2, 3, 4, Block 3, Second Nine Phase I. Lots 3, 4, 27, 28, 29, 30, 31, 32, 33, Block 2, Second Nine Phase

No fence, wall, hedge, or mass planting other than foundation planting shall be permitted to extend nearer to any street than the minimum setback line of the residence, except that nothing shall prevent the erection of a necessary retaining wall, the top of which does not extend more than two feet above the finished grade at the back of said retaining wall, provided, however, that no fence, wall, hedge or mass planting shall at any time, where permitted, extend higher than six feet above ground. Fences shall be well constructed of suitable fencing materials and shall be artistic in design and shall not detract from the appearance of the dwelling house located upon the adjacent lots or building sites or be offensive to the owners or occupants thereof. No radio or television antennas shall be permitted to extend more than ten feet above the roof line of any residence without the written approval of the said committee.

The Architectural Control Committee shall have the authority in any individual case to make such exceptions to the building setback and fence location requirements set forth herein as said committee shall in its uncontrolled discretion deem necessary or advisable.

ARTICLE IX -

EXTERIOR MAINTENANCE

In the event an owner of any lot in the properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Trustees, the Association, after approval of two-thirds (2/3) vote by the Board of Trustees, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain,

and restore the lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such lot is subject.

ARTICLE X - USE RESTRICTIONS

Section 1. Enjoyment of Property. The owners shall use their respective properties to their enjoyment in such a manner so as not to offend or detract from other owner's enjoyment of their own respective properties.

Section 2. In Derogation of Law. No owner shall carry on any activity of any nature whatsoever on his property that is in derogation or in violation of the laws and statutes of the State of Washington.

Section 3. Pets. Owners shall observe and obey the laws applicable to the residents of the City of Richland and Benton County pertaining to care, control and husbandry of animals and pets.

Section 4. Commercial Activity. There shall be no commercial activity by the members of this Association within the properties of this Association

Section 5. Temporary Structures. No structure of a temporary character, such as a trailer or a shack or other outbuildings shall be used on any lot at any time as a residence.

Section 6. Nuisances. No noxious or offensive activity shall be carried on upon any properties, nor shall anything be done thereon which may become a nuisance as such is defined in the laws of the State of Washington.

Section 7. Livestock and Poultry. No animals or livestock or poultry of any kind shall be raised, bred or kept on any lot except that dogs, cats or other household pets may be kept according to the provisions of Section 3 hereof.

Section 8. Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in a sanitary container.

Section 9. Sewage Disposal. No individual sewage disposal system shall be permitted on any lot.

Section 10. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot.

Section 11. Water Supply. No individual water supply system shall be permitted on any lot.

Section 12. Setback and Fence Requirements for Fairway Lots. No structures shall be constructed or maintained closer than 20 feet to the rear property line. In addition, no part of any structure or structures (other than a garage or carport of a size sufficient to accommodate no more than three (3) standard size passenger automobiles, or a fence meeting the requirements set forth below) on the lot shall be situated less than five feet from any side property line.

No fence shall be constructed or maintained on any fairway lot in the property except as follows:

(a) A patio constructed immediately adjacent to the house on any lot may be enclosed by a fence. Also a fence may be constructed and maintained to enclose any swimming pool. However, no part of any such fence enclosing a patio or a swimming pool may be closer than 15 feet to the rear property line without the prior written approval of the Architectural Control Committee provided for in Article VIII Section 2 hereof.

(b) A fence may be constructed and maintained by an Owner on either or both side lines of his lot, but no such fence shall be closer than the front setback line nor closer than 15 feet to the back property line. (Thus, for example, on a lot having a depth of 100 feet, such a fence may have a maximum length of 65 feet, with the ends of the fence being a minimum of 20 feet from the front property line and 15 feet from the back property line, respectively.)

(c) Any fence may be constructed and maintained which is required at the time as a matter of law. Upon the termination of any such legal requirement, any such fence shall promptly be removed, unless it meets with the requirements of the preceding subparagraphs (a) or (b). Except as otherwise required by law, no fence permitted by these special restrictive Covenants shall be more than six feet high. Fences shall be well constructed of suitable fencing materials and shall be artistic in design and shall not detract from the appearance of the dwelling house located upon the lot or building site or be offensive to the owners or occupants thereof, or detract from the appearance of the dwelling houses located on the adjacent lots or building sites. No fencing materials shall be used without prior approval of the Architectural Control Committee. No radio or television antennas shall be permitted to extend more than ten feet above the roof line of any residence without the written approval of the Architectural Control Committee.

The said committee shall have the authority in any individual case to make such exceptions to the building setback and fence location requirements set forth herein as said committee shall in its uncontrolled discretion deem necessary or advisable.

(d) Persons lawfully using the Second Nine Golf Course shall have an easement to come upon fairway lots solely for the purpose of retrieving golf balls shot upon any such fairway lot.

ARTICLE XI -

GENERAL PROVISIONS

Section 1. Enforcement. The Trustee, the Association, the Developer and each owner or contract purchaser of a lot or lots subject to this Declaration, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration: Provided, however, that the Developer's right to enforce the provisions of this Declaration shall terminate at such time as the Developer shall cease to be the owner of a lot or lots subject to this Declaration. Failure of the Trustee, the Association, the Developer, or any such owner or contract purchaser to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or Court Order shall in nowise affect any other provisions, which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Trustee, the Association, and the owner or contract purchaser of any lot subject to this Declaration, including the Developer, their respective legal representatives, heirs, successors and assigns for a term of 20 years from the date this Declaration is recorded, after which time said Covenants shall be automatically extended for successive periods of ten years unless an instrument terminating these Covenants which is signed by not less than the owners or contract purchasers then owning 75 per cent of the property described in Exhibit "A" shall have been filed with the Benton County Auditor. The covenants and restrictions of this Declaration may be amended during the first 20 year period by an instrument signed by not less than the owners or contract purchasers then owning 90 per cent of the property described in Exhibit "A", and thereafter by an instrument signed by not less than the owners or contract purchasers then owning 75 per cent of the property described in Exhibit "A". Amendments shall take effect when they have been recorded with the Auditor of Benton County.

DATED: This 16 day of July, 1974.

SECOND NINE, a LIMITED PARTNERSHIP

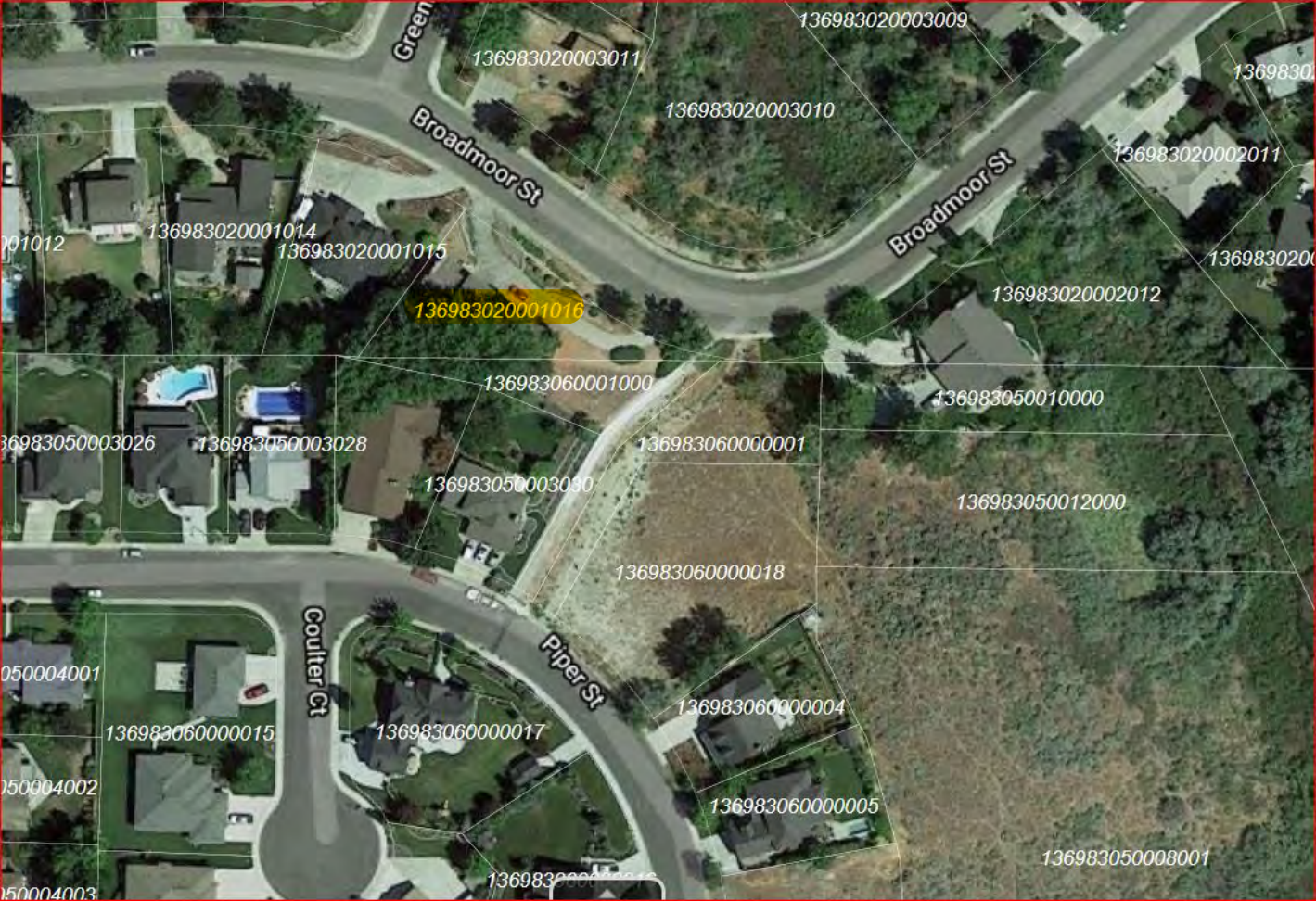
By: Meadow Springs Development Corporation, Inc., General Partner

By: Blue Mountain Service Corporation, General Partner

EXHIBIT "A"

Meadow Springs Second Nine Phase 1 and 3, EXCEPT Tracts A, B and G and 400, 500 and 600, as recorded in the records of Benton County, Washington.

The content of this site is intended to provide general information to Meadow Springs Second Nine Homeowner Association members and does not replace any official documents on file with Benton County, Washington.



Green

136983020003011

136983020003009

1369830

136983020003010

136983020002011

Broadmoor St

Broadmoor St

01012

136983020001014

136983020001015

136983020001016

136983020002012

1369830200

136983060001000

136983050010000

136983050003026

136983050003028

136983060000001

136983050003030

136983050012000

136983060000018

050004001

136983060000015

136983060000017

Piper St

136983060000004

050004002

136983060000005

136983050008001

050004003

136983060000000

Coulter Ct

Benton County Property Search

Property Search Results > 68423 COLUMBIA VILLAS LLC for Year 2022 - 2023

Property

Account

Property ID:

68423

Abbreviated Legal Description:

MEADOW SPRINGS SECOND NINE PHASE ONE, BLOCK #1, LOT #16:

Parcel # / Geo ID:

136983020001016

Agent Code:

Type:

Real

Tax Area:

R3 - R3

Land Use Code

11

Open Space:

N

DFL

N

Historic Property:

N

Remodel Property:

N

Multi-Family Redevelopment:

N

Township:

09

Section:

36

Range:

28

Legal Acres:

0.3837

Location

Address:

245 BROADMOOR ST
RICHLAND, WA 99352-9606

Mapsco:

Neighborhood:

13042 - Meadow Springs Multi Level

Map ID:

Neighborhood CD:

13042

Owner

Name:

COLUMBIA VILLAS LLC

Owner ID:

432349

Mailing Address:

5426 N RD 68
BOX D-113
PASCO, WA 99301

% Ownership:

100.0000000000%

Exemptions:

Pay Tax Due

Select the appropriate checkbox next to the year to be paid. Multiple years may be selected.


Year - Statement ID	Tax	Assessment	Penalty	Interest	Total Due
2022 - 47855 (Balance)	\$1513.23	\$20.22	\$0.00	\$0.00	\$1533.45

Total Amount to Pay: \$

*Convenience Fee not included

Taxes and Assessment Details

Property Tax Information as of 05/31/2022

Amount Due if Paid on:  NOTE: If you plan to submit payment on a future date, make sure you enter the date and click RECALCULATE to obtain the correct total amount due.

Click on "Statement Details" to expand or collapse a tax statement.

Year	Statement ID	First Half Base Amt.	Second Half Base Amt.	Penalty	Interest	Base Paid	Amount Due
▶ Statement Details							
2022	47855	\$1533.51	\$1533.45	\$0.00	\$0.00	\$1533.51	\$1533.45
▶ Statement Details							
2021	47992	\$1496.20	\$1496.14	\$0.00	\$0.00	\$2992.34	\$0.00

Values

(+) Improvement Homesite Value:	+	\$0
(+) Improvement Non-Homesite Value:	+	\$218,970
(+) Land Homesite Value:	+	\$75,000
(+) Land Non-Homesite Value:	+	\$0
(+) Curr Use (HS):	+	\$0 \$0
(+) Curr Use (NHS):	+	\$0 \$0

(=) Market Value:	=	\$293,970
(-) Productivity Loss:	-	\$0

(=) Subtotal:	=	\$293,970
(+) Senior Appraised Value:	+	\$0
(+) Non-Senior Appraised Value:	+	\$293,970
<hr/>		
(=) Total Appraised Value:	=	\$293,970
(-) Senior Exemption Loss:	-	\$0
(-) Exemption Loss:	-	\$0
<hr/>		
(=) Taxable Value:	=	\$293,970

Taxing Jurisdiction

Owner: COLUMBIA VILLAS LLC
 % Ownership: 100.000000000000%
 Total Value: N/A
 Tax Area: R3 - R3

Levy Code	Description	Levy Rate	Appraised Value	Taxable Value	Estimated Tax
RICH	RICHLAND	N/A	N/A	N/A	N/A
RICHLIB	RICHLAND LIBRARY DEBT SERVICE	N/A	N/A	N/A	N/A
CNYHMNSVCS	COUNTY HUMAN SERVICES	N/A	N/A	N/A	N/A
CNYVET	COUNTY VETERANS	N/A	N/A	N/A	N/A
COUNTY	COUNTY	N/A	N/A	N/A	N/A
KENNHOSP	KENNEWICK HOSPITAL	N/A	N/A	N/A	N/A
PTKEN	PORT OF KENNEWICK	N/A	N/A	N/A	N/A
SD400	SCHOOL DIST 400 DEBT SERVICE	N/A	N/A	N/A	N/A
SD400CP	SCHOOL DIST 400 CAPITAL PROJECTS	N/A	N/A	N/A	N/A
SD400MO	SCHOOL DIST 400 ENRICHMENT	N/A	N/A	N/A	N/A
STATE	STATE SCHOOL	N/A	N/A	N/A	N/A
STATE2	STATE SCHOOL PART 2	N/A	N/A	N/A	N/A
Total Tax Rate:		N/A			
Taxes w/Current Exemptions:					N/A
Taxes w/o Exemptions:					N/A

Improvement / Building

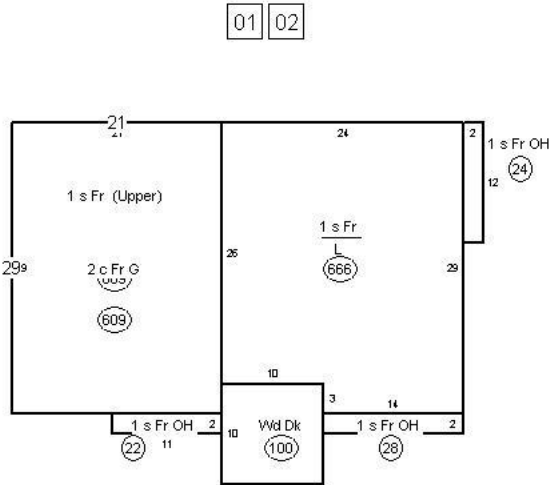
Improvement #1:	RESIDENTIAL BLDGS	State Code:	520	2015.0 sqft	Value:	\$218,970
Exterior Wall:	T 111 plywood	Fireplace:	FIREPLACE			
Fixture Count:	Count	Foundation:	Crawl/Concrete Perimeter Piers			
Full Bathrooms:	Count	Half Bathrooms:	Count			
HVAC:	Heat pump	Number of Bedrooms:	Count			
Roof Covering:	Wood					

Type	Description	Class CD	Sub Class CD	Year Built	Area
MA-Split	Main Area - Split-Entry	30		1978	2015.0
ATTGAR	ATTGAR	30		1978	609.0
Deck	Deck	30		1978	100.0

Property Image

This property contains TIFF images. Click on the button(s) to download the full image (which may contain multiple pages).





Land

Roll Value History

Deed and Sales History

Payout Agreement

No payout information available..

Assessor Website

Treasurer Website

Mapping Website

BROAD



10+00

W8

W8

W8

W8

8M

W8

W8

W8

PC: 10+30.12

WALK

26' EP

27' TBC

NON-RESIDENTIAL DRIVEWAY PER ST2A (MODIFIED)
(CITY APPROVAL REQUIRED)

RELOCATE EXISTING WALKWAY AS SHOWN

NOT A PART OF PROJECT

MEADOW
SPRINGS
SECOND
NINE PH 1

LOT 16, BLOCK 1

COLUMBIA VILLAS, LLC
NOT A PART OF PROJECT

BIG CREEK LAND
COMPANY, LLC

TRACT Y

TRACT Z
CITY OF RICHLAND PROPERTY

EX 8' SIDE

PATHWAY IS CITY OF RICHLAND PROPERTY

Stevens, Mike

From: Jennie Bass <jcb6454@gmail.com>
Sent: Friday, May 27, 2022 6:22 AM
To: Stevens, Mike
Subject: Willowbrook Apartments and its effect on neighborhood quality

Please consider that children live along Greenbrook Blvd. and Broadmoor St. in Meadow Spring. Allowing apartments to be built off Broadmoor would result in many more cars daily traveling on these streets. **This would abruptly change the character and safety of the neighborhood.**

I ask that the development of these apartments not go forward.

Sincerely,
Jennie Bass
Meadow Springs resident

Stevens, Mike

From: Jeremy Harrington <bjjusa777@outlook.com>
Sent: Monday, May 30, 2022 7:34 PM
To: Stevens, Mike
Subject: NO to Willowbrook Apartments

I strongly oppose and object to the proposed development of the Willowbrook Apartments, east of the Willowbrook neighborhood. This development is inconsistent with our community covenants, it would create serious traffic problems due to insufficient roadways, and it would destroy our nature preserve, which not only protects local wildlife but also provides essential walking and running paths.

Please protect our public land.

Sent from my iPhone

Stevens, Mike

From: Juli Czebotar <czjuli@hotmail.com>
Sent: Friday, May 27, 2022 5:27 AM
To: Stevens, Mike
Subject: Our community, our life

Mr Stevens,

Please add my letter To the many you have received from the concerned citizens and neighbors in this community. My husband Tony Czebotar wrote to you a few years back about this proposed road addition and I would like to add my sentiments to his and all previous correspondence concerning this matter.

My husband and I have lived on Broadmoor for 30 years. We have seen such a change during that time, some being good some not so good. We are constantly fearful for the children at ClayBell park. On Broadmoor itself parking is allowed on both sides of the street in front of the park. Several times we have seen a child dart out between the cars. A catastrophe is in the making and almost inevitable. If we were to add 500 more cars a day with the proposed road addition on Broadmoor, I can only imagine how much closer to reality that catastrophe will be.

With all the added homes and the school, we have seen the traffic increase exponentially. What used to be a quiet neighborhood is now a main thorough fare. Yesterday I needed to run to the store for a few items. Where Broadmoor and Leslie meet there were 11 cars turning left and three turning right. I became the fourth on the right and it took us over five minutes before we could turn into traffic. I can only imagine how long it took the people that were turning left. There again, if we had 500 more cars a day we will either need to have a traffic light installed there or better yet, just stay home.

My question to you is, would it not be wise at this point to put up a traffic counter so you can monitor how much traffic is actually on Broadmoor at this time? Or even better, come sit in front of my house which is in view of the proposed road and watch how fast the cars are coming around the corner. It doesn't take a lot of common sense to see that is a dangerous and inadequate place to build a road.

Let's for once think about safety and manageability rather than lining our pocketbooks with a little extra cash. What once was a protected wetlands is now a booming neighborhood. When is the encroachment on nature and our children's safety going to take precedence in this conversation?

Juli and Tony Czebotar
330 Broadmoor
509-396-4808

Sent from Juli's iPad

Stevens, Mike

From: Toni Harrington <tonialise@icloud.com>
Sent: Monday, May 30, 2022 7:35 PM
To: Stevens, Mike
Subject: NO to Willowbrook Apartments

I strongly oppose and object to the proposed development of the Willowbrook Apartments, east of the Willowbrook neighborhood. This development is inconsistent with our community covenants, it would create serious traffic problems due to insufficient roadways, and it would destroy our nature preserve, which not only protects local wildlife but also provides essential walking and running paths.

Please protect our public land.

Sent from my iPhone

Stevens, Mike

From: T Long <trigirl59@gmail.com>
Sent: Thursday, June 9, 2022 8:58 AM
To: Stevens, Mike
Subject: Willowbrook Apartments

Hello,

I live at 2409 Michael and my house backs up to Bellerive. I am opposed to the Willowbrook Apartments in Richland. The reason is that it is going to cause a lot more traffic on Broadmore and Bellerive. The speed limit on both of these roads is 25 mph and it is never observed. My fence on Bellerive is short so I see and hear all the traffic. People drive 40 and 50 mph and these roads are very busy. There are a lot of people who walk on both Broadmore and Bellerive every day and additionally there is a park and school, and with traffic going this fast it gets dangerous. The addition of these apartments is just going to cause more congestion and danger to our neighborhood.

Theresa Long
2409 Michael Ave.
Richland, WA 99352
509-845-2128

MEMORANDUM

May 23, 2022

RE: Proposed Willowbrook Apartments—Environmental Noncompliance

In spite of the 347-page-length of the Site Plan Review application submitted to the City of Richland, the developer is hoping the City will disregard several important laws. The most fundamental law they want the City to ignore is the law of gravity, by claiming that the stream and wetlands that form the eastern side of the project site will be protected by a 150 foot “buffer zone” from the massive earth-moving and construction activities throughout the west side of the site. The simple fact that is apparent to anyone who either walks the site, or looks carefully at the site topographic maps, is that the entire project site is in the immediate watershed of the stream and wetlands, and that natural stormwater, as well as water used for dust control and other land forming and construction activities, carrying particulates and other pollutants, will be drawn by gravity downhill across the “buffer zone” and into the wetlands and stream.

The developer’s application includes consultant reports on certain ecological aspects of the site. Those reports confirm that the stream drains north into the Yakima River and then directly into the Columbia River, that it is surrounded by adjacent wetlands that have been extensively delineated based on soils and vegetation, and that the stream and wetlands are therefore Waters of the United States under the jurisdiction of the Federal Clean Water Act and corresponding state laws. In particular, the reports confirm that the stream and wetlands are habitat for the Spring Chinook and Coho salmon species that are protected by the Endangered Species Act. The reports also confirm that the site is habitat for at least several species of migratory birds, which are protected under Federal law.

However, the application fails to take the next logical step to address the significant environmental law, regulation and permitting requirements that are triggered by the special character of the site and its wildlife:

1. The developers have totally ignored the requirement to comply with requirements for a stormwater pollution prevention permit, which is required because the site is adjacent to, and drains into, a stream and its adjacent wetlands which are Waters of the United States protected under the Section 402 NPDES Permit requirements of the Clean Water Act. The permit program in Washington is administered by the Washington

Department of Ecology, and includes a mandatory 30 day public comment period.

2. The developers have failed to address the requirement to obtain a necessary permit from the US Army Corps of Engineers under Section 404 of the Clean Water Act, since construction on the site will deposit soils into a stream and wetlands that are Waters of the United States.
3. The CWA Section 404 requirements include preparation by the Corps of Engineers of an environmental impact analysis under the Federal National Environmental Policy Act, separate and apart from any State Environmental Policy Act analysis adopted by the City of Richland. NEPA requires examination of all potentially applicable laws and regulations, both state and Federal.
4. The stream and wetlands affected by construction on the site are habitat for Chinook and Coho salmon protected under the Federal Endangered Species Act. The potential impact on these species must be analyzed under the standards of the ESA, and the project may not then proceed without negotiation of a Federal Habitat Conservation Plan under Section 10 of the ESA, that must be approved by the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration.
5. While a contractor for the site owner identified many bird species on the site on March 19 of 2021, the contractor failed to address the requirements of the Federal Migratory Bird Treaty Act, which makes it a Federal crime to harm any migratory bird or its eggs. A single March site visit fails to identify all the migratory bird species which may visit the site over the full course of the spring and summer months, some coming from thousands of miles away. Biologists working for the U.S. Department of Energy at the Hanford Site have documented that Benton County hosts dozens of species which nest on the ground, and others on structures, such as cliff swallows that use mud (such as that available in the wetlands on the project site) to build nests on walls and the frames of new buildings under construction, including the massive Hanford Waste Treatment Plant. MBTA compliance will not be complete until a comprehensive survey is conducted over the spring and summer of 2022, followed by negotiation with the US Fish & Wildlife Service Portland regional office to obtain the applicable permits for

incidental “take” of protected birds and eggs that may occur during the construction and operation of the apartment complex.

6. The contractor reports have confirmed the presence on the site of Burrowing Owls, which are a species which the State of Washington has identified as declining significantly in its population, surviving in Washington mainly within Benton County, and therefore measures to protect the Burrowing Owl from the impacts of the construction and operation of the site must be analyzed and adopted to satisfy the State Environmental Policy Act.
7. In light of the substantial environmental compliance and permitting issues identified above, the SEPA does not allow the City of Richland to authorize construction to proceed without completing a full environmental impact analysis to justify its action. Furthermore, since the facts trigger the application of the Clean Water Act, the Migratory Bird Treaty Act, and the Endangered Species Act, Federal law requires prior completion of a full environmental impact analysis under the National Environmental Policy Act, with public participation and hearings. If the City attempts to authorize the project to proceed without compliance with Federal law, both the City and the applicant may be subject to civil and criminal enforcement actions by these Federal agencies, and civil lawsuits brought by citizens to enjoin the action. Rather than assume legal responsibility for the developer’s disregard of environmental protection laws, the City of Richland should direct the developer to negotiate with all of the state and Federal agencies cited above and demonstrate that their project has been brought into full compliance with all applicable laws, including the requirement of both SEPA and NEPA for a full analysis of the applicable requirements and opportunities for public comment and hearings on their draft decision documents, as well as on relevant permits.

Submitted by Raymond Takashi Swenson,
Lt. Colonel, USAF (Retired); JD, LL.M Environmental Law
Licensed in Washington (#27844), Utah (#3174), California (#164137), and
the US District Court for the Eastern District of Washington.
103 Hillview DR, Richland, WA 99352
509-713-0966, RaymondTSwensonLaw@gmail.com

Raymond Takashi Swenson earned his BA degree in mathematics and Juris Doctor (JD) degree at the University of Utah, and a Master of Laws (LLM) in Environmental Law at George Washington University Law School in Washington, DC, where he served at the Pentagon with the Deputy General Counsel of the Air Force for Installations and Environment, and with the General Counsel for the White House Council on Environmental Quality. He served as Chief of Environmental Law for Strategic Air Command, and Air Force Regional Counsel for the Western United States. After several years with law firms in San Francisco and Salt Lake City representing cities negotiating to receive the transfer of closing military bases, he began 22 years of service as environmental law counsel for Bechtel and then CH2M HILL/Jacobs at the Idaho National Laboratory and the Hanford Site, retiring in 2019. Since 2010 he has been on the adjunct faculty of Washington State University, teaching students in Pullman, Vancouver and the Tri-Cities, in environmental policy and law and hazardous waste management.

Stevens, Mike

From: Kannan Krishnaswami <kannan@krishnaswami.net>
Sent: Wednesday, May 25, 2022 2:57 PM
To: Stevens, Mike
Subject: OPPOSITION TO WILLOWBROOK APARTMENTS
Attachments: Willowbrook Apartments--Environmental Noncompliance--May 23 2022.docx

To:

Mr. Mike Stevens
Planning Administrative
City of Richland, WA

Subject: Objection to apartment construction on Amon Creek Preserve.

Dear Mr. Stevens,

I am appalled at the proposed construction of an apartment complex at the Amon Creek Preserve, next to the Willowbrook neighborhood. It has come to my attention that your office continues to bypass zoning laws, violating by-laws of two Home Owners Association, and overall jeopardizing the safety in established neighborhoods. Allow me to point out several concerns:

1. Has the city conducted an independent environmental impact study for this proposed construction? The owner of the land, Duane Smith's assessment conveniently glosses over several issues. For a detailed report I would encourage you review the attached assessment that points out several concerns related to the destruction of the wetland and several species of fish and birds that are on Washington state's list of protected species. I encourage you to review the attached memorandum provided by Ray Swenson, and Environmental Law Attorney WSU professor. which details an environmental protection points of view instead of focusing on biased reports that have a monetary agenda. This point seems to be brought up every two years and the construction companies studies have been rejected every time. What has changed over the past two years that would allow this environmental requirement and concerns to be circumvented?
2. To overcome an ingress and egress issue, the land owner has acquired a property on Broadmoor where he intends to construct a road on a residential plot. This is a violation of both zoning laws and by-laws of two Homeowners Association. The traffic study suggests that a significantly large portion of traffic for the apartment complex will use Broadmoor, which is already beyond capacity and poses a safety hazard. Does the new traffic study address the increased traffic risks on the safety and security of a RESIDENTIAL neighborhood? Most apartment complexes are located on arterial roads where impact to traffic and neighborhood safety and security is minimal. The situation for this project is completely reversed with an apartment complex at the tail end of a single family residential area. This apartment complex can be accessed only through the narrow, winding streets of the Willowbrook residential neighborhood and, more recently, by making a hard "right turn" on a blind corner on Broadmoor, both of which often have cars parked on the street, further restricting access to the proposed complex. This situation would be even further exacerbated during snow emergencies (which are becoming more common place) since the city of Richland lacks the resources to remediate in a timely manner,
3. The proposed construction uses "buffer averaging" as a means for "economic viability." Buffer averaging, as described in the plan, allows the developer to encroach extensively on some of the most sensitive portion of the Amon Preserve while increasing the buffer in potentially less sensitive regions. Does economic viability take precedence over environmental protection? Again, it is critical that an independent Environmental Impact Study be done. I find it ridiculous that buffer averaging allows the developer to choke the creek where there is a maximum need for its protection, i.e. the north end. (See attached aerial image.) I would encourage you to visit the Amon Preserve and see for yourself - the preserve, the riparian region, the topography of the land, the plants, the wild life, and most importantly, the harmonious interaction of humans with this preserve.
4. The city of Richland has grown and the area has changed significantly with single family homes all around giving the Willowbrook neighborhood a certain desirable characteristic. Just like the stock market (or any other investment vehicle) does not guarantee that the value of any investment would hold or grow forever, the City of Richland cannot guarantee Duane Smith that his investment should or will retain the same value as it did when he procured it in the 1970s. Times

have changed, the city has evolved and this plot of land simply cannot sustain an apartment complex without detrimentally affecting the natural habitat, regardless of how it is presently zoned. The owner of this plot of land should reconsider his expectations off this plot of land and instead focus on single family homes that are more in line with the nature of the neighborhood and which will have a minimal or negligible impact to the Amon Preserve.

6. What studies have been conducted to determine the effects of noise pollution from cars and air-conditioners, light pollution from street lamps and apartments on the reserve and on neighboring backyards, and pollution from pesticides, fertilizers and other household chemicals that would run off into the preserve? This list only scratches the surface of what all the concerns are associated with this project.

Overall, this is a poorly conceived land development project and even worse, it reflects poorly on the City of Richland that it would even consider green lighting a project that is wrong on so many counts. We need our city planners to be bold about protecting our natural resources that are enjoyed by all citizens of the Tricities. The citizens of the Tricities should not have to be put through this torment every two years to satisfy the greed of one man. Take a bold step and, once and for all, terminate this project. Since these issues are a consequence of bad decisions made by the City many years ago - changing its zoning over protests and changed city and road planning removing access to this land - it is time for the City to take responsibility to compensate him in other ways, perhaps a land swap. At this time, I call upon the responsibility that the citizens have placed upon you by quoting Ernest Hemingway:

"Today is only one day in all the days that will ever be. But what happens in all the other days that ever come can depend on what you do today."

I implore you to be bold and make the right decision on behalf of the citizens of the Tricities. You are in a position to shape and set the standard for what our communities would look like in the years to come.

Yours truly,

Kannan Krishnaswami, Ph.D.
312 Piper Street
Richland, WA 99352
Email: kannan@krishnaswami.net
Phone: 978-764-3517

Stevens, Mike

From: Michelle Rankin <michelle@michellerankin.com>
Sent: Tuesday, May 24, 2022 8:27 AM
To: Stevens, Mike
Subject: NO to Willowbrook Apartments

I strongly oppose and object to the proposed development of the Willowbrook Apartments, east of the Willowbrook neighborhood.

This development is inconsistent with our community covenants, it would create serious traffic problems due to insufficient roadways, and it would destroy our nature preserve, which not only protects local wildlife but also provides essential walking and running paths.

Please protect our public land and our children as traffic is already a concern in our neighborhood.

Sincerely,

Michelle Rankin
244 piper st
509.947.1751

BEFORE THE HEARING EXAMINER

CITY OF RICHLAND

STATE OF WASHINGTON

LAURIE NESS AND	S2020-103 & EA2020-132
PATRICK PAULSON	
v.	REQUEST TO DENY APPROVAL OF
CITY OF RICHLAND AND BIG CREEK	SITE PLAN FOR WILLOWBROOK
LAND COMPANY, LLC	APARTMENTS

Patrick Paulson and Laurie Ness
2253 Davison Avenue
Richland WA 99354
patrick@3rivers-ashtanga.org
pennifurs.mom@gmail.com

REQUEST TO DENY APPROVAL OF SITE PLAN FOR WILLOWBROOK
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EXHIBITS

8	TAB 1. City of Richland, April 29, 2022, <i>Notice Of Application, Public Hearing & Optional DNS (M2020-101 & EA2020-114) [Notice]</i> , Exhibit 11 attached to: City of Richland Development Services Division, June 13, 2022, <i>Staff Report To The Hearing Examiner, Section 1 [Staff Report 1]</i> at pp. 392-393.	1, 3, 11
10	TAB 2. Patrick Paulson and Laurie Ness, May 25, 2022. <i>Comments on June 13, 2022 Hearing for M2020-101 & EA2020-114: Willowbrook Apartments Site Plan Review [Habitat Comments]</i> , pp. 236-254 within <i>Government Agency & Public Comments</i> , Exhibit 13 attached at pp. 1-to City of Richland Development Services Division, June 13, 2022, <i>Staff Report To The Hearing Examiner, Section 2 [Staff Report 2]</i> at pp. 1-374	1
13	TAB 3. Laurie Ness and Patrick Paulson, May 25, 2022. <i>Comments on June 13, 2022 Hearing for M2020-101 & EA2020-114: Willowbrook Apartments Site Plan Review – Incomplete and Incorrect Checklist [Checklist Comments]</i> , within <i>Site Plan Comments</i> at pp. 255-299.	1
15	TAB 4. City of Richland, February 22, 2021. <i>Determination of Non-Significance [Willowbrook DNS]</i> , File No. EA2020-132, Exhibit 9, attached as p. 375 to <i>Staff Report</i>	2
16	TAB 5. James T. Mathieu, May 25, 2022. <i>Comment Letter, Northwest Land and Water, Inc. [Hydrogeologist Comment]</i> within <i>Site Plan Comments</i> at pp. 255-299.	5
18	TAB 6. Lake City Engineering, 11/18/2021. “Conceptual Stormwater and Utility Plan” [hereafter referred to as <i>Stormwater Plan</i>], p. C4 (p. 37 within <i>Staff Report 1</i>) of <i>Site Plan Submittals</i> , Exhibit 2 attached to <i>Staff Report 1</i> at pp. 34-37.....	6
20	TAB 7. WDFW. 2008 (Updated 2021). Priority Habitat and Species List. P. 269.	11

REFERENCES

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1	City of Richland Development Services Division, June 13, 2022, <i>Staff Report To The Hearing Examiner, Section 1</i> [<i>Staff Report 1</i>].	
2	https://www.ci.richland.wa.us/home/showpublisheddocument/13531/637891711513870000 ..	1
3	City of Richland Development Services Division, June 13, 2022, <i>Staff Report To The Hearing Examiner, Section 2</i> [<i>Staff Report 2</i>].	
4	https://www.ci.richland.wa.us/home/showpublisheddocument/13561	1
5	<i>Government Agency & Public Comments</i> [<i>Site Plan Comments</i>], Exhibit 13 attached to City of Richland Development Services Division, June 13, 2022, <i>Staff Report To The Hearing Examiner, Section 2</i> [<i>Staff Report 2</i>] at pp. 1-374.....	1

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REQUEST TO DENY APPROVAL OF SITE PLAN FOR WILLOWBROOK

I. INTRODUCTION AND PROCEDURAL FACTS

On April 29, 2022, the Planning Division of the City of Richland (the City) posted a notice of application (NOA) ¹ for the Site Plan for Willowbrook Apartments (the Site Plan). The *Notice* states “The City of Richland is lead agency for the proposal under the State Environmental Policy Act (SEPA) and has reviewed the proposed project for probable adverse environmental impacts and expects to issue a determination of non-significance (DNS) for this project. The optional DNS process in WAC 197-11-355 is being used.” We submitted comments^{2,3} on May 25th in which we presented evidence that approval of the Site Plan would result in significant environmental adverse impacts to recognized and documented critical areas by the City of Richland’s Critical Area Ordinance (CAO) ⁴ and that the SEPA checklist which the City’s SEPA

¹ TAB 1 attached to this request. City of Richland, April 29, 2022, *Notice Of Application, Public Hearing & Optional DNS (M2020-101 & EA2020-114)* [hereafter referred to as *Notice*], Exhibit 11 attached to: City of Richland Development Services Division, June 13, 2022, *Staff Report To The Hearing Examiner, Section 1* [*Staff Report 1*] at pp. 392-393.

<https://www.ci.richland.wa.us/home/showpublisheddocument/13531/637891711513870000>.

² TAB 2 attached to this request. Patrick Paulson and Laurie Ness, May 25, 2022. *Comments on June 13, 2022 Hearing for M2020-101 & EA2020-114: Willowbrook Apartments Site Plan Review* [hereafter referred to as *Habitat Comments*], pp. 236-254 within *Government Agency & Public Comments* [hereafter referred to as *Site Plan Comments*], Exhibit 13 attached to City of Richland Development Services Division, June 13, 2022, *Staff Report To The Hearing Examiner, Section 2* [hereafter referred to as *Staff Report 2*] at pp. 1-374.

<https://www.ci.richland.wa.us/home/showpublisheddocument/13561>.

³ TAB 3 attached to this request. Laurie Ness and Patrick Paulson, May 25, 2022. *Comments on June 13, 2022 Hearing for M2020-101 & EA2020-114: Willowbrook Apartments Site Plan Review – Incomplete and Incorrect Checklist* [hereafter referred to as *Checklist Comments*], within *Site Plan Comments* at pp. 255-299.

⁴ Chapter 22.10 City of Richland Municipal Code, *Critical Areas*.

<https://www.codepublishing.com/WA/Richland/#!/Richland22/Richland2210.html#22.10>.

REQUEST TO DENY APPROVAL OF SITE PLAN FOR WILLOWBROOK

threshold determination is based is incomplete and incorrect. Notwithstanding substantive informed comments from us and many others, the City issued a DNS for the Site Plan on June 3, 2022.⁵

We now submit to the Examiner that the Site Plan is both procedurally and substantively flawed, and that under Richland Municipal Code (RMC) 19.60.095⁶ the Examiner should reject the approval of the Site Plan.

1. Incomplete Site Plan

RMC 23.48.030 requires that a site plan submitted to the hearing examiner contain specific elements such as the dimensions and locations of proposed structures on the site. We argue that, due to the lack of preliminary stormwater and grading plans, the submitted site plan will likely require significant modification to be viable.

2. Invalid SEPA Threshold Determination Process

We argue that:

- The Site Plan will adversely impact wetlands;

⁵ TAB 4 attached to this request. City of Richland, June 3, 2022. *Determination of Non-Significance* [hereafter referred to as *Willowbrook DNS*], File No. EA2020-144, p. 375 within *SEPA Documents*, Exhibit 4 to *Staff Report 1*.

⁶ RMC 19.60.095. “No development application for a Type II or Type III permit shall be approved by the city of Richland unless the decision to approve the permit application is supported by the following findings and conclusions: A. The development application is consistent with the adopted comprehensive plan and meets the requirements and intent of the Richland Municipal Code. B. Impacts of the development have been appropriately identified and mitigated under Chapter 22.09 RMC ...”.

REQUEST TO DENY APPROVAL OF SITE PLAN FOR WILLOWBROOK

- The Site Plan will also result in substantial adverse impacts to the shrub steppe ecosystem, which is a Priority Habitat (PHS) listed by the Washington Department of Fish and Wildlife (WDFW);
- The City recognize all areas associated with PHS as Critical Areas, specifically Fish and Wildlife Habitat Conservation Areas (FWHCA);
- Washington Administrative Code (WAC) 197-11-355 specifies that the “optional DNS process” be used *only* when it is unlikely that substantial adverse environmental impacts will occur, or all mitigations for such impacts are listed in the *Notice*;
- The City was aware of the adverse environmental impacts, yet used the optional DNS process *without* stating any mitigations in the *Notice*;
- Therefore, the City failed to appropriately identify and mitigate the adverse impacts of the development, and the permit must be denied as required by RMC 19.60.095.

We further argue the procedural failure of the City to identify and mitigate adverse environmental impacts of the Site Plan prior to public notice results in substantive harm to us and the entire community of Richland. In failing to identify adverse impacts to wildlife habitat, the City failed to engage with the appropriate agencies, environmental organizations, and interested citizens to determine appropriate mitigations to offset the adverse environmental impacts of the project.

II. STANDARD OF REVIEW

RMC 19.60.060 requires site plans to be “supported by proof that it conforms to the applicable elements of the city’s development regulations, comprehensive plan and that any significant adverse environmental impacts have been adequately addressed”.⁷

RMC 19.60.095 states approval for a Type II application – which include preliminary plats⁸ – requires findings and conclusions that “The development application ... meets the requirements and intent of the Richland Municipal Code” and “Impacts of the development have been appropriately identified and mitigated under Chapter 22.09 RMC.”⁹

III. PROCEDURAL ARGUMENT

We argue that approval cannot be granted under RMC 19.60.095 because the Willowbrook site plan fails to “meet the requirements and intent of the Richland Municipal code.” In particular, the site plan fails to provide the detail required by RMC 23.48.030 and requirements for SEPA threshold determination given in RMC 22.09.080 and RMC 22.09.120. In addition, we argue the application fails to show the impacts of the Site Plan have been “appropriately identified and mitigated”.

⁷ RMC 19.60.060. “Except for Type IV actions, the burden of proof is on the proponent. The project permit application must be supported by proof that it conforms to the applicable elements of the city’s development regulations, comprehensive plan and that any significant adverse environmental impacts have been adequately addressed”. By RMC 23.48.030, this requirement applies to Type II actions, which include Site Plans such as Willowbrook: “a *site plan* shall be submitted to the hearing examiner for review and approval as a Type II permit application as defined in RMC 19.20.030” (our emphasis).

⁸ Supra, note 7.

⁹ Supra, note 6.

REQUEST TO DENY APPROVAL OF SITE PLAN FOR WILLOWBROOK

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1 **1. Site Plan is Inadequate**

2 The Willowbrook site plan fails to “meet the requirements and intent of the Richland
3 Municipal Code” since the failure to adequately plan for required stormwater handling means the
4 site plan fails to provide the final dimensions and locations of various plan elements required for
5 site plans submitted for approval. RMC 23.48.030 requires that a site plan specify

- 6 ...
7 C. Dimensions, location and number of dwelling units for each existing
8 or proposed structure on the site;
9 D. Roadways, walkways, off-street parking, and emergency vehicle
10 access;
11 E. Fencing and landscaping, showing location, type, dimensions and
12 character; and
13 F. Location, dimensions and character of recreational facilities and open
14 space.

15 While the Site Plan attempts to address these requirements, it is clear the plan submitted fails
16 to adequately consider how storm water will be handled. As pointed out in public comments,

17 ...stormwater infrastructure design is a key driver for the site design.
18 The locations and space requirements for detention/retention basins and
19 drywells influence the locations of residential infrastructure such as
20 dwellings, roads, and parking lots; therefore, understanding the required
21 capacity and dimensions of stormwater infrastructure is crucial.¹⁰

22 Given the lack of preliminary stormwater analyses, it is likely that the locations and
23 dimensions of dwelling units, roadways, etc. will need to be changed drastically, therefore the
current site plan fails to meet the requirements of RMC 23.48.030. In *Habitat Comments* we

21 ¹⁰ TAB 5 attached to this document. James T. Mathieu, May 25, 2022. *Comment Letter, Northwest Land
22 and Water, Inc.* [hereafter referred to as *Hydrogeologist Comment*] within *Site Plan Comments* at pp.
23 255-299.

REQUEST TO DENY APPROVAL OF SITE PLAN FOR WILLOWBROOK

1 noted that the “Conceptual Stormwater and Utility Plan”¹¹ included in the application will
2 require substantial modifications if stormwater is to be properly treated.¹² RMC 23.48.030
3 requires the stormwater treatment facilities to have the same footprint as shown in site plan, since
4 altering their location or dimensions would require the location and dimensions of other plan
5 elements, and RMC 23.48.030 requires site plans to specify the final “Dimensions, location ...
6 *for each ... proposed structure on the site; ... Fencing and landscaping, showing location, type,*
7 *dimensions* and character; ... *Location, dimensions* and character of recreational facilities and
8 open space.” We can find no provisions in Richland’s code for the modification of site plans
9 after approval.

11
12 ¹¹ TAB 6 attached to this document. Lake City Engineering, 11/18/2021. “Conceptual Stormwater and
Utility Plan” [hereafter referred to as *Stormwater Plan*], p. C4 (p. 37 within *Staff Report 1*) of *Site*
Plan Submittals, Exhibit 2 attached to *Staff Report 1* at pp. 34-37.

13 ¹² “The conceptual stormwater plan shows the existing site is sheet flow to the east. The plan
14 concentrates the flow into three locations. This will require level spreaders at each of the locations;
the site plan should indicate the footprint of the spreaders at the base of the stormwater berms”
15 *Habitat Comments* p. 13 at p. 250 of *Staff Report 2*.

16 “If the pond is graded so the top is at 505 ft and the pond depth is 5 ft., the pond would require a 10-
foot cut on the uphill side. With the given footprint this means there would be no room for pond
17 storage since the pond walls should have at most a 2:1 slope.” *Habitat Comments* p. 13 at p. 250 of
Staff Report 2.

18 If, on the other hand, the top of the pond is at about 509 feet elevation, then the downslope side needs
to be filled to match the 509-foot elevation. This will require a 10–12-foot-wide stability and access
19 road, still at 509-foot elevation. The grade would then need to drop at a 2:1 slope until it hits existing
grade, at about el. 502-foot elevation, resulting in a slope runout of about 15 feet. In other words, the
20 pond shown could extend 25 feet or more to the east and is very likely to extend into the buffer.”
Habitat Comments p. 14 at p. 251 of *Staff Report 2*.

21
22 REQUEST TO DENY APPROVAL OF SITE PLAN FOR WILLOWBROOK

23 APARTMENTS - 6

2. Invalid SEPA Threshold Determination Process

The application also fails to “meet the requirements and intent of the Richland Municipal Code” since the City failed in following the SEPA Threshold determination process. The process was flawed in at least three respects:

- the City relied on an inadequate SEPA checklist in making its threshold determination
- the City issued a DNS and used the ODNS process even though it was clear the project would result in significant environmental impact
- the City failed to list required mitigation measures in the notice of application as required by the ODNS process.

2.a. Use of inadequate SEPA Checklist

WAC 197-11-330, adopted by the City through RMC 22.09.080,¹³ requires that “In making a threshold determination, the responsible official shall: (a) Review the environmental checklist, if used: (i) Independently evaluating the responses of any applicant and indicating the result of its evaluation in the DS, in the DNS, or on the checklist;”. As the petitioners documented in *Checklist Comments* the applicant’s SEPA checklist contains many incomplete and inaccurate responses that were never corrected by the City before it issued a DNS. We note here two of the more glaring examples.

In their response to the question “Describe the sources of runoff and method of collection and disposal, if any.” (Checklist item B.3.c.1) the applicant responds: “Stormwater runoff will be

¹³ “The city adopts the following sections by reference, as supplemented in this chapter: WAC ... 197-11-330 ...”.

1 disposed of through conventional drywells and grassy swales...”. Yet the conceptual stormwater
2 plan in the application depicts no grassy swales or drywells.

3 In their response to the question “Has any part of the site been classified as a critical area by
4 the city or county? If so, specify.” (Checklist item B.8.h) the applicant responds, “Per the
5 Geotechnical and Hydrogeological Site Evaluation Report submitted herewith, no portion of the
6 proposed development is located within a City or County designated CARA.”.

7 This is plainly incorrect, as the City’s Critical Area Map shows the project site located on a
8 CARA (Figure 1). *Staff Report 1* states:

9 The project site is located within an Aquifer Recharge Area as
10 determined by the City of Richland Critical Areas regulations and
11 associated mapping. Information contained within the Geotechnical &
12 Hydrogeologic Site Evaluation Report (Exhibit 5) indicates that the site
is not located within an Aquifer Recharge Area. However, a second
report, prepared by Canyon Environmental Group (Exhibit 6) indicates
that the project site is located within an Aquifer Recharge Area...

13 That staff did not make these corrections to the SEPA checklist prior to issuing a DNS makes
14 it clear the requirements of WAC 197-11-330 – and therefore the requirements to be met for
15 approval of the Site Plan – have not been met.

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22 REQUEST TO DENY APPROVAL OF SITE PLAN FOR WILLOWBROOK
23 APARTMENTS - 8

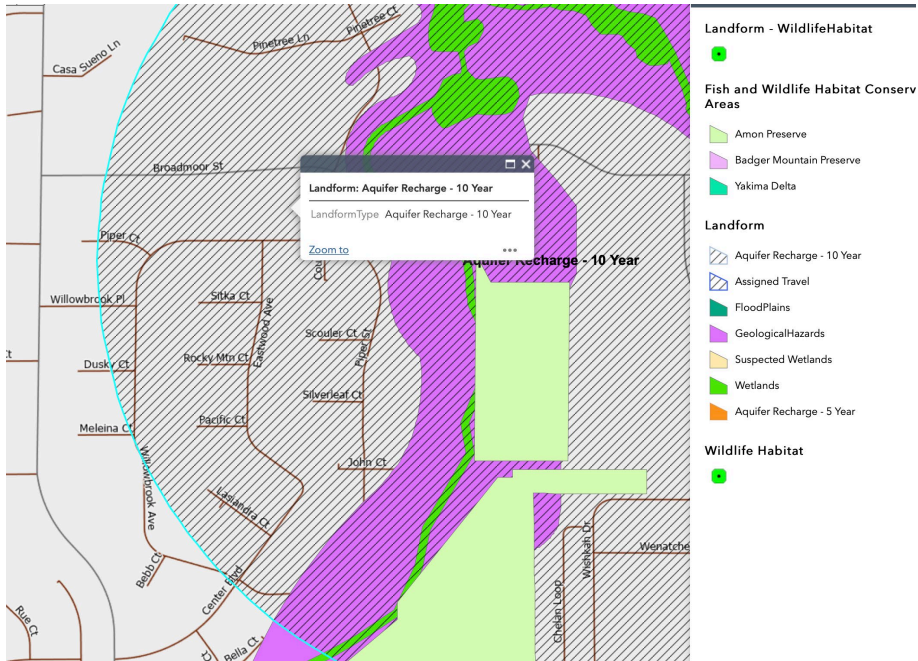


Figure 1. City of Richland Critical Areas Map shows project located on CARA

2.b. DNS determination issued despite clear evidence of environmental impact

WAC 197-11-310, adopted by the City by reference (RMC 22.09.080), requires that “(1) A threshold determination is required for any [non-exempt] proposal ...” and that

(5) All threshold determinations shall be documented in:

- (a) A determination of nonsignificance (DNS) (WAC 197-11-340); or
- (b) A determination of significance (DS) (WAC 197-11-360).

The City issued a DNS for this plat on February 22.¹⁴ But WAC 197-11-360 requires that “If the responsible official determines that a proposal may have a probable significant adverse

¹⁴ Willowbrook DNS, *supra* note 5.

REQUEST TO DENY APPROVAL OF SITE PLAN FOR WILLOWBROOK

1 environmental impact, the responsible official shall prepare and issue a determination of
2 significance (DS)”, and a DNS can only be issued only if a determination is made that there will
3 be *no* such impacts.¹⁵

4 *Staff Report I* clearly shows the City had determined the proposal would have significant
5 adverse environmental impacts. *Staff Report I* states as a condition of approval¹⁶:

6 A mitigation plan that enhances the wetland buffer area and satisfies
7 WDFW’s concerns regarding the permanent impacts to WDFW habitats
8 and species shall be prepared by a professional critical areas consultant.
9 The mitigation plan shall be prepared pursuant to RMC 22.10.110,
10 Wetland buffer areas, RMC 22.10.220, Fish and wildlife habitat
11 conservation area alteration and RMC 22.10.210 Fish and wildlife
12 habitat conservation area – Performance standards, particularly RMC
13 22.10.210 (K). The mitigation plan shall be reviewed and agreed upon by
14 the applicant, City of Richland, WDFW and Washington State Dept. of
15 Ecology (Wetlands Division). All required plantings and associated
16 improvements associated with the approved mitigation plan shall be
17 completed prior to a certificate of occupancy being issued for any of the
18 proposed buildings.

19 The City defines FWHCA as Critical Areas¹⁷ and FWHCA include¹⁸

- 20 2. State priority habitats and areas associated with state priority
21 species.
22 a. State of Washington priority habitats and species are considered
23 priorities for conservation and management. The state of

15 WAC 197-11-340. “If the responsible official determines there will be no probable significant adverse
16 environmental impacts from a proposal, the lead agency shall prepare and issue a determination of
17 nonsignificance”.

18 ¹⁶ *Staff Report I*, pp. 20-21 (pp. 26-27 in pdf).

19 ¹⁷ RMC 22.10.040. “ ‘Critical areas’ are areas defined in RCW 36.70A.030(5) including any of the
20 following areas or ecosystems: ... fish and wildlife habitat conservation areas ...”.

21 ¹⁸ RMC 22.10.185.A

22 REQUEST TO DENY APPROVAL OF SITE PLAN FOR WILLOWBROOK

1 Washington's Department of Fish and Wildlife [WDFW]
2 should be consulted for current listing of priority habitats and
species;

3 WDFW's current listing of priority habitats and species includes shrub-steppe.¹⁹

4 Clearly, then, the City was aware of "permanent impacts to and loss of shrubsteppe habitat"
5 and shrubsteppe habitat is a critical area in the City of Richland. Therefore, the City's issuance of
6 a DNS was an error; the City was required to issue a DS (WAC 197-11-360).

7 *2.c. WAC 197-11-355: ODNs requires mitigation measures to be listed in notice of application*

8 We note that WAC 197-11-350 allows that "if the lead agency specifies mitigation measures
9 on an applicant's proposal that would allow it to issue a DNS, and the proposal is clarified,
10 changed, or conditioned to include those measures, the lead agency shall issue a DNS". Note,
11 however, the City used the "optional DNS process"²⁰ defined by WAC 197-11-355. This
12 process requires that the City, as Lead Agency, must "List in *the notice of application* the
13 conditions being considered to mitigate environmental impacts, if a mitigated DNS is expected"
14 (our emphasis); no such conditions are listed in the *Notice*.

15 In the current proposal, while the Site Plan was conditioned to include mitigation measures,
16 those measures *are not sufficient* to allow the issuance of a DNS, since, as shown above, the
17 project will still result in adverse environmental impacts.

18
19
20 ¹⁹ TAB 7 attached to this request. WDFW. 2008 (Updated 2021). Priority Habitat and Species List. P.
21 269.

22 ²⁰*Notice, supra* note 1.

3. Failure to Identify and Mitigate Environmental Impact

We here argue that that impacts of the Site Plan are not appropriately identified and mitigated in the application. The application clearly shows that stormwater will flow, untreated, into a wetland buffer. Additionally, neither the Habitat assessment report nor the *NOA* contain measures to mitigate environmental impacts of the project. Instead, *Staff Report 1* specifies that a mitigation plan be developed a condition of approval, but any mitigation plan approved solely by the City will likely not address the environmental impacts that the project will clearly cause.

3.a. Wetlands

RMC 22.10.125 requires that “New development within 150 feet of a wetland buffer shall contain stormwater runoff within the developed portions of the site. *No stormwater runoff shall drain into the wetland*” (our emphasis). Richland contends under the proposed site plan “the stormwater that is contained in the swales will ultimately percolate into the soil and make its way to the wetland via the underground water table it will not ‘*drain into the wetland*’” (again, our emphasis). However, the *Stormwater Plan* clearly shows that “Stormwater overflow” drains

directly into the wetland without treatment, directly contradicting Staff's position (Figure 2).

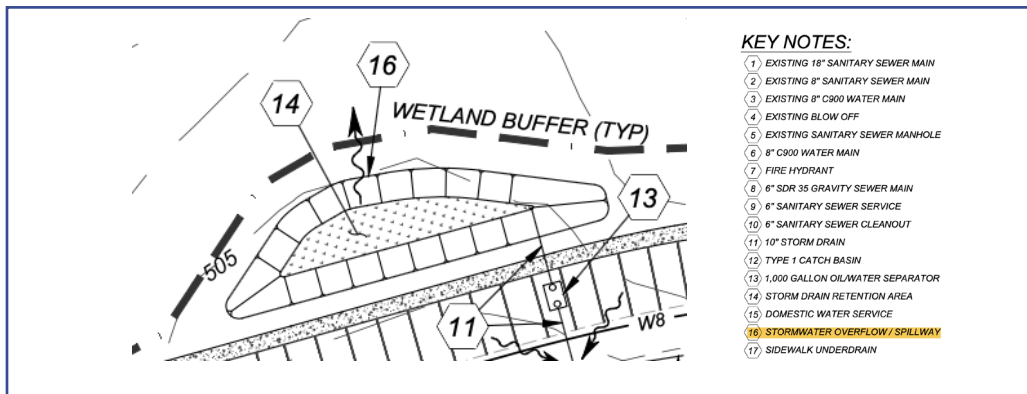


Figure 2. Detail of stormwater infiltration pond and explanatory notes from Stormwater Plan. Note that note 16 clearly labels the wavy arrow directed towards the wetland buffer as “stormwater overflow”.

3.b. Fish and Wildlife Habitat Conservation Areas

While the staff suggests that site plan approval require “A mitigation plan that enhances the wetland buffer area and satisfies WDFW’s concerns regarding the permanent impacts to WDFW habitats”,²¹ Richland’s Code requires this mitigation plan be included in the applications habitat area conservation report.²² By failing to require the applicant to address mitigation within the

²¹ Supra note 16.

²² RMC 22.10.200 requires the habitat conservation area report to include “A discussion of any federal, state or local special management recommendations, including Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area”, “A discussion of measures, including avoidance, minimization and mitigation proposed to preserve existing habitats or restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with RMC [22.10.220](#) (mitigation sequencing),” and “A discussion of ongoing management practices that

1 application, agencies and the public are unable to review and comment on the mitigation plan in
2 order to ensure that it adequately addresses environmental impacts. We must instead rely on the
3 opinion of City Staff. Unfortunately, Richland cannot be relied on to determine if a mitigation
4 plan is sufficient to address environmental impacts; the issuance of a DNS indicates they believe
5 this project *has* no environmental impacts.

6 **4. Conclusion**

7 The City of Richland determined this proposal would result to impacts to critical areas;²³ for
8 the City--as SEPA lead agency--to use the ODNs process, mitigations for these impacts have to
9 be listed in the NOA. But the *Notice* does not specify either the expected adverse impacts or
10 mitigations for these expected impacts. Further, the City issued a DNS even though the
11 conditions required of the developer did not remove the expectation of adverse environmental
12 impacts. RMC 19.60.095.A requires that a site plan “meets the requirements and intent of the

13
14
15 _____
16 will protect habitat after the project site has been developed, including proposed monitoring and
maintenance programs”.

17 Additionally, RMC 22.10.210 requires that development only be allowed when it is “in accordance with
18 the conditions of an approved habitat conservation area report” which must be based on the standards
19 listed in 22.10.210.A-K.

20
21 ²³ “staff recommends that, if approved, a condition of approval be placed which requires the creation and
22 implementation of a mitigation plan that satisfactorily addresses the *impacts to the habitat and species*
listed by WDFW.” *Staff Report 1*, p. 15, our emphasis.

23 REQUEST TO DENY APPROVAL OF SITE PLAN FOR WILLOWBROOK

1 Richland Municipal Code”; by the misuse of the ODNS process it is clear the site plan does not
2 meet this standard.

3 We have shown the City failed to identify and mitigate the impacts of the development as
4 required under Chapter 22.09 RMC. Therefore, RMC 19.60.095 requires the proposal may *not* be
5 approved. Additionally, RMC 19.60.095.A requires that a site plan “meets the requirements and
6 intent of the Richland Municipal Code”. Due to the failure to identify adverse impacts to
7 FHWCA, the development application fails to address the performance standards for FWHCA
8 required by RMC 22.10.210, and so the application also does not meet the requirements and
9 intent of the City’s code and must be denied.

10 **IV. SUBSTANTIVE DEFICIENCIES OF PROPOSAL**

11 By ignoring its own regulations, the City has undone our work—in taking the City to the
12 Growth Management Hearings Board in 2017²⁴—to ensure that shrub-steppe habitat is protected
13 in Richland. We undertook our petition to the Board to do our part to protect the earth’s diversity
14 and richness. If the City had properly notified the public and state agencies of the expected
15 adverse impacts, the public could have engaged with the City and developer to work out
16 appropriate mitigations.

17 Since the Amon Creek Natural Preserve is adjacent to the site, the area has additional value
18 in providing ecosystem connectivity. The site is connected to a contiguous larger tract of
19 shrubsteppe that serves as a migration corridor. Left intact it provides wildlife movement and
20

21 ²⁴ Laurie Ness and Patrick Paulson v.City of Richland, EWGMHB Case 17-1-0006, Final Decision and
22 Order (Jun. 17, 2018). <https://gmhb.wa.gov/Global/RenderPDF?source=casedocument&id=6171>.
REQUEST TO DENY APPROVAL OF SITE PLAN FOR WILLOWBROOK

connectivity, preventing genetic isolation for Priority Species like Black-tailed jackrabbit. If approved as is, we will be directly harmed because our City has disregarded parts of its Critical Areas Ordinance for FWHCA, protections that we specifically fought hard to strengthen.

1. The City of Richland has an obligation to protect FWHCA

The City of Richland states the functions of an FWHCA include²⁵

... maintaining species diversity and genetic diversity of local flora and fauna; providing opportunities for food, cover, nesting, breeding and movement for fish and wildlife; serving as areas for recreation, educational and scientific study and aesthetic appreciation; helping to maintain air and water quality; controlling erosion; and providing neighborhood separation and visual diversity within urban areas.

and that the purpose of Richland's CAO is to

... recognize and protect the beneficial functions of critical areas through the application of the most current, accurate, and complete scientific or technical information available as determined according to Chapter 365-195 WAC (Best Available Science) and in consultation with state and federal agencies and other qualified professionals and integrate the full spectrum of state, tribal, and federal programs.

As we've shown above, the shrub-steppe on the proposed project site is classified as PHS by WDFW. RMC 20.10.185.B states that the intent of protecting PHS, is to "Limit the level of human activity within such areas that is appropriate for certain areas and habitats, including presence of roads and level of recreation type (passive or active recreation)" and to "establish buffer zones around these areas to separate incompatible uses from habitat areas".

²⁵ RMC 20.10.010
REQUEST TO DENY APPROVAL OF SITE PLAN FOR WILLOWBROOK

1 **2. Failure to identify FWHCA leads to adverse impacts to Critical Areas without**
2 **Mitigation**

3 By failing to identify critical areas on the proposed site, all of the goals and intent of
4 Richlands CAO are undone, leading to loss of habitat for fish and wildlife, lost recreation
5 opportunities for wildlife viewing, among the other beneficial functions of critical areas. The
6 *Habitat Report* and the City have both failed to identify the critical areas that will be adversely
7 affected by the Site Plan.

8 **V. CONCLUSION**

9 For the reasons argued herein, we respectfully request the Examiner deny approval of the
10 Willowbrook Preliminary Site Plan. We have shown that the project will have significant adverse
11 environmental impacts, that the City issued invalid DNS, in spite of these impacts, and that the
12 impacts will cause substantive harm to a recovering and rare ecosystem, Shrubsteppe, essential
13 to maintaining a diverse plant and wildlife community in Richland.

14 Dated this 12th day of June, 2022.

15 Respectfully submitted,

16 Laurie Ness and Patrick Paulson

17 By:

Laurie Ness

Patrick Paulson



CITY OF RICHLAND NOTICE OF APPLICATION, PUBLIC HEARING & OPTIONAL DNS (M2020-101 & EA2020-114)

Notice is hereby given that Big Creek Land Company, LLC has revised and re-submitted their Site Plan Review application for the proposed development commonly referred to as Willowbrook Apartments.

Proposal: Development of an approximately 14-acre site, with four (4) multi-family residential buildings containing up to 108 dwelling units, a clubhouse and covered parking structures together with associated parking, stormwater runoff and landscaping areas.

Location: The project site is located east of the terminus of John Court, south of Broadmoor Street and is primarily zoned R-3 (Multiple-Family Residential) with the proposed secondary driveway access being partially located upon land zoned R-1-10. The overall project will occur upon Tracts A, B & F, Willowbrook No. 1 (Lots 2 & 3 Record Survey #3864), Tract B, Willowbrook No. 2, Phase 4A, and Lot 1 of Willowbrook No. 2, Phase 2, located in the southeast quarter of the southwest quarter of Section 36, Township 9 North, Range 28 East, and within the northeast quarter of the northwest quarter of Section 1, Township 8 North, Range 28 East, W.M., Benton County, WA. The Assessor's Parcel Nos. for the project site are: 136983050007002, 136983050008001, 136983050012000, 136983060000001 and 101882040002000.

Public Hearing: The Richland Hearings Examiner will conduct a public hearing and review of the application at 6:00 p.m., Monday, June 13, 2022 in the Richland City Hall Council Chambers, 625 Swift Boulevard. All interested parties are invited to attend and present testimony at the public hearing or by visiting the City of Richland website (www.ci.richland.wa.us) and joining via Zoom. Copies of the complete application packet, SEPA Checklist and related materials can be obtained by visiting the City of Richland website (www.ci.richland.wa.us).

Environmental Review: The proposal is subject to environmental review. The City of Richland is lead agency for the proposal under the State Environmental Policy Act (SEPA) and has reviewed the proposed project for probable adverse environmental impacts and expects to issue a determination of non-significance (DNS) for this project. The optional DNS process in WAC 197-11-355 is being used. This may be your only opportunity to comment on the environmental impacts of the proposed development. The environmental checklist and related file information are available to the public and can be viewed at www.ci.richland.wa.us.

Public Comment: Any person desiring to express their views or to be notified of any decisions pertaining to this application should notify Mike Stevens, Planning Manager, 625 Swift Boulevard, MS #35, Richland, WA 99352. Comments may also be emailed to mstevens@ci.richland.wa.us. Written comments should be received no later than 5:00 p.m. on Wednesday, May 25, 2022, to be incorporated into the staff report. Comments received after that date will be entered into the record at the hearing. Written comment will not be accepted after 6 p.m. on Sunday, June 12, 2022; however verbal comments may be presented during the public hearing.

Appeal: The application will be reviewed in accordance with the regulations in RMC Title 19 Development Regulations Administration and Title 23 Zoning. Appeal procedures of decisions related to the above referenced application are set forth in RMC Chapter 19.70. Contact the Richland Planning Division at the above referenced address with questions related to the available appeal process.

VICINITY MAP

Item: Willowbrook Place Site Plan Review
Applicant: Big Creek Land Company, LLC
File #: M2020-101



Please note that pursuant to RMC 23.48.010, the purpose of the site plan approval process is to facilitate project design that is compatible with adjacent land uses and is in keeping with the physical constraints of the project site. **The site plan review is not intended to determine whether a particular land use activity is appropriate on a particular site. Land uses that are otherwise permitted in this title shall not be denied through the site plan review process unless such uses cannot meet the development and/or performance standards required for the use.*

Comments on June 13, 2022 Hearing for M2020-101 & EA2020-114: Willowbrook Apartments Site Plan Review

Patrick Paulson
Laurie Ness

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Acronyms

DNS -Determination of No Significance	1, 2, 3
FWHCA - Fish and Wildlife Habitat Conservation Areas	2
PHS - Priority Habitat and Species	2
WAC - Washington Administrative Code	1, 2
WDFW – Washington Department of Fish and Wildlife	2

We request the City of Richland withdraw the DNS determination for the Willowbrook Apartment Site Plan. This project will create substantial adverse impacts to the shrub steppe and Eastside steppe habitats and no mitigation for these impacts are given in the notice.

In addition, we note that the site plan fails to provide enough detail to determine if the project can conform to the applicable elements of the city's development regulations, particularly regarding stormwater.

1. Introduction, Procedural Facts, and Standard of Review

We are commenting on the Site Plan Review for Willowbrook Apartments. The Notice of Application states this project is a¹

Development of an approximately 14-acre site, with four (4) multi-family residential buildings containing up to 108 dwelling units, a clubhouse and covered parking structures together with associated parking, stormwater runoff and landscaping areas.

and notes that the "The Assessor's Parcel Nos. for the project site are: 136983050007002, 136983050008001, 136983050012000, 136983060000001 and 101882040002000."

Washington Administrative Code (WAC) 197-11-355 specifies that the "optional DNS process" be used *only* when it is unlikely that substantial adverse environmental impacts will occur, or all mitigations for such impacts are listed in the *Notice*.

A site plan review is submitted to the Hearings examiner for approval as a Type II permit application². RMC 19.60.060 requires a Type II permit application be "supported by proof that it conforms to the applicable elements of the city's development regulations, comprehensive plan

¹ *Notice of Application, Public Hearing & Optional DNS (M2020-101 & Ea2020-114)*. City of Richland. Referral Packet: <https://www.ci.richland.wa.us/departments/development-services/planning/land-use-1427>.

² RMC 23.48.030. "a site plan shall be submitted to the hearing examiner for review and approval as a Type II permit application as defined in RMC 19.20.030"

and that any significant adverse environmental impacts have been adequately addressed”.³ Further RMC 19.60.095 states approval for a Type II application requires findings and conclusions that “The development application ... meets the requirements and intent of the Richland Municipal Code” and “Impacts of the development have been appropriately identified and mitigated under Chapter 22.09 RMC.”⁴

2. DNS for Willowbrook Should be Withdrawn

We request the City of Richland withdraw the DNS determination for the Willowbrook Apartment Site Plan.

- The project will result in substantial impacts to wetlands, a critical area protected by the City.
- The project will result in substantial adverse impacts to the shrub steppe and Eastside step habitats, which are Priority Habitats (PHS) listed by the Washington Department of Fish and Wildlife (WDFW);
- The City recognize all areas associated with PHS as Critical Areas, specifically Fish and Wildlife Habitat Conservation Areas (FWHCA);
- Washington Administrative Code (WAC) 197-11-355 specifies that the “optional DNS process” be used *only* when it is unlikely that substantial adverse environmental impacts will occur, or all mitigations for such impacts are listed in the *Notice*.

Since the project does not meet the requirements for a DNS threshold determination, the threshold determination should be changed to a Determination of Significance.

³ RMC 19.60.060. “Except for Type IV actions, the burden of proof is on the proponent. The project permit application must be supported by proof that it conforms to the applicable elements of the city’s development regulations, comprehensive plan and that any significant adverse environmental impacts have been adequately addressed”. By RMC 19.20.010.C, this requirement applies to Type III actions, which include Preliminary Plats such as Ladera: “Type III permits include the following types of permit applications: 1. Preliminary plats or major revisions thereof; ...”

⁴ Supra, note **Error! Bookmark not defined.**

3. Site Plan Cannot be Approved as Submitted

RMC 22.10.340.C states

The proposed activity must be designed and constructed in accordance with existing local, state and federal laws and regulations, and the Stormwater Management Manual for Eastern Washington, as amended (Ecology 2019), and/or the locally adopted program, as applicable.

The project's "Conceptual Stormwater and Utility Plan"⁵ shows inadequate stormwater facilities: the stormwater infiltration ponds are undersized, and their location will require extensive grading to provide adequate site drainage. The lack of a preliminary stormwater management plan makes it impossible for the Hearings Examiner to determine if the project can meet "the requirements and intent of the Richland Municipal Code" without extensive modification.

4. Willowbrook/Smith Family Apartments Background and History

This is the fourth time the same development has been proposed. There are five separate SEPA's shown in the SEPA online Register. The development is proposed for properties owned by Duane W. and Cheryl L. Smith⁶. The City of Richland determined that the first proposal, in 2014, had significant ecological impact (DS). In 2018 the City determined that there were no significant impacts given the specified mitigations (DNS-M). In the proposal submitted in 2020 and again in the most recent proposal, the City has determined there are no significant impacts, even though not all the mitigations suggested in 2018 are part of this proposal. Furthermore, the City chose to use the O-DNS process which indicates that the applicant has all the relevant reports and will be ready to move to a Determination of No Significance (DNS). The review of the pertinent parts of this SEPA Checklist show that the checklist is incomplete. The wildlife habitat report submitted with the most recent proposals and evidence from site visit show that Shrub-steppe and Eastern Steppe, both State listed Priority Habitats designated by Richland as Fish and Wildlife Habitat conservation areas – that is, Critical areas under the GMA – will be

⁵ Page 21 of application packet, hereafter referred to as *Stormwater Plan*.

⁶ Benton County Assessor, Benton County Property Search, Parcel # 136983050007002, 136983050012000, and 136983050008001, <https://propertysearch.co.benton.wa.us/propertyaccess/PropertySearch.aspx?cid=0>.

destroyed by the development with no mitigation required. In addition, the “conceptual stormwater and utility plan” submitted by the applicant has significant flaws and indicates the project needs substantial modifications to comply with the City’s stormwater regulations. In short, there is not enough information in the packet to presume the project meets a DNS threshold; on the contrary, the information contained in the packet demand that a Determination of Significance (DS) be issued by the City of Richland.

4.1 SEPA# 201405010, Consult, Issued 09/23/2014⁷

Description:

Smith Multi-Family Site Plan Review; The City of Richland is currently processing the above referenced application for a multi-family site plan review for a 112 unit apartment complex with associated parking, landscaping, utility line extensions and recreational facilities on a 14 acre site.

Applicant: Duane Smith.

4.2 SEPA# 201600373, DS/Scoping, Issued 01/22/2016, Related Record: SEPA# 201405010⁸

Description:

Smith Multi-Family Project; multi-family residential project incl site plan approval, building permit approval, and grading and drainage plan approvals; develop 112 apartment units on a 14-acre site, incl assoc parking, landscaping, recreational areas and access road and utility line extensions

Applicant: Duane Smith

⁷ WDOE, “SEPA# 201405010”, *SEPA Register*. (Hereafter referred to as *2014 SEPA*).
<https://apps.ecology.wa.gov/separ/Main/SEPA/Record.aspx?SEPANumber=201405010>

⁸ WDOE, “SEPA# 201600373”, *SEPA Register*, hereafter referred to as “2016 SEPA”.
<https://apps.ecology.wa.gov/separ/Main/SEPA/Record.aspx?SEPANumber=201600373>

4.3 SEPA #201804289, DNS-M, Issued 08/03/2018⁹

Description:

Willowbrook Place; Development of approximately 14 acres with 96 multi-family residential dwelling units together with associated covered parking structures, paving and landscaping features; in the R-3 zone. Wetland report attached.

Applicant: Cliff Mort (dba Big Creek Land Company, LLC). Big Creek Land Company, LLC

4.4 SEPA # 20205113, ODN/NOA, Issued 10/01/2020¹⁰

Description:

Willowbrook Place Apartments; Site Plan Review application for the development of an approximately 14-acre site, with six (6) multi-family residential buildings containing up to 96 dwelling units, a clubhouse and covered parking structures together with associated parking and landscaping areas.

Applicant: Big Creek Land Company, LLC

4.5 SEPA # 202202056, ODN/NOA, Issued 04/28/2022¹¹

Description:

Development of an approximately 14-acre site, with four (4) multi-family residential buildings containing up to 108 dwelling units, a clubhouse and covered parking structures together with associated parking, stormwater runoff and landscaping areas.

Applicant: Big Creek Land Company, LLC

⁹ <https://apps.ecology.wa.gov/separ/Main/SEPA/Record.aspx?SEPANumber=201804289>

¹⁰ <https://apps.ecology.wa.gov/separ/Main/SEPA/Record.aspx?SEPANumber=202005113>

¹¹ <https://apps.ecology.wa.gov/separ/Main/SEPA/Record.aspx?SEPANumber=202202056>

5. Wetlands

RMC 22.10.125 requires that “New development within 150 feet of a wetland buffer shall contain stormwater runoff within the developed portions of the site. *No stormwater runoff shall drain into the wetland* (our emphasis)”. The project’s *Stormwater Plan* clearly indicates stormwater overflow being directed into the wetland buffer. RMC 22.10.125 states that stormwater runoff must be contained within the developed portions of the site for new development within 150 ft of a wetland buffer unless a study is done to show that this discharge is adequately mitigated. Such a study has not been done.

6. Fish and Wildlife Habitat Conservation Areas

The proposed project will adversely impact Fish and Wildlife Habitat Conservation Areas recognized by Richland but it fails to provide any mitigation for these impacts. RMC 22.10.220.A specifies that “Adverse impacts to habitat functions and values shall be mitigated to the extent feasible and reasonable” and that mitigation actions may include “Compensating for the impact by replacing, enhancing, or providing similar substitute resources or environments. Preference shall be given to measures that replace the impacted functions on site or in the immediate vicinity of the impact”.

The habitat impacts due to the project could potentially be mitigated by rehabilitation or enhancement of habitat within proposed buffers. Rehabilitation and enhancement can include planting of native shrubs. Any mitigation should require long-term monitoring to ensure the success of the mitigation.

6.1 Failure to identify relevant Priority Habitats and Species (PHS) as Critical Areas

The report states¹² the “only mapped priority area recorded in the vicinity by WDFW is Burrowing Owl (*Athene cunicularia*) ...”.

This report is not up to date. PHS protected by Richland currently shown for parcels 136983050007002, 136983050008001, and 136983050012000 include *Wetlands, Biodiversity Areas and Corridor*, and *Freshwater Forested/Shrubs Wetland*. In addition, parcel 136983050007002 contains priority *Eastside Steppe* and parcels 136983050007002 and 136983050008001 contain priority *Shrub-steppe* (Table 1). The City of Richland protects *all* Priority Habitats recognized by WDFW as critical areas, namely as Fish and Wildlife Habitat Conservation Areas.¹³

Table 1. PHS Species/Habitat Overview.¹⁴

Occurrence Name	Federal Status	State Status	Sensitive Location
Fall Chinook	N/A	N/A	No
Spring Chinook	N/A	N/A	No
Wetlands	N/A	N/A	No
Burrowing owl	N/A	Candidate	No
Biodiversity Areas And Corridor	N/A	N/A	No
Freshwater Forested/Shrub Wetland	N/A	N/A	No
Shrub-steppe	N/A	N/A	No

¹² *Wildlife Assessment Report for Willowbrook*. Hailey Starr and Scott Brainard. Everett WA: Wetland Resources, Inc. April 23, 2020. Revision 1: April 28, 2022. On pp. 162-189 of application packet. Page 7.

¹³ RMC 22.10.185.A: “Fish and wildlife habitat conservation areas include the following: ... 2. State priority habitats and areas associated with state priority species.”.

¹⁴ Generated from *PHS on the Web* (<https://geodataservices.wdfw.wa.gov/hp/phs/>) using “Generate Report Function on project site parcels.”

We note *PHS on the Web* undergoes continuous updates and that not all these areas may have been mapped when the *Wildlife Habitat Assessment Report* was prepared. However, Richland's Critical Areas Ordinance specifies that WDFW's PHS maps "shall be used as a general guide only for the assistance of property owners and other interested parties...The actual type, extent, and boundaries of habitat areas shall be determined by a qualified professional according to the procedures, definitions, and criteria established by this article." (RMC 22.10.190). The Wildlife Assessment Report contains sufficient detail to conclude the existence of Shrub-steppe and Eastside Steppe on the project site, as well as the presence of black-tailed jackrabbit, a PHS species recognized by WDFW.

6.2 Eastside Steppe

[Figure 1](#) and [Figure 2](#) (below) show that the site area to be developed is characterized as "Habitat Unit B" and "Habitat Unit C".

The report states that "Habitat Unit B"

is comprised of common rabbitbrush (*Chrysothamnus nauseosa*), Russian thistle (*Salsola tragus*), Canada thistle (*Cirsium arvense*), desert parsley (*Lomatium leptocarprum*), Indian ricegrass (*Achnatherum hymenoides*), western yarrow (*Achillea millefolium*), cheatgrass (*Bromus tectorum*), and tumble mustard (*Sisymbrium altissimum*).¹¹

... abundant signs of rabbits and coyotes was identified throughout this habitat unit. Large quantities of scat and tracts were found throughout the area. Several species of birds were found perching on large rabbitbrush and finding refuge /cover within the denser portions of the site. The majority of the wildlife trails observed within this habitat were of small mammals mostly used by rabbit species and coyote. Therefore, the primary usage of this habitat type is by small mammals, highly mobile species, and avian species.

Comparing this description and the accompanying photos in the assessment report to WDFW's PHS list, it is clear that "Habitat Unit B" meets the definition of *Eastside Steppe*¹⁵, a priority habitat recognized by WDFW, and therefore a FWHCA protected by Richland as a critical area.

¹⁵ "Eastside Steppe", pp 256-7. Washington Department of Fish and Wildlife. 2008. *Priority Habitat and Species List*. Olympia, Washington.

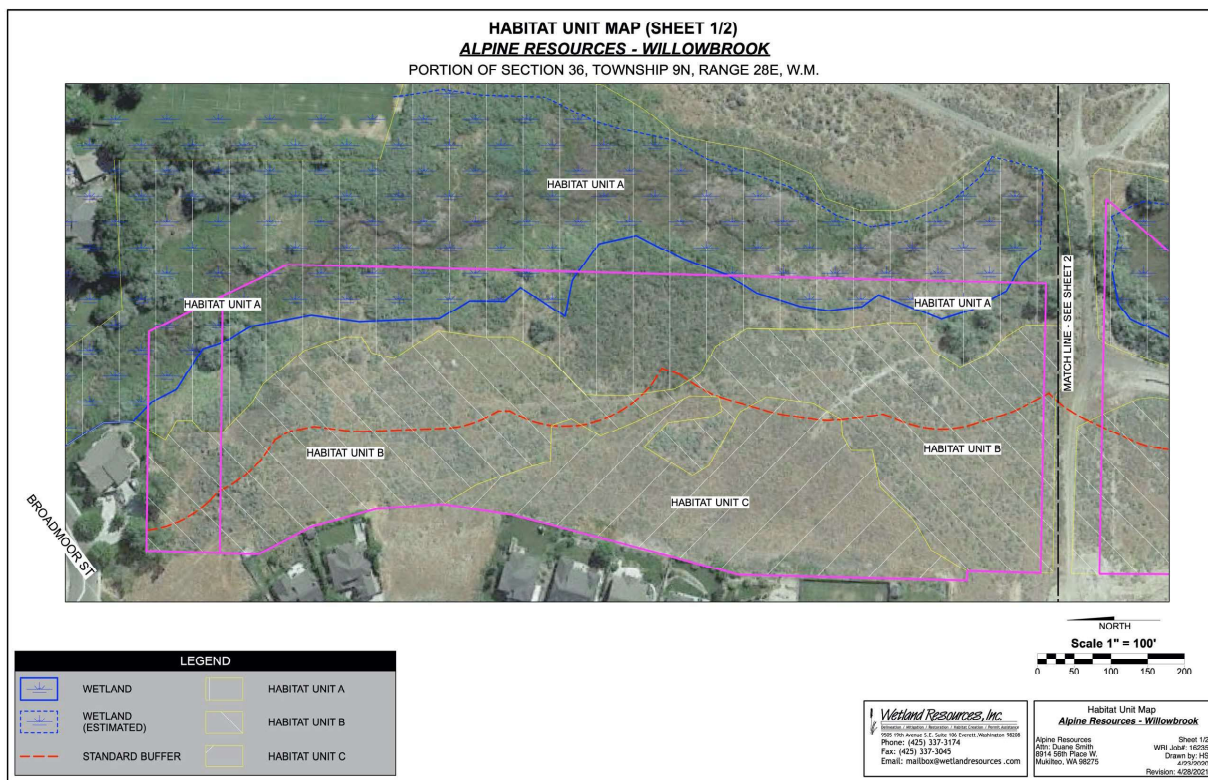


Figure 1. Habit Unit Map, Wildlife Habitat Assessment Report (1/2)

The area classified “Habitat Unit C” also meets the definition of *Eastside Steppe*.

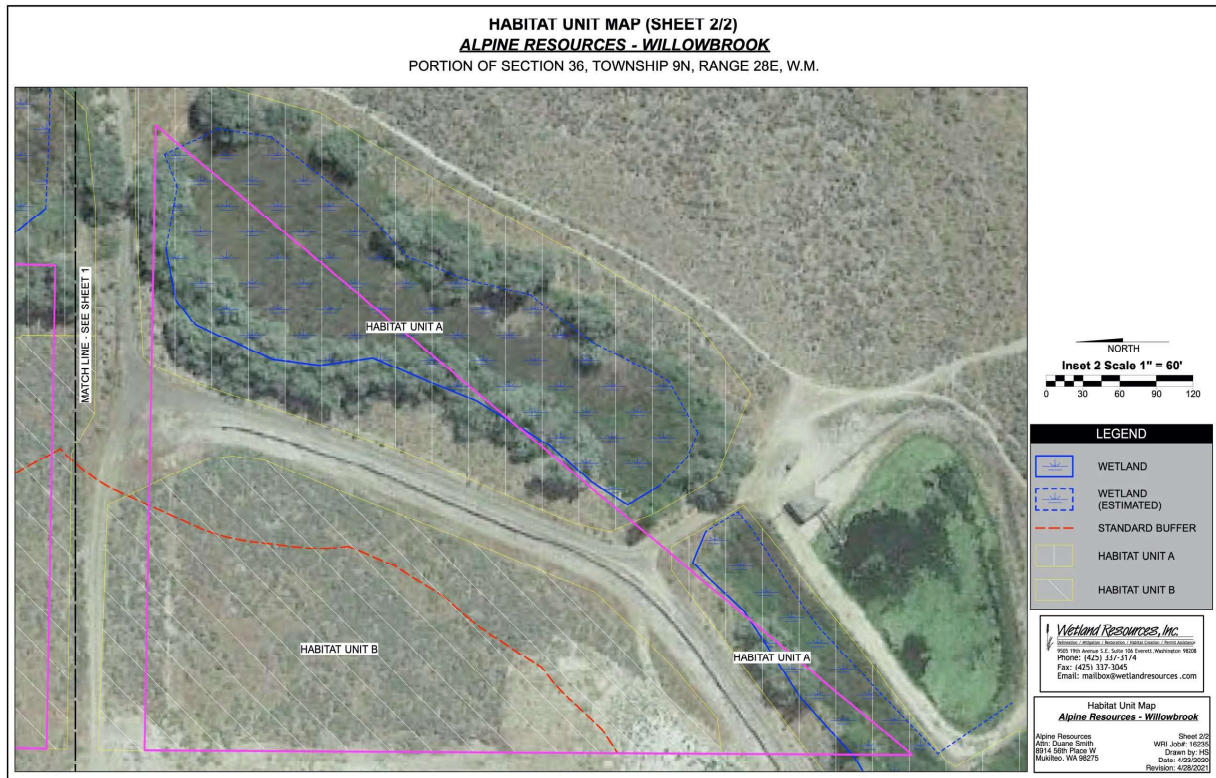


Figure 2. Habitat Unit Map, Wildlife Assessment Report (2/2)

6.3 Shrub-Steppe

The Wildlife Habitat Assessment Report notes that

A small portion of the property located within the northwest property corner is ... comprised of mature big sagebrush (*Artemisia tridentata*), a species indicative of a more native shrub-steppe habitat than the rest of the unit. More mature individuals of rabbitbrush were found intermixed with western yarrow (*Achillea millefolium*), tumble mustard (*Sisymbrium altissimum*), and cheatgrass (*Bromus tectorum*) within this portion of the habitat unit. The presence of structural diversity and cover offered by the larger shrubs creates perching opportunities for bird species that prefer mature sage such as Sage Sparrow (*Artemisiospiza nevadensis*) and Brewers Sparrow (*Spizella breweri*) and opportunities for refuge and cover for California Quail (*Callipepla californica*) and a variety of small mammal species. Several of the aforementioned species were visually identified within this habitat patch during our on-site evaluations.

Overall, this habitat unit appears to have abundant use by a variety of species, especially rabbits, coyote, and a variety of bird species. However, the limited quantity of native plant species in both the shrub overstory and herbaceous understory as well as, the limited structural diversity offer by this habitat unit greatly limits wildlife use by a variety of species. A native herbaceous understory is mostly absent from this habitat unit thus inhibiting many ground dwelling species that require a more native shrub-steppe ecosystem.

While small, this area of mature shrub-steppe is adjacent to a Biodiversity Corridor within the proposed buffer area and the Amon Creek Natural preserve, increasing its value as habitat.

The Wildlife Habitat Assessment Report claims that “Given the disturbed nature on-site habitat and the dominance of cheatgrass (*Bromus tectorum*) in the grass layer, which is non-native and annual, the on-site area does not meet the definition of priority shrub-step habitat”. However, the PHS List notes that “At more disturbed sites, non-natives such as Cheatgrass or Crested Wheatgrass may be co-dominant species,”¹⁶ but does not state that the presence of cheat grass means that the area is not Shrubsteppe. Indeed, if it did, it would make protection of Shrubsteppe virtually meaningless, since almost all Shrubsteppe in Washington state is degraded to some degree and has been invaded by cheatgrass. Furthermore, the report notes the presence of 3 (!) sage obligate species: black-tailed jackrabbit, Sagebrush Sparrow (they use the older taxonomic name ‘Sage Sparrow’), and Brewer’s Sparrow. WDFW’s *Site-specific Management How to Avoid and Minimize Impacts of Development to Shrub-steppe* notes that “If [shrub-steppe obligate] species occur on or near the project site, typically that indicates the habitat is important for conservation.”

6.4 Black-tailed Jackrabbits

The Wildlife Habitat Assessment Report states that

... two black-tailed jackrabbits were observed along the eastern property line. ... While on site, abundant evidence of rabbit scat was observed and is likely a combination of cottontail and black-tailed jackrabbit. The on-site shrub-steppe habitat does provide low quality foraging and cover opportunities for the species....

Yet they contend the location does not have a ‘primary association’ with Black-tailed jackrabbits based on an idiosyncratic definition for “primary association” taken from the Municipal code of the City of Everett:

A habitat of primary association typically refers to a critical habitat component that federally or state-listed endangered, threatened, candidate, sensitive, or priority wildlife require, which if altered may reduce the likelihood of that species to persist and reproduce over the long term

Since Richland’s Critical Area Ordinance (CAO) doesn’t give a definition for ‘primary association’ the general understanding of the term “primary association” should be used instead

¹⁶ PHS List, p. 270.

of a definition conveniently found in the code of another municipality. For us, the general understanding of areas of “primary association” would include “areas where a species is regularly present”.

Indeed, of the definitions we found throughout municipal codes in Washington, the most common is:

Primary association area means the area used on a regular basis by, in close association with, or is necessary for the proper functioning of the habitat of a critical species. "Regular basis" means the habitat area is known normally or usually to contain the critical species. Regular basis is species population dependent. Species that exist in low numbers may be present infrequently yet rely on certain habitat types.^{17, 18, 19, 20}

Another definition found was:

Primary association area means the area used on a regular basis by, is in close association with, or is necessary for the proper functioning of the habitat of a critical species.^{21, 22}

And finally,

"Primary association area" means the area necessary for the viability and protection of any critical species, including its habitat and surrounding areas needed for protection of the habitat. *Primary association areas include habitat areas that are known to contain a critical species, or where evidence from the best available science indicates that a critical species is using a habitat area.* Primary association areas include but are not limited to areas for breeding,

¹⁷ Definition of *Primary association area*. *Law Insider*. <https://www.lawinsider.com/dictionary/primary-association-area> (based on occurrences separately listed)

¹⁸ Chapter 15.88 – CRITICAL AREAS, Municipal Code, Carnation WA. 2019.
https://library.municode.com/wa/carnation/codes/code_of_ordinances?nodeId=TIT15LAUS_CH15.88CRAR

¹⁹ Municipal Code, Bremerton WA. 20.14.200 DEFINITIONS.

²⁰ Municipal Code, Mount Vernon WA, 15.40.170 Definitions.
<https://www.codepublishing.com/WA/MountVernon/html/MountVernon15/MountVernon1540.html>

²¹ Definition of *Primary association area*. *Law Insider*. <https://www.lawinsider.com/dictionary/primary-association-area> (based on occurrences separately listed)

²² 19.15.050 Definitions, Chapter 19.15 CRITICAL AREAS. Cowlitz County, WA.
<https://www.codepublishing.com/WA/CowlitzCounty/html/CowlitzCounty19/CowlitzCounty1915.html>

feeding, cover and migration. The size of the primary association area is species and population dependent and based on the known habitat requirements of the species.²³

Clearly, the proposed site is an FWHCA as defined by Richland's CAO. Any impacts to the habitat that affects black-tailed jackrabbits must be avoided or fully mitigated.

7. Stormwater

The site plan provides inadequate information to determine if the project can be completed as designed and still meet the requirements and intent of the Richland Municipal Code. The information given in the site plan and the "Conceptual Stormwater and Utility Plan" indicates the project will need extensive grading, filling, and structural changes to avoid impacts to, and maintain the functions and values of, the wetland buffer.

The application should include a stormwater management preliminary engineering plan to show it can fit in the system footprint given in the application. The site plan should also include a full grading plan and sections of the proposed ponds and dispersion features to demonstrate they can stay out of the buffer. The application must also show the storm sewer and drainage profile and site grading to ensure the project can be contained in the proposed footprint.

7.1 Stormwater Preliminary Engineering Plan Required

They need to prepare a stormwater management preliminary engineering plan to show they can fit the system in the footprint they have. This includes runoff calculations to determine actual expected pond footprints, bottom invert, peak stage, freeboard, appropriate side slopes, and maintenance access road around the entire facility to do the water quality and flow control required.

The conceptual stormwater plan shows the existing site is sheet flow to the east. The plan concentrates the flow into three locations. This will require level spreaders at each of the locations; the site plan should indicate the footprint of the spreaders at the base of the stormwater berms.

²³ Snonomish County Code 30.91P.290. <https://snohomish.county.codes/SCC/30.91P.256>

7.2 Grading Plan Required

The conceptual stormwater plan shows the largest infiltration pond (located in parcel B) is on a slope. The top elevation on the uphill side is about 508- or 509-foot elevation and the downhill side is at about 505 ft. elevation.

If the pond is graded so the top is at 505 ft and the pond depth is 5 ft., the pond would require a 10-foot cut on the uphill side. With the given footprint this means there would be no room for pond storage since the pond walls should have at most a 2:1 slope.

If, on the other hand, the top of the pond is at about 509 feet elevation, then the downslope side needs to be filled to match the 509-foot elevation. This will require a 10–12-foot-wide stability and access road, still at 509-foot elevation. The grade would then need to drop at a 2:1 slope until it hits existing grade, at about el. 502-foot elevation, resulting in a slope runout of about 15 feet. In other words, the pond shown could extend 25 feet or more to the east and is very likely to extend into the buffer.

7.3 Storm Sewer and Drainage Profile and Preliminary Site Grading Plan Required

Making the site drainage work appears to require some pretty extensive grading. For example, the middle pond design stage (in Parcel B) is shown at an elevation of 509 feet. The storm sewer serving the site needs to be higher than that and needs to have a positive slope. If it serves the entire development to the street, it will have a run of at least 1,100 feet of storm sewer. At a minimum grade of 0.5 percent, that requires the invert to be about 514.5 (5.5 feet above the pond stage). The storm pipe and cover will require an additional 2 feet, requiring 516.5-foot elevation at the pipe inlet. Add 100 feet of run for the building corner for surface drainage, that corner needs to be at 517.5 feet elevation. Since the existing grade is about at an elevation of about 506 feet, 11 feet of fill will be needed there to ensure proper drainage. Using that same basic framework of drainage slopes, the northeast corner of the buildings, even with a lower storm sewer at that point, would need be at about at least 514.5 ft of elevation. Since the existing grade is about 493, so they would need over 20 feet of fill, which would create a slope into the buffer or a tall wall requiring safety measures.

7.4 Stormwater facility sizing insufficient

The sizing of the infiltration ponds in the stormwater plan seems inadequate. [Figure 3](#) shows the proposed stormwater facilities with a 120' ruler (in pink) so we can estimate the infiltration area. The first pond to the north has an area of at most 900 sq. ft. The center pond has no more than 800 sq. ft., and the southernmost pond has an area no greater than 900 sq. ft., for a total of at most 2,700 sq. ft. or 0.06 acres. Given an approximate site area of 7 acres, this is at most 1% of the project area. A preliminary analysis of stormwater requirements using the National Stormwater Calculator²⁴ indicates that about 8% of the site area should be used for the infiltration ponds to allow infiltration of the design storm specified by Richland²⁵ to complete infiltration in 60 hours. [Figure 4](#) gives the site footprint used for these calculations; the stormwater parameters are shown in [Table 2](#).

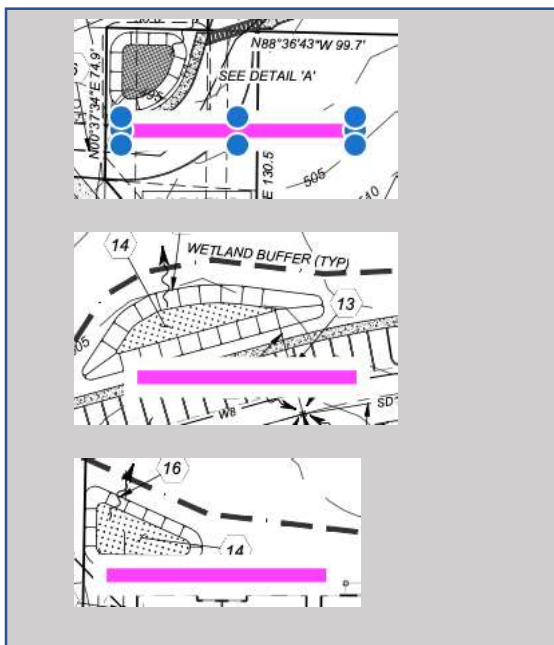


Figure 3. Proposed Infiltration ponds with 120' ruler for scale.

²⁴ <https://swcweb.epa.gov/stormwatercalculator/>

²⁵ Richland's Stormwater Management Plan (March 2016) Gives a design storm value of 0.53 inches:

“... while the 6-month, 24-hour design storm with a total rainfall depth of 0.53 inches must be used for volume-based water quality treatment BMPs, such as infiltration pond “. P. 3-5.

(<https://www.ci.richland.wa.us/home/showpublisheddocument/2108/635984884464000000>)



Figure 4. Site footprint used for stormwater calculation.

Table 2. Design Parameters for National Stormwater Calculator

Site Characteristics	
Site Area (acres)	7.03
Hydrologic Soil Group	B
Hydraulic Conductivity (in/hr)	0.108
Surface Slope (%)	5
Precip. Data Source	RICHLAND
Evap. Data Source	RICHLAND
Climate Change Scenario	None
Land Cover	
% Forest	0
% Meadow	0
% Lawn	30
% Desert	0
% Impervious	70
LID Controls	
Disconnection	0
Rain Harvesting	0
Rain Gardens	0
Green Roofs	0
Street Planters	0
Infiltration Basins	100 / 8
Porous Pavement	0
Analysis Options	
Years Analyzed	25
Ignore Consecutive Wet Days	False
Wet Day Threshold (inches)	0.1

Comments on June 13, 2022 Hearing for M2020-101 & EA2020-114: Willowbrook Apartments Site Plan Review – Incomplete and Incorrect Checklist

Laurie Ness
Patrick Paulson

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Acronyms

Acronyms

DNS -Determination of No Significance	7
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1. Introduction

1.1 Importance of Complete and Accurate SEPA Checklists

WAC 197-11-960 contains guidance for State Environmental Policy Act (SEPA) checklists. The purpose of the SEPA checklist is "to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS [Environmental Impact Statement] is required."

To allow agencies to "use this checklist to determine whether the environmental impacts of your proposal are significant," the SEPA checklist should be complete and self-contained. The checklist should not refer to external documents, which would require the agency and the public to track down the referenced document.

The SEPA checklist guidance stresses that you "must answer each question accurately and carefully"; referencing other documents may leave the question unanswered or require an agency to weed through unnecessary detail. Rather than refer to external documents, the relevant information should be filled into the checklist to make the checklist a standalone document. In comments submitted in response to the application made for this project in 2018, the Washington Department of Ecology noted that:

...project anticipates disturbing ground with the potential for stormwater discharge off-site, the NPDES Construction Stormwater General Permit is recommended. This permit *requires that the SEPA checklist fully disclose anticipated activities including building, road construction and utility placements.*¹ [emphasis added]

1.2 Responsibilities of Lead Agencies in issuing Threshold Determinations

WAC 197-11-330 requires that

In making a threshold determination, the responsible official shall:

(a) Review the environmental checklist, if used:

(i) Independently evaluating the responses of any applicant and indicating the result of its evaluation in the DS, in the DNS, or on the checklist; and

(ii) Conducting its initial review of the environmental checklist and any supporting documents without requiring additional information from the applicant.

...

The incomplete checklist and incorrect answers in the applicant's checklist show Richland has failed to properly review and evaluate the applicant's responses, leaving it to citizens and agencies to ferret out information that should have been provided in the project's application packet.

1

<https://apps.ecology.wa.gov/separ/Main/SEPA/Document/DocumentOpenHandler.ashx?DocumentId=42960>

2. Willowbrook/Smith Family Apartments Background and History

This is the fourth time the same development has been proposed. The SEPA checklist² for the most recent SEPA action³ is virtually identical to the checklist⁴ submitted for the 2020 SEPA action⁵, even though significant changes have been made to the proposal.

As in 2020, the City has determined there are no significant impacts, even though not all of the mitigations suggested in 2018 are part of this proposal. Furthermore, the City chose to use the O-DNS process which indicates that the applicant has all the relevant reports and will be ready to move to a Determination of No Significance (DNS). The review of the pertinent parts of this SEPA Checklist show that the checklist is incomplete. Some reports required by Richland's code are missing; the ones that *are* included are incomplete or contain incorrect assumptions and conclusions. In short, there is not enough information in the packet to presume the project meets a DNS threshold; on the contrary, the information contained in the packet demand that a Determination of Significance (DS) be issued by the City of Richland.

In the next section we'll address deficiencies in the 2021 checklist resulting from not updating the checklist after project modifications as well as some highlighting significant problems that occur in both the 2020 and 2021 checklists. The remainder of the document will document problems that the revised checklist has failed to address.

² Cliff Mort, 2021. *SEPA Environmental Checklist, Prepared July 1, 2021 – REVISED 11-17-21*, at pp. 5-17 in referral packet.

<https://www.ci.richland.wa.us/home/showpublisheddocument/13423/637868181917770000>

³ SEPA # 202202056, ODNS/NOA, Issued 04/28/2022.

<https://apps.ecology.wa.gov/separ/Main/SEPA/Record.aspx?SEPANumber=202005113>

⁴ Cliff Mort, 2020. *SEPA Environmental Checklist*, at pp. 6-17 in referral packet.

<https://apps.ecology.wa.gov/separ/Main/SEPA/Document/DocumentOpenHandler.ashx?DocumentId=99719>

⁵ SEPA # 20205113, ODNS/NOA, Issued 10/01/2020.

<https://apps.ecology.wa.gov/separ/Main/SEPA/Record.aspx?SEPANumber=202005113>

3. Failures to Update Checklist After Project Modification

3.1 Checklist Item B.1.f (Environmental Elements/Earth): Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

3.2

WDOE guidance:

If erosion could occur during construction activities such as filling, excavation, grading, or removing vegetation, describe the total area of exposed soil and duration of expected activities during the life of the proposal. The following circumstances could lead to site erosion including:

- Changes in geometry of the slope.
- Changes in material characteristics of the slope or soil.
- Increased water on the slope or in the soil.
- Increased or re-directed energy in a stream, river, lake or marine waters.

Applicants response: (same answer as in 2020)

There is the possibility of slight erosion due to the construction on-site. Temporary and permanent BMPs will be used to minimize the potential of any erosion, as well as ESC measures. An ESC Plan will be submitted to the City for review and approval prior to construction.

A more complete description of potential sources of erosion is needed here so that the required scope of the Erosion and Sediment Control plan is clear. [Figure 1](#) shows the site is highly susceptible to erosion.

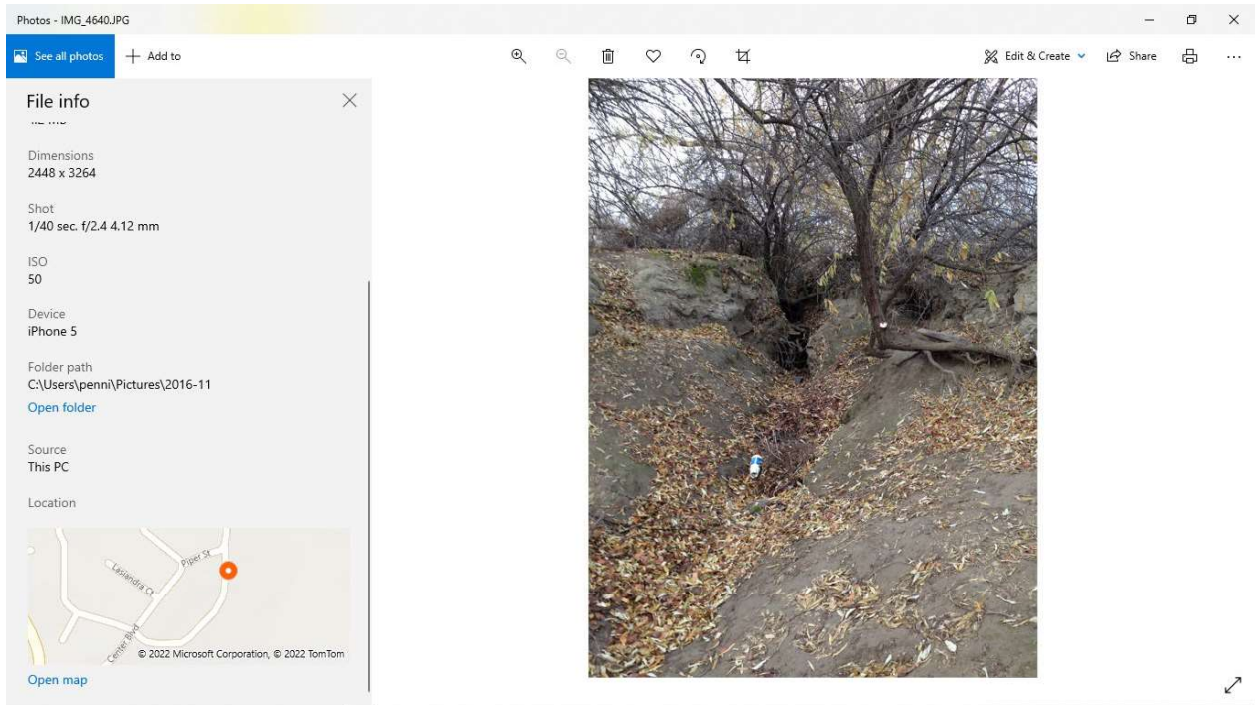


Figure 1. Site is highly susceptible to erosion

3.3 Checklist Item B.1.g (Environmental Elements/Earth): About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

Checklist Question:

About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

WDOE Guidance:

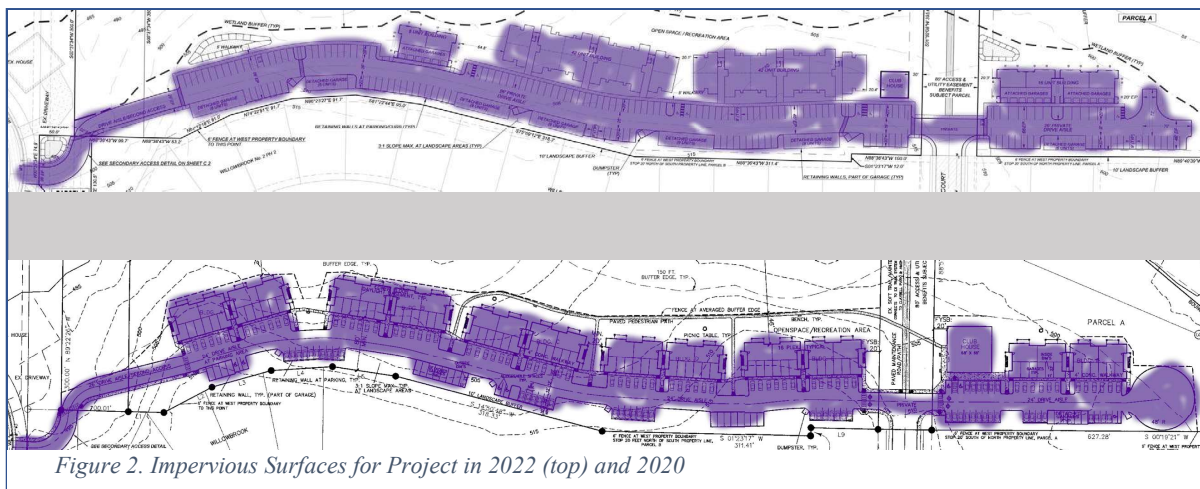
Include any square foot where rain cannot percolate into the ground such as building footprints, asphalt and concrete areas, covered or capped ground, and lined ditches or ponds. Include areas of impervious soil cover during and / or after project construction. Stockpile areas and pit floors often become impervious surface. Other examples of impervious or nearly impervious surfaces include paved roads, piling supported structures, bridges and pier, and hard packed grass, roads and parking lots.

Applicants response:

The same response in both the 2021 and 2020 checklists:

Approximately 20% of the subject property will be covered with impervious surface after buildout of the apartment buildings.

It can be seen below in [Figure 2](#) that significant changes in the project have occurred and that a new estimate of the impervious surface percentage is warranted and would be useful for citizens and agencies to substantively comment on the project.



From Figure 1 it also clear that the percentage of impervious surfaces encompasses more than 20% of the project site when the wetland buffer is excluded. It is misleading to use wetland buffer in the calculation since there are no impervious surfaces in the buffer; stormwater does not need treatment within the buffer, and stormwater facilities cannot be placed in the buffer. This distorted calculation makes it impossible for citizens and agencies to determine the extent of stormwater handling required for the project.

3.4 Checklist Item B.3.c.1 (Environmental Elements/Water/Water runoff): Describe the sources of runoff and method of collection and disposal, if any.

Checklist Question:

Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

The applicant gave the same response in both the 2021 and 2020 checklists:

Stormwater runoff will be disposed of through conventional drywells and grassy swales in accordance with the City of Richland and the State of Washington Department of Ecology standards and regulations. This includes stormwater from driveways, sidewalks, streets and roofs. Pollutants contained in the stormwater will be mitigated and/or removed through the grassy swales prior to entering drywells. This water is not anticipated to flow into other waters.

Guidance from Ecology:

Describe the following: source runoff; intended management systems; where and how the runoff will be discharged off the project site; and where and how the runoff will flow to ground or surface waters:

This answer does not reflect the plans in the packet. Currently, there are no grassy swales and no dry wells are shown. The current site plans show three on-site stormwater ponds. Yet no mention of these in the response. This area is also in a wellhead protection area. Roads will be needed to access stormwater facilities, which would need to accommodate very large Vector-type trucks. There is no mention of how these storm water facilities will be maintained nor the roads required for those services.

As a concerned citizen, which source do I go with? Discrepancies between the SEPA Checklist response show me that a detailed stormwater engineering site plan should be required for clarification for the contractor and for the public.

3.5 Checklist Item B.3.c.2 (Environmental Elements/Water/Water runoff): Could waste materials enter ground or surface waters? If so, generally describe.

Applicant's response:

There is a minimal risk that, post-construction, residential users could potentially have waste materials and/or household chemicals that enter the ground.

Guidance from WDOE:

Consider potential sources of contamination such as parking lots, equipment storage, agricultural practices, lawn and landscaping maintenance, animal waste, treated wood, eroding soils, etc., as well as any treatment provided, and where runoff will flow or be discharged. Describe the type and source of potential contamination and the water body or aquifer where it is likely to end up. If located in a wellhead protection area, describe the area where the groundwater flows to the water supply well or other type of groundwater protection area.

Applicant's response: "No".

Omitted is that Amon Creek is a Type F fish bearing stream according to WAC 222-16-030. Again, stormwater drainage plans are not detailed enough for informed substantive comments by the public. This is particularly troublesome because one of the major threats to this ecosystem is stormwater runoff. We have reported stormwater violations to Ecology that actually went through some these parcels that came from uphill and drained into the wetlands. Due to the amount of ground disturbance and slope contouring, vegetation removal, and grade and fill work for viable on-site stormwater ponds the applicant did not, but must, identify the possibility of intentional or inadvertent filling of, or runoff to Amon Creek wetlands Priority Habitats and the

Biodiversity Corridor. Neither plans nor preliminary drawings showing type of activity and mitigation are included.

Consequently, if detailed stormwater engineering plans are not completed before this project is approved there are grave concerns that the public will be left out of the public process regarding stormwater decisions; and functions and values will be adversely impacted.

4. SEPA Checklist Section A: Background

4.1 A.8: List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

The WDOE gives the following guidance for this question⁶ (emphasis added):

Applicants must provide all relevant environmental informational including:

- Studies, surveys, evaluations, and maps
- *Relevant SEPA and National Environmental Policy Act (NEPA) documents*
- *Information specific to the project or prepared for similar projects*
- City or county planning information

Applicants seeking to revise a reclamation permit or plan for a surface mining project must convey if and when their plan was reviewed under SEPA.

The applicant responded:

A Critical Area Report and Buffer Averaging Plan as well as a Wildlife Habitat Assessment Report have been prepared by Wetland Resources, Inc. for the subject property and the proposed project. Both reports have been submitted to the City of Richland for review.

The applicant failed to list the following SEPA documents, studies, and relevant documents:

1. 2014 SEPA Checklist⁷
2. Comments on 2014 Project from the Department of Ecology⁸

⁶ WDOE, *SEPA checklist guidance, Section A: Background*, <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-A-Background>

⁷

<https://apps.ecology.wa.gov/separ/Main/SEPA/Document/DocumentOpenHandler.ashx?DocumentId=60235>

⁸

<https://apps.ecology.wa.gov/separ/Main/SEPA/Document/DocumentOpenHandler.ashx?DocumentId=60227>

3. City of Richland's letter regarding 2014 application materials⁹
4. Response to WDOE comments regarding 2014 application¹⁰
5. Revised SEPA checklist, 2014¹¹
6. 2014 Wetland Delineation¹²
7. 2014 Wildlife Study¹³
8. Determination of Significance (DS/Scoping) issued by City of Richland in 2016 for 2014 application¹⁴
9. Department of Ecology letter on 2016 Threshold Determination¹⁵
10. 2018 SEPA Checklist¹⁶
11. WDOE comment letter on 2018 application¹⁷
12. 2019 Mitigated Determination of Non-Significance issued by City of Richland for 2018 application¹⁸

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<https://apps.ecology.wa.gov/separ/Main/SEPA/Document/DocumentOpenHandler.ashx?DocumentId=60227>

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<https://apps.ecology.wa.gov/separ/Main/SEPA/Document/DocumentOpenHandler.ashx?DocumentId=60240>

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<https://apps.ecology.wa.gov/separ/Main/SEPA/Document/DocumentOpenHandler.ashx?DocumentId=60244>

¹⁴ <https://apps.ecology.wa.gov/separ/Main/SEPA/Record.aspx?SEPANumber=201600373>

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<https://apps.ecology.wa.gov/separ/Main/SEPA/Document/DocumentOpenHandler.ashx?DocumentId=42356>

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<https://apps.ecology.wa.gov/separ/Main/SEPA/Document/DocumentOpenHandler.ashx?DocumentId=42960>

18

<https://apps.ecology.wa.gov/separ/Main/SEPA/Document/DocumentOpenHandler.ashx?DocumentId=42355>

- 13. 2018 Buffer Averaging Exhibit¹⁹
- 14. 2018 Critical Areas Report²⁰

4.2 A.10: Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

WDOE guidance for this question:

List all needed government permits, funding, leases, approvals, certificates, and letters of availability for public services or utilities. These permits could be needed from the lead agency or another local government, or state or federal agency. List the agency and type of needed permit, action or decision.

Applicant's response:

A Multi-Family Site Plan Review Application will need to be reviewed and approved by the City of Richland as well as the necessary construction permits for the installation of utilities and infrastructure to serve the project. Utilities and infrastructure include domestic and irrigation water, sanitary sewer, stormwater facilities and street improvements. The Multi-Family Site Plan Review Application has been submitted concurrently with this Checklist.

The Applicant should have listed, at the least, these required approvals: HPA permit from WDFW or wetlands, Ecology Stormwater permits, City Grading. See SEPA 2018 for other possible required permits.

5. Environmental Elements

5.1 Item B. Earth

5.1.1 Item B.1.a: General description of the site: (circle one): Flat, rolling, hilly, steep slopes, mountainous, other.

Guidance from WDOE²¹:

Describe hazardous slopes, including slope percentage and vertical height. Identify any large, deep-seated slumps, unstable areas, and any mass wasting features.

Applicant's response:

¹⁹

<https://apps.ecology.wa.gov/separ/Main/SEPA/Document/DocumentOpenHandler.ashx?DocumentId=42357>

²⁰

<https://apps.ecology.wa.gov/separ/Main/SEPA/Document/DocumentOpenHandler.ashx?DocumentId=42358>

²¹ WDOE, *SEPA checklist guidance, Section B: Earth*. <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-Earth>

The project is hilly and slopes from West to East at less than 10% average grade.

I think the grade of 10% is misleading and steeper geologically hazardous areas that are unstable are omitted.

5.1.2 B.1.h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

Guidance from WDOE:

General mitigation possibilities include:

- Avoidance (stay away from the area).
- Alternative on-the-ground operational systems.
- Removing unstable material.
- Engineering to reinforce the slope, drain water, etc.
- Vegetation management (such as mulching, grass seeding, slash placement).
- Reducing slopes.
- Ripping or tilling compacted area.
- Road design, drainage structures, and water dispersion or fill armoring techniques.
- Silt curtains for in-water work.

Control methods to defray the potential erosion effects:

- Minimizing vegetation removal or actions in disturbed areas during construction and operation, especially steep slopes or previous destabilized areas.
- Planting or maintaining vegetative cover.
- Moistening exposed soils or applying stabilizing compounds.
- Placing straw, rip rap, or other materials to reduce exposure to the elements.
- Putting roads and structures away from unstable areas or geological hazards.
- Managing stormwater after construction is completed.

Applicant's Response:

Engineering standard BMPs, ESC measures and common accepted construction practices will be used to reduce and/or control erosion risk. A TESC and BMP plan will be submitted to the City of Richland for review and approval prior to construction.

This is an incomplete answer. It should be made clear and listed in the answer how the Erosion and Sediment control plan will address erosion, both in the design of the development, all erosion due to construction, and on-going erosion controls post-construction. This response should list measures to include in the ESC Plan to address issues identified in item B.1.f. BMP's should at least be outlined so the reader doesn't have to guess a what the applicant is talking about. We believe that Stormwater engineering design plans should be required because the danger of runoff getting into the wetland is high according to what we see on this application.

5.2 Item B.3.a Surface Water

5.2.1 Item B.3.a.1. Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names, if appropriate, state what stream or river it flows into.

Guidance from WDOE²²:

Water bodies include year round and seasonal streams, saltwater, lakes, ponds, wetlands, domestic water intakes, or any forested or un-forested wetlands on the site, or downstream or down slope. Please identify possible fish-bearing streams. An intermittent stream might have fish present for a few weeks or months when stream flows are high.

Also note the presence of seeps, springs, wetlands or artificial water bodies. The site may appear dry but include areas that are transitional between open water and uplands. It may be periodically inundated or saturated.

Identify any water quality issues such as a Total Maximum Daily Load — a locally-focused scientific study that calculates the pollution a water body can receive and still meet water quality standards. It provides information about existing conditions and a watershed's sensitivity to additional development impacts.

Describe any water-based invasive species in the area (e.g., water milfoil, New Zealand mud snails, yellow flag iris, Brazilian elodea) and steps taken to avoid their spread during the project.

Applicant's Response:

There are wetlands located on the subject property. They are located east of the proposed building envelopes. Reference is made to the Critical Area Report that has been prepared and has been submitted to the City of Richland as a part of this proposed project.

In 2014 SEPA Checklist and revised checklist:

There is one Category 3 wetland.

In 2018 SEPA Checklist:

²² <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water/Environmental-elements-Surface-water>

There are wetlands located on the subject property. They are located east of the proposed site.

The responses do not identify the name of Amon Creek, the springs, the source of the wetland, or that the wetland confluences with the Yakima River.

Our comments: Not noted is that the project is Type 4 fish-bearing stream. No description of how the water body will be protected from the project or during or after construction.

Item B.3.a.2. Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

Guidance from WDOE:

Any part of the project, plan, or other proposal that impacts the water body's shoreline is identified in this answer. Include grading, fill, or excavation; installation, construction, or demolition; paving; painting or maintenance activities; storage of materials; planting or removing vegetation; etc. if it will occur within 200 feet of the water and describe where the activities will take place in relation to the water body.

You must identify the possibility of intentional or inadvertent filling of, or runoff to streams, wetlands or other water bodies. Attach plans (or preliminary schematic drawing with all water bodies included), if appropriate for the type of activity. If the project involves impacts to aquatics lands, you may need a hydraulic project approval (HPA) from the state Department of Fish and Wildlife, shoreline permits from the local government and possibly a use authorization from the Department of Natural Resources.

Describe any water-based invasive species known to exist in the area (e.g., water milfoil, New Zealand mud snails, yellow flag iris, Brazilian elodea) and steps taken to avoid their spread during the project. Refer to the resources listed below for information:

Describe any measures that will be taken to ensure that the equipment being used is not introducing or spreading invasive species. The Washington Invasive Species Council has developed prevention protocols to be used when working in or near water. For the removal or placement of in-water structures, describe how the material either to be removed or placed has been checked for invasive species and how any invasive species found will be removed and disposed of appropriately.

WDOE also has included 9 Additional Resources and their website links.

Applicant's response:

There will be work within 200' of the wetlands. In accordance with Richland Municipal Code 22.10.110, a 150' wetland buffer has been proposed for this project. This is discussed in detail in the *Critical Area Report* that has been submitted for this project to the City of Richland, and reference is made to said report for additional information.

Since nearly all development will occur within 200 ft. of a wetland, all of the items given in Ecology's guidance should be addressed here. Again, an imprecise reference to the buffer detailed in the Critical Area Report does not touch on what specific impacts and mitigations we expect the report to address. Missing are soil descriptions of areas near the wetlands, vegetation removal quantities and locations and disposal. There is no information on revegetation and

stated mitigations resulting from disturbances. There is no information on post-construction direct and indirect impacts from a high density of people and their pets on the wetlands, their buffers or the biodiversity areas and corridor. The impairing of waters from the dumping of yard waste and other trash into wetland buffers is not mentioned. This project does appear to involve impacts to aquatics lands. It appears that the applicant may need a hydraulic project approval (HPA) from the Department of Fish and Wildlife and a permit to work in wetlands from Ecology.

5.2.2 Item B.3.a.6. Does the proposal involve any discharge of waste materials into surface waters?

Guidance from WDOE:

Include waste or contaminants associated with industrial wastewater; domestic sewerage; agricultural runoff; stormwater drainage from parking lots, equipment storage areas, chemically-treated lawns and landscaping; etc. Describe the source, the likely contaminants, and quantities if known. Waste materials means hot or very cold water, sediments, chemical by-products, wash water, sewage, stormwater and other pollutants.

Discharge includes seeping or dripping of hot or very cold water; sediment filled water, controlled runoff, or liquid by-products of an activity, such as bore hole drilling waste products.

Water bodies include year round and seasonal streams, saltwater, lakes, ponds, wetlands, domestic water intakes, or any forested or un-forested wetlands on the site or downstream/down slope. Please identify possible fish bearing streams and note that an intermittent stream might have fish present for a few weeks or months of the year during periods of high flow.

Applicant's response: "No".

Information is missing on this checklist is that Amon Creek is a Type F fish bearing stream according to WAC 222-16-030. Stormwater drainage details are not detailed enough therefore they are not adequate for substantive comments. This omission is particularly troublesome because one of the major threats to this ecosystem is stormwater runoff. Due to the amount of ground disturbance and slope contouring, fill to create the correct elevations of stormwater ponds and vegetation removal, the applicant did not, but must, identify the possibility of unintentional or inadvertent filling of, or causing runoff to the Amon Creek wetlands and the Biodiversity Corridor. Neither plans nor preliminary drawings showing the type of activity or mitigation are included. Because the applicant is not submitting detailed stormwater plans until after this approval, we have grave concerns that the public will be left out of the process regarding stormwater decisions and unanticipated damage because the applicant is seeking an approval using *conceptual designs* that have not been vetted.

5.3 Item B.3.b. Groundwater

5.3.1 Item B.3.b.1. Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well? Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

Guidance from WDOE²³:

... For water discharges to ground, remember to consider how stormwater runoff collected from impervious surfaces is managed onsite. Is the project in a drinking water wellhead protection area, the area where groundwater flows to a water supply well? The state Department of Health has a web tool—Source Water Assessment Program Maps—that can be used to locate wellhead areas in each county.

Applicant's response:

No ground water will be withdrawn. Stormwater will be disposed of into the ground in accordance with the City of Richland standards and requirements, as well as those of the State of Washington Department of Ecology.

In the 2014 SEPA Checklist, the applicant responded:

Yes. Storm water infiltrated within the infiltration ponds will eventually reach ground water, although there will be separation between the bottom of the pond and the ground water table.

The applicant fails to note that the project area is in Zone 1 (6-month time-of-travel) for “Willowbrook Well”, DOH ID 72250 (Figure 5).

²³ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water/Environmental-elements-Groundwater>

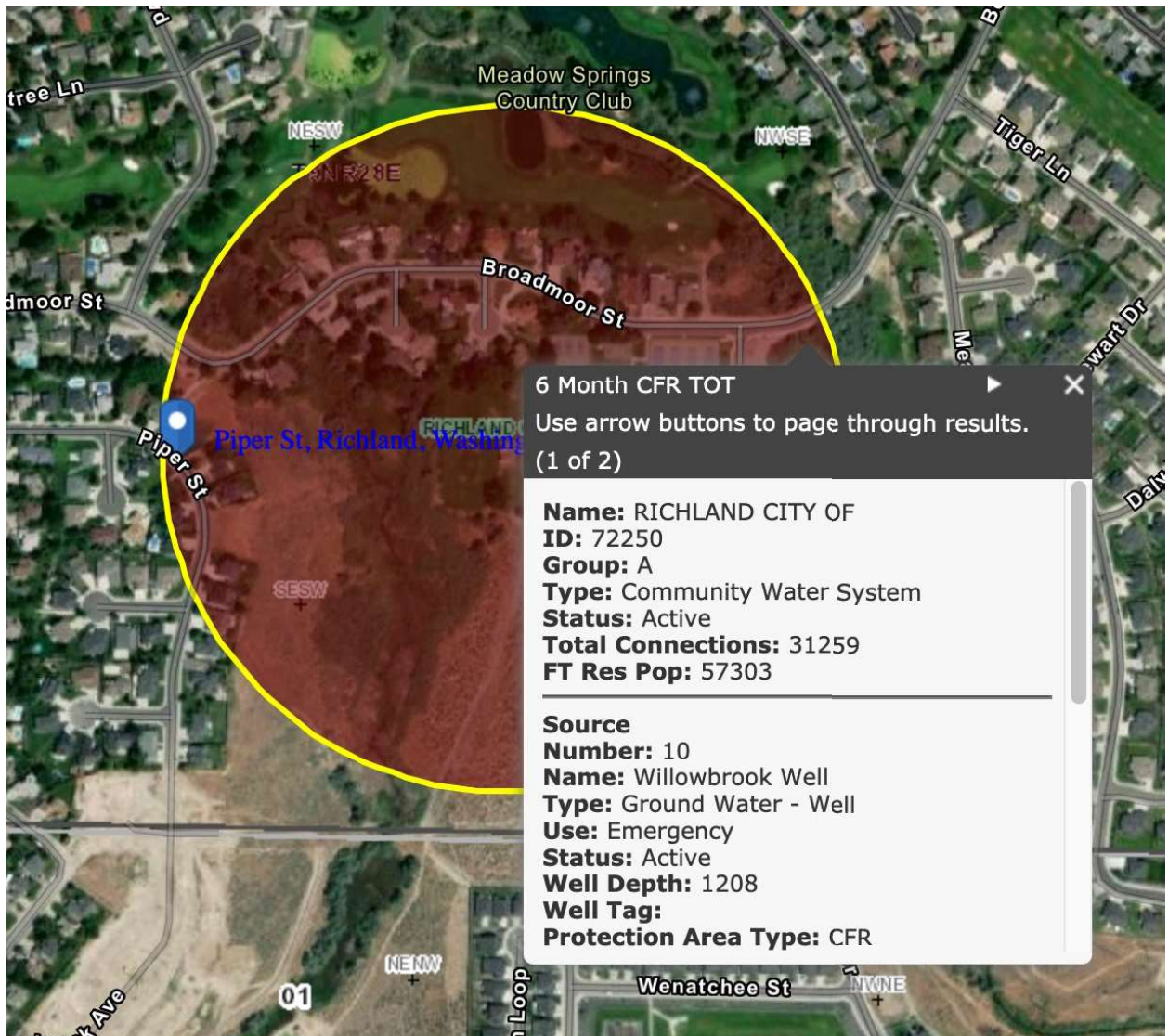


Figure 3. Surface Water Collection zone for Ground Water Well²⁴

5.3.2 Item B.3.b.2. Describe waste material that will be discharged into the ground from septic tanks or other sources, if any.

Guidance from Ecology:

Waste material includes chemicals, sediments, agricultural runoff involving pesticides, herbicides, and fertilizers, wash water, logging slash, log booming or storage debris, treated wood pilings, and oil or other fuels from equipment used for construction or operational activities.

²⁴ Generated by Washington Department of Health (WDOH) *Source Water Assessment Program (SWAP) Mapping Tool*, <https://fortress.wa.gov/doh/swap/index.html>

While septic systems are a primary source of waste discharges to ground, unlined ponds or trenches used for discharge or storage of liquid waste such as manure, food processing waste, and contaminated waters, should also be considered. Remember to include size and quantities and describe the known nature and characteristics of the waste.

When applicable, include discharges to injection wells such as dry wells. Injection wells are those in which water or other fluids are injected back into the ground. Injection may be directly to a groundwater aquifer or to unsaturated substrate overlying an aquifer. Mention any unlined ponds or trenches that store or discharge waste. Include size, quantities and type of waste. If the project is located above a sole source aquifer, that needs to be mentioned.

Applicant's response:

No waste material will be discharged into the ground.

This response contradicts the applicant's response regarding stormwater, which states that stormwater runoff "will be disposed of through conventional drywells...".²⁵

5.4 Item B.3.c Water runoff (including stormwater)

5.4.1 Item B.3.c.1. Describe the sources of runoff and method of collection and disposal, if any.

Guidance from WDOE:

Describe the following: source runoff; intended management systems; where and how the runoff will be discharged off the project site; and where and how the runoff will flow to ground or surface waters:

Applicant's response:

Stormwater runoff will be disposed of through conventional drywells and grassy swales in accordance with the City of Richland and the State of Washington Department of Ecology standards and regulations. This includes stormwater from driveways, sidewalks, streets and roofs. Pollutants contained in the stormwater will be mitigated and/or removed through the grassy swales prior to entering drywells. This water is not anticipated to flow into other waters.

Our comment :

This answer does not match with the plans in the packet. It appears that updating the checklist was a low priority to the applicant. Currently, there are no grassy swales on the site plans this time around. These discrepancies show that stormwater engineering site plans are needed and the SEPA checklist needs serious updating for clarification.

²⁵ A drywell is an injection well. See, e.g., WAC 173-218-040.

5.4.2 Item B.3.c.2. Could waste materials enter ground or surface waters? If so, generally describe.

Guidance from WDOE:

Consider potential sources of contamination such as parking lots, equipment storage, agricultural practices, lawn and landscaping maintenance, animal waste, treated wood, eroding soils, etc., as well as any treatment provided, and where runoff will flow or be discharged. Describe the type and source of potential contamination and the water body or aquifer where it is likely to end up. If located in a wellhead protection area, describe the area where the groundwater flows to the water supply well or other type of groundwater protection area.

Applicant's Response:

There is a minimal risk that, post-construction, residential users could potentially have waste materials and/or household chemicals that enter the ground.

The applicant fails to disclose that, as shown in Figure 5, the project is located on Zone 1²⁶ of a wellhead protection area. No discussion of effects on the water supply is shown. The site is located on a Critical Aquifer Recharge Area (CARA)²⁷. RMC 22.10.330 states that:

Reports for CARAs shall be submitted to the administrator by the applicant when a development proposal activity not otherwise exempted as provided in RMC [22.10.320](#) is proposed on a parcel within an aquifer recharge area.

5.5 The proposed project does not meet the criteria for exemption, and so a CARA report is required; this should be noted in the checklist. Item B.3.c.3. Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe?

Guidance from WDOE:

Identify any effects the proposal would have on drainage patterns, including effects on existing groundwater resources.

Applicant's Response:

No.

Because grading and contouring average to steep slopes and grading 10, 000 cu yards of soils and vegetation it would a significant factor in changing drainage patterns. The answer should

²⁶ WDOH, *Washington State Wellhead Protection Program Guidance Document*, June 2010, p. 2. <https://www.doh.wa.gov/Portals/1/Documents/Pubs/331-018.pdf>

²⁷ RMC 22.10.300.A states that CARAs include “Those areas designated as ‘wellhead protection areas’ Wellhead protection areas ... include the identified recharge areas associated with either Group A public water supply wells”. See Figure 5. Also see City of Richland, “Wellhead Protection Program” Map, Appendix R: Wellhead Protection Program p. 17. <https://www.ci.richland.wa.us/home/showdocument?id=4609>

have been “Yes” with details and descriptions. It is highly likely that 10, 000 cu yards of soil for fill is low considering there is now on site stormwater ponds that need a gradient to operate correctly.

5.5.1 Item B.3.d. Proposed measures to reduce or control surface, ground, runoff water, and drainage pattern impacts, if any.

Guidance from WDOE:

Provide a description of the measures to avoid, minimize or counter adverse environmental impacts to groundwater from discharges, surface runoff, drainage patterns.

Applicant’s response:

Grassy swales and other BMPs, as approved, will be utilized to control surface and runoff water.

The answer is incomplete. Grassy swales are from the last application.

WDOE Comment letter February, 10, 2016 for this site states²⁸:

Potential impacts from the project on previously situated wetland mitigation/preservation areas should be described and shown on site maps. Increased impacts from human and pet use of the localized area from this high-intensity development should also be discussed.

5.6 Item B.4. Plants

5.6.1 Item B.4.a. Check the types of vegetation found on the site:

Guidance from WDOE²⁹:

Please list and further describe the types of vegetation at the site including: Deciduous trees, including hardwoods and flowering trees such as alder, maple, and cottonwoods Evergreen trees such as firs, cedars, pines, and other shrubs Orchards, vineyards or other permanent crops. Grass, weeds, and other cleared-land vegetation. Pasture, agricultural crops, or gardens. Wet soil plants such as cattail, buttercup, bulrush, and skunk cabbage. Water plants such as water lily, eelgrass, and milfoil.

Applicant’s response:

☐_Deciduous tree: alder, maple, aspen. other
☐_evergreen tree: fir, cedar, pine, other
☒_X_shrubs

²⁸

<https://apps.ecology.wa.gov/separ/Main/SEPA/Document/DocumentOpenHandler.ashx?DocumentId=60227>

²⁹ WDOE, *SEPA checklist guidance, Section B: Plants*, accessed October 28, 2020.

<https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-4-Plants>

- ☒_X_grass
- ☐_pasture
- ☐_crop or grain
- ☐_Orchards, vineyards or other permanent crops.
- ☒_X_wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- ☐_water plants: water lily, eelgrass, milfoil, other
- ☒_X_other types of vegetation

Reference is made to the Critical Area Report and Buffer Averaging Plan.

Response should include further descriptions of where plants occur in the project site and the location of different plant types in the proposed development. Also the mention of PHS habitats is required.

5.6.2 Item B.4.b. What kind and amount of vegetation will be removed or altered?

Guidance from WDOE:

Describe the total area of land clearing involved with all aspects of the proposal. This includes listing the total area or amount of vegetation to be removed, in acres or square footage. If selective removal or alteration of a relatively small number of individual trees or other plant(s) is planned, please list number of plants. If harvesting timber, include information on board feet as well as total acreage involved. Describe measures to ensure plant material or soils brought in or leaving the site are free of invasive plants, pests, and diseases.

Information on the size and quality of the buffer area (such as a comparison of percent cover of native and non-native vegetation, percent slope and soil composition) should be provided. (Soil information such as drainage class, etc. may be pertinent to the hydrologic study questions below.).

Applicant's response:

All existing native grasses and vegetation will be removed within the construction area and during the construction process.

Need more for substantive comments here. Need to know what amount of acreage will be cleared, exactly where that will occur, how the vegetation be disposed of, and how much land contours/slopes will change. Additionally, the percentage of native species and invasive species in and adjacent to the project area. This should be specified. The required plan for revegetation and buffer enhancement and a monitoring plan. It should include the plants that will be removed and what native plants will replace them. Additionally, the methods used to control the spread of invasive plants during and after construction should be detailed.

Ecology's 2019 Stormwater Management Manual for Eastern Washington, Chapter 3 - Page 131 states:

(That) Core assessment and management objectives for a project located in a drainage basin with a wetland designated as high quality and sensitive and not used as flow control or treatment should include the following:

- Protect mature native riparian vegetation and soils.
- Protect diverse native stream habitat characteristics to support the native assemblage of stream life.
- Maintain predevelopment hydrology.

5.6.3 Item B.4.c. List threatened and endangered species known to be on or near the site.

Guidance from WDOE:

The Washington Department of Natural Resources has information about rare, threatened, and endangered plant species in our state.

Applicant's response:

Reference is made to the Wildlife Habitat Assessment Report prepared by Wetland Resources, Inc. and submitted to the City of Richland as a part of this application.

If there are threatened or endangered species of plants, they should be listed right here. How hard is this? (The response seems to indicate that there *are* threatened or endangered plants on the site, otherwise not just state that none were found?)

5.7 Item B.4.d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

Guidance from WDOE:

If land disturbance planned, provide a summary about the re-vegetation plan. This can include avoiding or minimizing disturbance, new plantings, removing invasive species, and reseeded. Protection, replacement, or enhancement of critical or otherwise valuable habitat and plant species is particularly important. Provide a reference and summarize applicable local development regulations, including how proposal with complies with these requirements.

Applicant's Response:

A Conceptual Landscape Plan has been submitted to the City of Richland as part of this project. A Formal Landscape Plan will be prepared and submitted to the City of Richland for review and approval prior to construction during the Plan Review process. All landscaping will be in accordance with the City of Richland standards and requirements, this includes all common areas, street trees and general landscaping.

Ecology 2016 Comment Letter:

Potential impacts from the project on previously situated wetland mitigation/preservation areas should be described and shown on site maps.

The "Formal Landscaping Plan" is not included in the project packet and should be part of this packet that should be part of this public review process. Nor are there any details on how re-

vegetation will be done after construction. Our concerns that landscaping plans will consist of the traditional high-water use of non-native plants that replace and destroy the native habitat. This will increase pressure on water resources and stress the conditions required for native plants and animals to survive and breed successfully.

5.8 Item B.4.e. List all noxious weeds and invasive species

Guidance from WDOE:

Describe if plant species present on site or used in the project are listed as noxious or invasive.

Applicant's response:

Reference is made to the Critical Area Report and the Wildlife Habitat Assessment Report, both of which have been submitted to the City of Richland as part of this project.

This checklist should include the relevant information about noxious weeds here, not give an imprecise reference to another document. Referring to Reports is not adequate use of the SEPA checklist. The written answers *from* those reports should be *in* the SEPA Checklist. These are simple questions.

5.9 Item B.5. Animals

5.9.1 Item B.5.a. List any birds and other animals, which have been observed on or near the site or are known to be on or near the site. Examples include a short list of Birds, Mammals and Fish.

Guidance from WDOE³⁰:

Information about animal species is available from the Washington Department of Fish and Wildlife (WDFW). Describe if any animal species on site are listed as prohibited, regulated, or invasive. With Additional Resources web links of:

Washington Species and Habitats (Washington Department of Fish and Wildlife)

Priority Habitats and Species (Washington Department of Fish and Wildlife)

Applicant's response:

Native animal/mammals include the Black-Tailed Jackrabbit, Eastern Cottontail and Douglas Squirrel.

Fish: None observed. Removed from this current checklist.

³⁰ WDOE, *SEPA checklist guidance, Section B: Animals*. Accessed October 28, 2020.
<https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-5-Animals>

No birds are listed. WDOE's references to WDFW resources would have directed the applicant to WDFW's Priority Habitat and Species (PHS) mapping, which indicates Chinook Salmon adjacent to the site.³¹

The site is immediately adjacent to west fork of Amon Creek and the Amon Creek Natural Preserve. Animals that have been documented in the creek and preserve (and therefore 'near' the site) include Beaver, Black-tailed Jackrabbit, Mink, and Otter.³² Other documented species include Side-blotched lizard, Cinnamon Teal, Great Blue Heron (State Monitored), Muskrat, White-tailed deer, Raccoon, Coyote, Northern Harrier, Pied-billed Grebe, Wood Duck, Bank Swallow, Black-crowned Night Heron, Cooper's Hawk, Blue-winged Teal, and Yellow-headed Blackbird.³³

5.9.2 Item B.5.b. List any threatened and endangered species known to be on or near the site:

Guidance from WDOE:

Threatened and endangered species lists are available at:

- Priority Habitats and Species (Washington Department of Fish and Wildlife)
- Critical Habitat Information (NOAA Fisheries)
- Washington Endangered Species list (U.S. Fish & Wildlife Service)
- StreamNet (Pacific Northwest fish data)
- Natural Heritage Program (Washington Department of Natural Resources)

Applicant's response:

Reference is made to the Wildlife Habitat Assessment Report submitted to the City of Richland as a part of this application.

If there are threatened or endangered species of animals they should be listed here. (The response seems to indicate that there are threatened or endangered animals on the site, otherwise not just state that none were found).

³¹ WDFW, *PHS on the Web*, accessed October 28, 2020. <https://geodataservices.wdfw.wa.gov/hp/phs/>

³² Tapteal Greenway Webcam footage, <https://tapteal.org/parks-preserves/amon-creek-natural-preserve/>

³³ City of Richland, *Wildlife Report for the Rachel Road Alignment Study in Richland, Benton County, Washington*, February 3, 2017.
<https://www.richlandparksandrec.com/Home/ShowDocument?id=4416>

Additional note: The City should create an additional SEPA checklist to be filled out with questions regarding items specific to Richland, such as listing all PHS species and habitats.

5.9.3 Item B.5.c. Is the site part of a migration route?

Guidance from WDOE:

Consider birds, fish, and other wildlife when identifying affected migration routes. Your proposal could have an adverse impacts if the affected area includes rare or unique habitat, wildlife corridors, fish-bearing rivers and streams, lakes, ponds, or other areas where migrating birds are likely to stop.

Applicant's Response:

Yes, Richland is within the Pacific Flyway. No other migration route is known. Reference is made to the Wildlife Habitat Assessment Report submitted to the City of Richland as a part of this application.

The applicant fails to list numerous migratory species that are present on the site during migration, either here or in the Habitat Assessment Report. The ACNP and the biodiversity area and corridor show this as a critical "stopover site" for these twice-yearly migrating birds needing food and shelter as well as the numerous breeding birds documented for this area. High buildings such as apartments located near a wetland and riparian area are documented to incur a high amount of window strikes by birds. There needs to be mitigations to address this bird mortality issue.

Terrestrial migrants and focal species are: beaver (*Castor canadensis*) and black-tailed Jackrabbits (*Lepus californicus*). For beaver this is a critical corridor that prevents the species from being isolated genetically from other populations.

Other terrestrial vertebrate migrants using the wetlands and the wildlife Biodiversity Corridor are: Mink (*Neovison vison*), Mule Deer (*Odocoileus hemionus*), North American Porcupine (*Erethizon dorsatum*), River Otter (*Lontra canadensis*), Striped Skunk (*Mephitis mephitis*), Northern Raccoon (*Procyon lotor*), Coyote (*Canis latrans*), Muskrat (*Ondatra zibethicus*), Townsend's Ground Squirrel (*Urocitellus townsendii*), Red Fox (*Vulpes vulpes*), American Badger (*Taxidea taxus*), and Cottontail species (*Sylvilagus* spp.).

WDFW PHS mapping documents that Chinook salmon, an aquatic migrant, are present on the site.

eBird, a website used to document avian species observed at Amon Creek--Willowbrook section documents current and historic bird species³⁴. The eBird observations include 97 migratory birds using the ACNP; Of these species, 8 are neotropical migrants whose populations are experiencing large declines of 45%-76%³⁵.

The 97 migratory bird species included in the eBird observations are: Snow Goose, Cackling Goose, Canada Goose, Trumpeter Swan, Wood Duck, Blue-winged Teal, Cinnamon Teal, Northern Shoveler, Gadwall, American Wigeon, Mallard, Northern Pintail, Green-winged Teal, Redhead, Ring-necked Duck, Greater Scaup, Lesser Scaup, Bufflehead, Common Goldeneye, Hooded Merganser, Common Merganser, Pied-billed Grebe, Mourning Dove, Common Nighthawk, Black-chinned Hummingbird, Virginia Rail, American Coot, Sandhill Crane, Black-necked Stilt, Killdeer, Long-billed Curlew, Least Sandpiper, Wilson's Snipe, Spotted Sandpiper, Greater Yellowlegs, Double-crested Cormorant, American White Pelican, Great Blue Heron, Great Egret, Black-crowned Night-Heron,, Osprey, Golden Eagle, Northern Harrier, Sharp-shinned Hawk, Cooper's Hawk, Northern Goshawk, Bald Eagle, Swainson's Hawk, Red-tailed Hawk, Rough-legged Hawk, Western Screech-Owl, Great Horned Owl, Belted Kingfisher, Downy Woodpecker, Hairy Woodpecker, Northern Flicker, American Kestrel, Merlin, Prairie Falcon, Western Wood-Pewee, Say's Phoebe, Western Kingbird, Eastern Kingbird, Northern Shrike, Black-billed Magpie, American Crow, Common Raven, Black-capped Chickadee, Horned Lark, Northern Rough-winged Swallow, Tree Swallow, Violet-green Swallow, Bank Swallow, Barn Swallow, Cliff Swallow, Golden-crowned Kinglet, Ruby-crowned Kinglet, Red-breasted Nuthatch, Pacific Wren, Marsh Wren, Bewick's Wren, European Starling, Gray Catbird, Varied Thrush, Hermit Thrush, American Robin, Cedar Waxwing, House Sparrow, American Pipit, House Finch, Cassin's Finch, Pine Siskin, Lesser Goldfinch, American Goldfinch and Chipping Sparrow.

³⁴ Cornell University, eBird Hotspot Report.
https://ebird.org/hotspot/L832224?yr=all&m=&rank=mrec&hs_sortBy=taxon_order&hs_o=asc.

³⁵ American Bird Conservancy, *Saving Migratory Birds for Future Generations: The Success of the Neotropical Migratory Bird Conservation Act*. May 2009. http://abcbirds.org/wp-content/uploads/2015/05/act_songbirds.pdf

5.9.4 Item B.5.d. Proposed measures to preserve or enhance wildlife, if any.

Guidance from WDOE:

Types of mitigation for adverse effects to animals could include:

Habitat restoration (native plantings, maintaining water quality and hydrology including temperature, stream flows, protection from human and domestic animal intrusion or noise, light, and glare).

- Measures to preserve or restore fish and wildlife corridors.
- Monitoring and ongoing stewardship of habitat with performance measures for adaptive management.
- Measures to control or eradicate invasive species coming into and leaving the site.

Additional Resources

- Priority Habitats and Species (Washington Department of Fish and Wildlife)
- Aquatic Invasive Species (Washington Department of Fish and Wildlife)
- Noxious Weed Control Board
- Invasive Species Council

Applicant's response:

Reference is made to the Wildlife Habitat Assessment Report submitted to the City of Richland as a part of this application.

We have to go all the way to the wildlife assessment document to find that no, there are no mitigations for wildlife or plants anywhere in this packet.

Item B.5.e. List any invasive animal species known to be on or near the site.

Guidance from WDOE:

Check the current list of invasive animal species to see if they are known to live in the area of the proposal.

Invasive Species List ([link](#))

Applicant's Response:

Reference is made to the Wildlife Habitat Assessment Report submitted to the City of Richland as a part of this application.

Comment: List them here, not there.

5.10 Item B.7.a Environmental Health - General

5.10.1 Item B.7.a.4. Describe special emergency services that might be required:

Guidance from WDOE³⁶:

³⁶ WDOE, *SEPA checklist guidance, Section B: Environmental health*, <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA->

Thinking ahead and planning for emergencies can help prevent a small hazardous waste spill from turning into a dangerous, expensive contamination problem. The proposal could require a special response plan for potential hazardous waste emergencies including:

- Capabilities and proper use of emergency equipment including communications and alarm systems.
- Responding to fires, explosions, spills, releases to air, and ground water contamination incidents.
- Procedures for using, inspecting, repairing and replacing your emergency equipment (and monitoring equipment, such as temperature or pressure indicators, if you have any).
- Details of any automatic waste feed cut-off systems.
- Steps for shutting down operations.

Special services involving hazardous materials can include:

- In the event of a fire, call the fire department or attempt to extinguish the fire.
- In the event of a spill, contain the flow as possible, clean up the waste and any contaminated materials as soon as practicable, and call 1-800-SPILL-911.
- If a fire, explosion or other release could threaten human health or could reach state waters, call 1-800-SPILL-911 and the National Response Center at 1-800-424-8802.

Applicant's response:

None anticipated during or after construction, other than normal emergency services.

Our comment: Post-construction emergency services must be addressed in detail here.

Richland has a track record of requiring access that should've been addressed in this planning stage. The result has shown adverse impacts and costly mitigations. Although a utilities (sewer) line within the ACNP may not qualify as an emergency service, it is a good example of costly mitigations that occur when not considered in the planning process. This must be addressed at the planning stage right here in this proposal.

5.11 Item B.8. Land and Shoreline Use

5.11.1 Item B.8.a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.

Guidance from WDOE³⁷:

checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-7-Environmental-health

³⁷ WDOE, SEPA checklist guidance, Section B: Land & shoreline use.

<https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA->

Provide information about past, present, and future foreseeable land uses affected by the proposal. Be sure to address:

- Agricultural uses
- Residential uses
- Commercial uses
- Community and public services
- Industrial uses
- Natural resource uses
- Recreational activities

Applicant's Response:

The project site currently vacant. The property to the East and South is wetlands, and the property to the West is developed as Residential. The proposed land uses are similar and compatible with the surrounding existing uses.

Applicant fails to mention the adjacent Amon Creek Natural Preserve, which is used for community and recreational activities.

5.11.2 Item B.8.h. Has any part of the site been classified as a critical area by the city or county? If so, specify.

Guidance from WDOE:

Indicate if the proposed site has any special protection designation — such as critical area. Other areas designated as protected areas or reserves could also be within or adjacent to the proposed site. Local jurisdictions may designate a "critical area" restriction for development for wetlands, streams and surface water bodies, aquifer recharge areas, frequently-flooded areas, geologic hazards, and fish and wildlife habitat conservation areas.

Ecology Comment Letter Feb. 10, 2016:

Potential impacts from the project on previously situated wetland mitigation/preservation areas should be described and shown on site maps. Increased impacts from human and pet use of the localized area from this high-intensity development should also be discussed.

Applicant's Response:

Per the Geotechnical and Hydrogeological Site Evaluation Report submitted herewith, no portion of the proposed development is located within a City or County designated CARA.

Our Comments: The applicant fails to list WDFW PHS Shrub-steppe Biodiversity Corridor, Wetlands, WDFW PHS Shrub-steppe, Eastside steppe, Geologic Hazard Area, Type F, Fish-bearing stream, WDFW PHS Black-tailed Jackrabbit habitat.

The checklist and Geotechnical report both falsely state the project is not located on a CARA. It is located on a CARA as shown in [Figure 4](#).

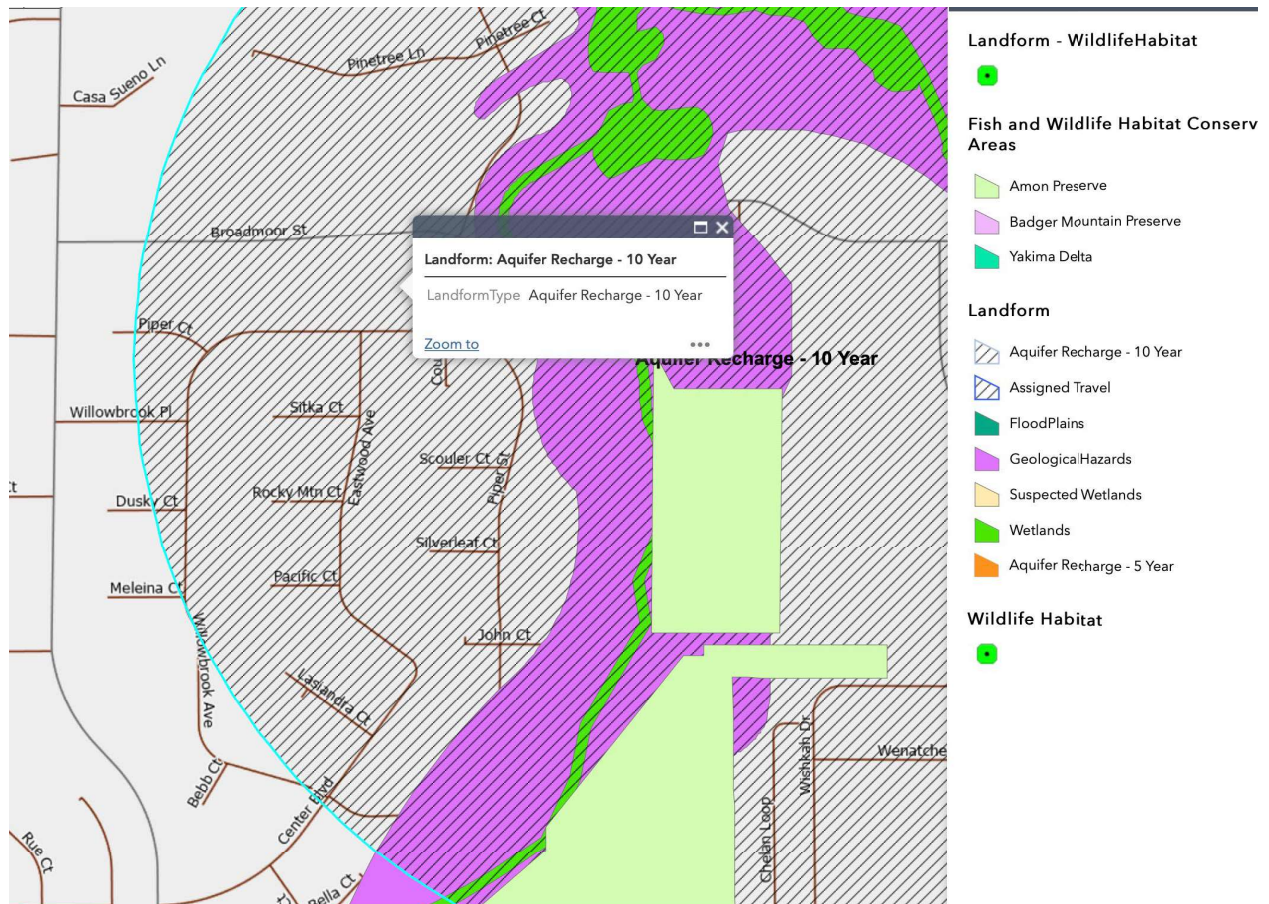


Figure 4. City of Richland Critical Areas Map shows project located on CARA

5.11.3 tem B.10.a. What is the tallest height of any proposed structure(s), not including antennas; what is the principle exterior building material(s) proposed?

Guidance from WDOE³⁸:

The applicant should address building height and exterior material of new structures. This include:

- Building height. Although antennas are excluded, other appurtenances should be included such as smoke stacks, chimneys, and vents.

³⁸ WDOE, *SEPA checklist guidance, Section B: Aesthetics*. <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-10-Aesthetics>

- Exterior material of new structures associated with or will occur as an indirect result of the proposal. Describe materials, color, and total window area.

Applicant's Response:

Multi-story units are proposed to be a maximum height of 40' from average ground level, in accordance with the City of Richland standards.

On the drawings we can see the words Daylight Basement in the current plans as well as in the drawings for previous SEPAs submittals. Clarify how with a decrease of buildings and a height of 40'

5.11.4 Item B.10.b. What views in the immediate vicinity would be altered or obstructed?

Ecology:

Describe both scenic and non-scenic views that will change. Answer "none" only if the appearance of the site will remain unchanged.

Applicant's Response:

The subject property is located on a small hillside located downhill from adjacent residential uses, therefore, there will be minimal obstruction to views from existing residences.

SEPA 2016 and 2018 Applicant Checklists:

No greater than 40'. The building materials will be those typical to multifamily residential construction. The expectation is that roofing will be asphalt composition shingles and siding will be wood.

Our comments: Views from residences on the bench on the east side will no longer be able to see much of the ACNP.

5.12 Item B.11 Light and Glare

5.12.1 Item B.11.a. What type of light or glare will the proposal produce? What time of day will it mainly occur?

Guidance from WDOE³⁹:

Describe the types of light and glare the proposal would produce either directly or indirectly. Include the time of day and frequency that each source produces light and/or glare. The following information should be included:

- Indoor lighting that may be seen through windows.

³⁹ WDOE, *SEPA checklist guidance, Section B: Light & glare*. <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-11-Light-glare>

- Fixed outdoor lighting such as street lights, signage, and parking lots.
- Vehicles.
- Mirrored and un-mirrored glass as well as other reflective surfaces.

Applicant's response:

Minimal light glare will be produced from lights on the apartments and street lights that will be used for lighting the parking lot and travelways. This glare will be during evening and nighttime hours.

The Applicant is creating light pollution sources where none existed previously and it should be mitigated. Nocturnal and diurnal wildlife will be displaced by the presence of constant sources of light and activities in this area. The WDOE list above provides bullets so you can answer the questions.

A short list of known nocturnal species are: Black-tailed Jackrabbit, Great-horned Owl, Black-crowned Night Heron, Beaver, Muskrat, Mink, Striped Skunk, River Otter, Coyote, Mule Deer, Screech Owl, Raccoon and Porcupine. RMC Table 22.10.115(D) has "Required Mitigation to Minimize Impacts to Wetlands from Changes in Land Uses with High Impacts. Stating "Direct lights away from wetland." This needs to be addressed!

5.12.2 Item B.11.b. Could light or glare from the finished project be a safety hazard or interfere with views?

Guidance from WDOE:

Consider potential safety impacts to motorists, boaters, air traffic, and pedestrians both on and off the site. Identify safety and / or view impacts to nearby residents, area workers, tourists, wildlife, and domestic animals.

Applicant's response:

No safety hazard is anticipated from light glare.

Applicant should list bird strikes to windows during night migration and during daylight hours.

5.13 Item B.11.c. What existing off-site sources of light or glare may affect your proposal?

Guidance from WDOE:

- What are the current conditions surrounding the area regarding light and glare?
- How will this affect the construction or operation of the project?

- How will the combined level of light and glare from the proposal and the surrounding area create additional light pollution impacts?

Applicant's Response: "N/A"

The combined level of light from the proposal and the surrounding area will flood critical areas that were previously dark. The light will displace wildlife and allow human incursion and activities in areas previously untouched at night. The introduction of light in this area will be just one cut of a thousand cuts that will systematically degrade and then destroy these areas for the wildlife that are intended to be protected under the GMA and Richland's Critical Areas Ordinance.

5.14 Item B.12. Recreation

5.14.1 Item B.12.a. What designated and informal recreational opportunities are in the immediate vicinity?

Guidance from WDOE⁴⁰:

This information helps reviewers better understand a development project's community impacts. Applicants should be specific and address possible impacts to formally-designated recreation areas as well as other uses such as access to state shorelines and common fishing spots. Other examples include:

- Walking, hiking, biking, and picnicking
- Dirt biking, dune buggies, and horseback riding
- Playground, ball field, tennis or basketball courts, and golf courses
- Recreation centers, swimming areas or pools, boating, rafting, fishing, and beach combing
- Parks, stadiums, museums, aquariums, zoos, and wildlife viewing opportunities
- Theaters, fairs, convention centers, and other public facilities

Applicant's Response:

The Amon Wasteway Drainage and Claybell Park are located in the immediate vicinity of the proposed project.

⁴⁰ WDOE, *SEPA checklist guidance, Section B: Recreation*. <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-12-Recreation>

No effort was made to state that this area is named the Amon Creek Natural Preserve. It is a protected ecosystem used for educational projects and documented scientific data collection which is vast and publicly available.

5.14.2 Item B.12.b. Would the proposed project displace any existing recreational uses?

Guidance from WDOE:

Consider how a proposal will directly impede, interfere, or prevent current and reasonably-foreseeable future recreational uses. These could include:

- Shoreline access
- Shellfish harvesting
- Swimming, boating, and other water activities
- Wildlife viewing
- Hiking, camping, horseback riding, and skiing

Applicant's response:

No

Wildlife viewing will be spatially curtailed due to buildings, restricted access to the ACNP and paving over native habitat. Wildlife displacement will occur due to loss of habitat noise, lights, high intensity human activity and the trash that follows. Consequently, there will be less wildlife to view. The Applicant does not share the recreational values of this area of the general public.

5.14.3 Item B.12.c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any.

Guidance from WDOE:

These measures could include:

- Development or improvement of a playground
- Recreation center
- Donation of park land or facilities to a recreation agency
- Donation of land to create a park facility, club house, or public access to a beach and shorelines.

Including five links for Additional Resources

Applicant's response:

There is a proposed pedestrian pathway/trail that will front the wetlands/open space. This trail could be used for a variety of recreational activities including walking, jogging, hiking, scenic viewing, etc... The applicant also has proposed a paved trailway that will connect to the existing trail in Claybell Park thus providing a safe walking connection for students attending Amon Creek Elementary.

A proposed paved Trail is a 100% impervious surface and should be avoided. It has not been accounted for in the proposal. Since a gravel path exists, no additional trails should be placed on the eastside of the apartments or within 1500 feet of the wildlife Biodiversity Corridor to protect the ACNP. A paved crossing of Amon Creek is an additional concern, increasing the potential of problems with runoff, etc.

5.15 Item B.13. Historic and cultural preservation

WDOE gives the following overall guidance for this section⁴¹:

Overview

A community's cultural and historic resources tell the distinct story of its past. From lumber mills to schools, sacred landscapes to archeological sites, rustic cabins to office towers, these environmental elements are unique, non-renewable resources.

Federal, state, and local environmental laws and review processes typically require consideration be given to protecting significant historic, archeological, and traditional cultural sites. The state Department of Archaeology and Historic Preservation (DAHP), local historic preservation organizations, and tribal governments work with agencies, private citizens, and developers to identify and develop strategies to protect Washington's cultural heritage.

Compliance programs reviewed by tribal governments, cultural resource agencies, and private organizations:

- Section 106 of the National Historic Preservation Act — Requires federal agencies to consider cultural resources in their licensing, permitting, and funding decisions. Federal agencies consult with state and local governments to identify cultural resources and receive formal opinions about the significance of an affected area and probable impacts.
- State Environmental Policy Act — Requires agencies to consider impacts to cultural resources during the environmental review process. DAHP and others provide technical expertise and may issue formal opinions to local governments and other state agencies regarding impacts.
- Forest Practices Act — Sets forest practice standards for timber harvest, pre-commercial thinning, road construction, fertilization, and forest chemical application activities. The rules help protect historic and cultural sites while maintaining a viable timber industry.

⁴¹ WDOE, *SEPA checklist guidance, Section B: Historic & cultural preservation*, <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-13-Historic-cultural-p>

- Governor's Executive Order 05-05 — Requires all state agencies with capital improvement projects to integrate DAHP, Governor's Office of Indian Affairs, and tribal governments into their planning process to protect historic and cultural sites.
- State Shoreline Management Act — Requires local governments issuing development permits in areas with archeological sites to have them inspected or evaluated by professional archeologists in partnership with affected tribal governments before issuing permits.

5.15.1 Item B.13.b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

Guidance from WDOE:

Historical and archeological places include significant locations, structures, or other evidence containing material remains of human life or activity. These can include sites associated with important historical personalities, sites or events—even when no physical evidence remains.

SEPA rules require environmental review decisions be based on sufficient information and that threshold determinations sufficiently evaluate a proposal's environmental impact. Describe the process for incorporating historic and archeologic research and surveys, tribal consultation, and data gathering. The reference "near the site" is not limited to "adjacent to the site" since associated impacts may extend beyond a site's boundaries.

Applicant's response:

None known, reference is made to the Cultural Resources submitted herewith.

Where is this in the packet? The applicant does not describe the process used for determining whether cultural resources at the site, despite the multitude of resources described by WDOE. This answer is incomplete; especially since this site is near a stream bed in an area that has a long cultural and tribal history.

5.16 Item B.13.c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

Guidance from WDOE:

Each Indian tribe is a sovereign nation with its own definition of appropriate consultation. However, here are some materials to assist with consultation efforts:

- Role of the Tribal Historic Preservation Officer in the Section 106 Process
- Tribal Consultation: Best Practices in Historic Preservation
- Centennial Accord

Other tribal government resources:

- DAHP Tribal Contact List for THPO's and Cultural Resource Staff
- Federally Recognized Tribes of Washington State Map
- Governor's Office of Indian Affairs Tribal Contact Directory
- Local and National Heritage Organizations

Applicant's response:

A cursory review of available GIS data and online resources was conducted.

The applicant fails to use the resources recommended by WDOE; it is clear that the survey of cultural resources is inadequate, leaving the SEPA checklist incomplete. A 'cursory' review of these potential impacts is disrespectful to the values of people who are integral to and valued in our community.

5.17 Item B.14. Transportation

5.17.1 Item B.14.a. Identify public streets and highways serving the site or affected geographic area, and describe proposed access to the existing street system. Show on site plans, if any:

Guidance from WDOE⁴²:

Review agencies will need to know if a proposal will contribute to existing safety, noise, dust, maintenance, or other transportation problems. This includes increasing road use. Describe site access roads and provide a public street or vicinity map showing access to the site. Highways or other listed major arterials do not need to directly access the site but these roads are likely to be used by employees, customers, or residents as well as transport materials or goods on and off the project.

Applicant's response:

Proposed primary access to the subject property will be from Piper Street and John Court, which are public rights-of-way maintained by the City of Richland. A secondary access is proposed to connect to Broadmoor Street.

Roads for high volumes of traffic will have to be designed and built to access the project. Additional stoplights and other traffic control infrastructure should also be documented here. Also, it is not clear whether the secondary access is blocked to regular traffic. If it is not, the street will go through a platted development. Roads for Stormwater maintenance must be included. More clarification is needed on this issue.

⁴² WDOE. *SEPA checklist guidance, Section B: Transportation*. <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-14-Transportation>

5.17.2 Item B.14.b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

Guidance from WDOE:

Include details about types of public transportation as well as proximity to nearest train stations and / or bus stops.

Additional resources:

- Transportation and Traffic Information
- Public Transit
- Washington Metropolitan Planning Organizations

Applicant's response:

The Ben Franklin Transit system serves the City of Richland. The nearest transit routes are the 123 and 110 routes.

Applicant needs to state locations of the Stops. They could be miles away from this project.

5.17.3 Item B.14.c. How many additional parking spaces would the completed project or nonproject proposal have? How many would the project or proposal eliminate?

Guidance from WDOE:

Include the following information:

- Type of designated parking lot
- Number and configuration of spaces
- Number of spaces to be eliminated
- How parking plan complies with local requirements

Additional resources include three links.

Applicant's response:

The proposed project will have approximately 239 total parking spaces. No parking spaces will be eliminated.

An excessive amount of parking and impervious surfaces for the units served.

5.17.4 Item B.14.e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe:

Guidance from WDOE:

Describe the adequacy of available facilities and services. Include information about how the proposal will use air, water, and / or rail transportation. Provide information about:

- Transport of raw materials

- Product delivery
- Waste disposal
- Employee or residential commutes

Additional resources include Public Transit link

Applicant's response:

No.

This answer was important be read thoroughly and answered completely because it asks the Applicant to "Describe the adequacy of available facilities and services." It's true no air, water or rail transportation are involved in the project, but omitting the description of available facilities and services was crucial for substantive agency and public comment on the project. These omissions render the answer incomplete.

5.17.5 Item B.14.h. Proposed measures to reduce or control transportation impacts, if any: Identify public streets and highways serving the site, and describe proposed access to the existing street system.

Guidance from WDOE:

Mitigation includes avoiding, reducing, or countering environmental impacts including:

- Providing additional parking
- Road improvements such as widening, or adding signs, signals, and turn-lanes
- A transportation plan to reduce commute trips per day, particularly during peak hours
- In lieu fees
- Consolidating trips by providing mixed-use development
- Alternative modes of transportation
- Pedestrian-friendly design, including smaller set-backs, parking behind buildings, and building sidewalks

Additional resources shows 3 links.

Applicant's response:

No specific measures are proposed at this time. The project will generate additional tax base and revenue, as well as Transportation Impact Fees that will help to offset any additional traffic impacts. A Traffic Impact Analysis has been prepared and is submitted as a part of the proposed project.

5.18 Item B.16. Utilities

5.18.1 Item B.16.a. List the utilities currently available at the site: Electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other:

Guidance from WDOE⁴³:

Applicants should include utilities that are accessible at the proposed site and note which services and / or lines will need to be connected or installed to serve the project.

Applicant's response:

Electricity, natural gas, water, refuse service, telephone, sanitary sewer are all available to serve the subject property and are located immediately adjacent to the site.

The location of all utilities, stormwater facilities, etc. should be shown on submitted site plans for public review. Stormwater facilities should not be located within wetland buffers in accordance with the Eastern Washington Stormwater Manual. Nor should stormwater facilities be located within the Biodiversity Corridor or its buffers. A requirement upon approval must include a prohibition on utilities (or other infrastructure) from using the wetlands and biodiversity corridor or their buffers for any part of their routing.

6. References

Other Authorities

- American Bird Conservancy, *Saving Migratory Birds for Future Generations: The Success of the Neotropical Migratory Bird Conservation Act*. May 2009. http://abcbirds.org/wp-content/uploads/2015/05/act_songbirds.pdf 29
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⁴³ WDOE, *SEPA checklist guidance, Section B: Utilities*. <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-16-Utilities>

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WDOE, <i>SEPA checklist guidance, Section B: Recreation</i> . https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-12-Recreation	36
WDOE, <i>SEPA checklist guidance, Section B: Utilities</i> . https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-16-Utilities	43

WDOE. <i>SEPA checklist guidance, Section B: Transportation</i> . https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-14-Transportation	40
WDOH, <i>Washington State Wellhead Protection Program Guidance Document</i> , June 2010, p. 2. https://www.doh.wa.gov/Portals/1/Documents/Pubs/331-018.pdf	22



File No. EA2020-114

CITY OF RICHLAND
Determination of Non-Significance

Description of Proposal: Development of an approximately 14-acre site, with four (4) multifamily residential buildings containing up to 108 dwelling units, a clubhouse and covered parking structures together with associated parking, stormwater runoff and landscaping areas.

Proponent: Big Creek Land Company, LLC
Attn: Cliff Mort
1950 W. Bellerive Lane, #107
Coeur d' Alene, ID 83814

Location of Proposal: The project site is located east of the terminus of John Court, south of Broadmoor Street and is primarily zoned R-3 (Multiple-Family Residential) with the proposed secondary driveway access being partially located upon land zoned R-1-10. The overall project will occur upon Tracts A, B & F, Willowbrook No. 1 (Lots 2 & 3 Record Survey #3864), Tract B, Willowbrook No. 2, Phase 4A, and Lot 1 of Willowbrook No. 2, Phase 2, located in the southeast quarter of the southwest quarter of Section 36, Township 9 North, Range 28 East, and within the northeast quarter of the northwest quarter of Section 1, Township 8 North, Range 28 East, W.M., Benton County, WA. The Assessor's Parcel Nos. for the project site are: 136983050007002, 136983050008001, 136983050012000, 136983060000001 and 101882040002000.

Lead Agency: City of Richland

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

() There is no comment for the DNS.

() This DNS is issued under WAC 197-11-340(2); the lead agency will not act on this proposal for fourteen days from the date of issuance.

(X) This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS.

Responsible Official: Mike Stevens

Position/Title: Planning Manager

Address: 625 Swift Blvd., MS #35, Richland, WA 99352

Date: June 3, 2022

Signature



Shrubsteppe

Washington Distribution by County



Priority Area Description:

A nonforested vegetation type consisting of one or more layers of perennial bunchgrasses and a conspicuous but discontinuous layer of shrubs.

Although Big Sagebrush is the most widespread shrubsteppe shrub, other dominant (or co-dominant) shrubs include Antelope Bitterbrush, Threetip Sagebrush, Scabland Sagebrush, and Dwarf Sagebrush. Dominant bunchgrasses include (but are not limited to) Idaho Fescue, Bluebunch Wheatgrass, Sandberg Bluegrass, Thurber's Needlegrass, and Needle-and-Thread. Sites can also have a layer of algae, mosses, or lichens.

In areas with greater precipitation or on soils with higher moisture-holding capacity, shrubsteppe can also support a dense layer of forbs (i.e., broadleaf herbaceous flora). Shrubsteppe contains various habitat features, including diverse topography, riparian areas, and canyons. Another important component is habitat quality (i.e., degree to which a tract resembles a site potential natural community), which may be influenced by soil condition and erosion; and the distribution, coverage, and vigor of native shrubs, forbs, and grasses. At more disturbed sites, non-natives such as Cheatgrass or Crested Wheatgrass may be co-dominant species.

Fire disturbance is an ecological component of shrubsteppe. Shrubsteppe disturbed by fire may lack the aforementioned habitat components during periods of post-fire recovery.

Online information and guidelines for management of **Shrubsteppe**:

- [Management Recommendations for Washington's Priority Habitats: Management of Shrubsteppe in Developing Landscapes](#)
- [Long-range Planning: Considering the Shrub-steppe Landscape](#)
- [Site-specific Management: How to Avoid and Minimize Impacts of Development to Shrub-steppe](#)
- [Shrub-Steppe and Grassland Restoration Manual for the Columbia River Basin](#)

May 25, 2022

Chris Childers, President
Willowbrook HOA
P.O. Box 602
Richland, WA 99352

Dear Mr. Childers,

I have reviewed key parts of the *City of Richland Notice of Application, Public Hearing & Optional DNS (M2020-101 & EA2020-114)* and its associated documents to identify issues of concern related to the proposed Willowbrook Place development, an apartment complex. My review focused on identifying the potential hydrologic / hydrogeologic impacts of this project, which would be developed by the Big Creek Land Company (BCLC).

BACKGROUND

Setting for the Proposed Development

The proposed development would occupy 14 acres approximately 200 to 300 feet west of the Amon Creek and its wetland complex (see **Figure 1**, page 2). The site is part of the City of Richland's designated Critical Aquifer Recharge Area, which surrounds the nearby Willowbrook well, a water supply source for Richland. The creek and wetlands are hydrologically connected to numerous wildlife preserves in the Yakima River delta – Columbia River area, which are located downstream of the site. Also downstream of the proposed development are several communities, including the Meadow Springs Country Club and various established neighborhoods along Amon Creek. The Club area features shallow groundwater and local ponds.

Protecting the health and ecological functioning of Amon Creek and its wetland complex is critical for maintaining water quality as it flows northward and discharges to the Yakima River; it is also critical for maintaining the quality of shallow groundwater that feeds the creek. Salmon species that have been documented, presumed, or modeled in Amon Creek include fall and spring Chinook and Coho. The Yakima River currently has numerous water-quality violations on the 303(d) list¹.

¹ *Washington State Water Quality Assessment 303(d)/305(b) List, Current Water Quality Assessment, available online at <https://apps.ecology.wa.gov/ApprovedWQA/ApprovedPages/ApprovedSearch.aspx>*



Figure 1: Site vicinity map, prepared for CARA review by Canyon Environmental Group; from *City of Richland Notice of Application, Public Hearing & Optional DNS (M2020-101 & EA2020-114)*.

Proposed Development Features

BCLC's proposal calls for constructing 108 units, along with associated infrastructure. All existing native grasses and vegetation would be removed in the construction area. Site soils will likely be compacted as a consequence of the use of heavy equipment. In addition, once the apartments are occupied, the region will be burdened with an estimated average of 790 additional auto trips per day.

Effects of Changes in Site Conditions

The development will change the site's hydrologic conditions and profoundly alter its water budget, generating "new" water that must be managed appropriately post-development. Therefore, it is critical that stormwater infrastructure be designed to avoid downstream impacts.

Currently, runoff is minimized by the native vegetation and loose soils, which facilitate the evaporation and transpiration of rainfall. The proposed development will remove all native vegetation, compact the site soils, and cover 20% of the total area with impervious surfaces. These modifications will increase the volume of poor-quality runoff from compacted soils, parking lots, streets, sidewalks, and roofs during rainfall events. Because runoff may carry sediment and toxic chemicals—pesticides, herbicides, fertilizers, oils, and tire-source compounds such as 6PPD-quinone²—it will harm the wetland complex and Amon Creek if the stormwater infrastructure is not properly designed, constructed, and maintained in perpetuity.

ISSUES OF CONCERN

Lack of documentation for stormwater analysis and design

The major issue of concern is the design of the infrastructure for stormwater conveyance, detention/retention, and discharge. Although this infrastructure appears on the Conceptual Stormwater and Utility Plan (see **Figure 2**, page 4) and the SEPA checklist mentions "grassy swales" and "drywells," BCLC has provided no documentation indicating that a stormwater analysis has been conducted or that the infrastructure has been designed to handle the rates and volume of stormwater runoff expected at the site. A credible analysis would feature a rainfall-runoff model and present the resulting infrastructure design, clearly showing its capacity to store, treat, and discharge stormwater for a specific, high-intensity precipitation event.

It is irresponsible to say that a stormwater management plan will be submitted "prior to site construction" because the stormwater infrastructure design is a key driver for the site design. The locations and space requirements for detention/retention basins and drywells influence the locations of residential infrastructure such as dwellings, roads, and parking lots; therefore, understanding the required capacity and dimensions of stormwater infrastructure is crucial. The rainfall-runoff model and stormwater design analyses should be completed early in the feasibility investigations. Furthermore, the analysis and infrastructure components should be well documented so stakeholders can determine whether the adjacent wetland and Amon Creek will indeed be protected from harm.

² 6PPD-quinone is a highly toxic chemical that originates from the degradation of rubber tires followed by reaction in the presence of oxidants. It has been linked to high mortality of Coho salmon at relatively low concentrations in water.

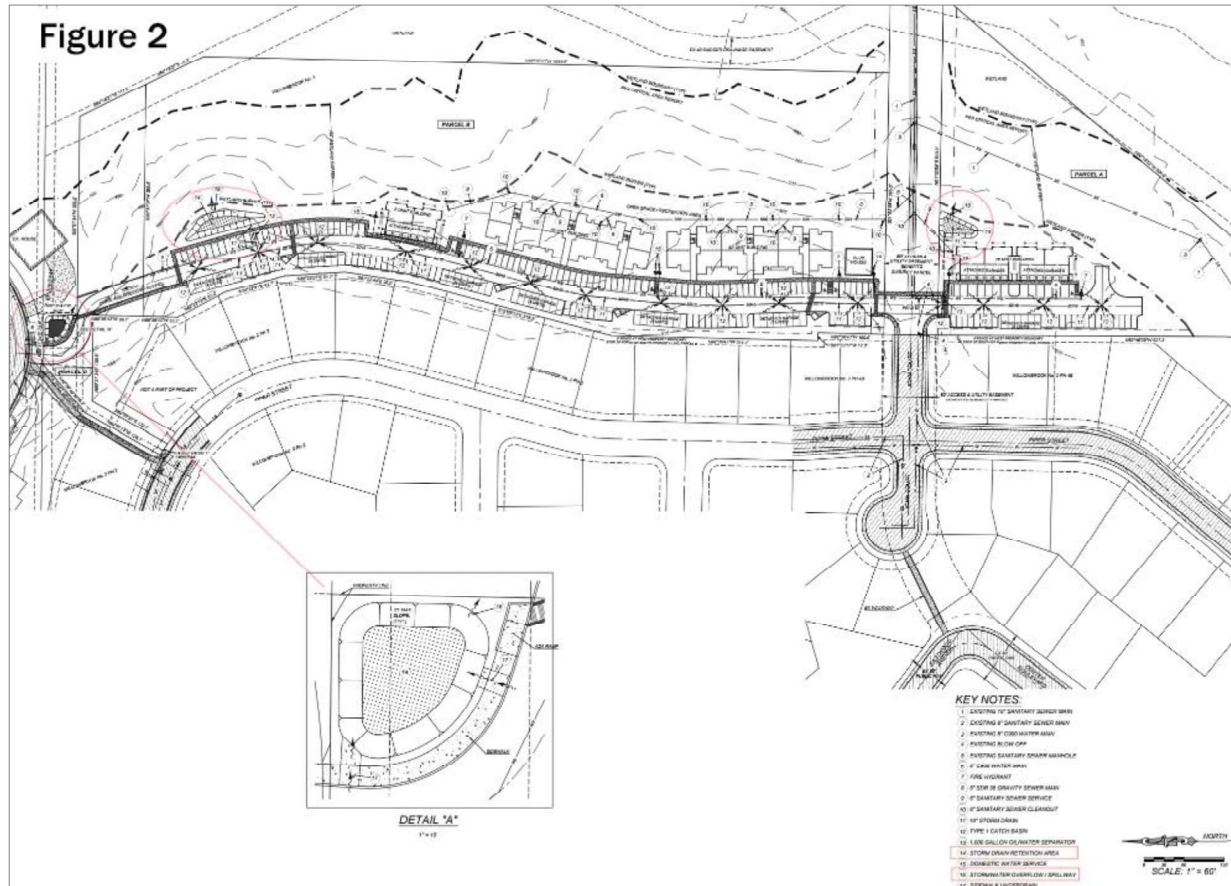


Figure 2: Willowbrook Place Conceptual Stormwater and Utility Plan, prepared by Lake City Engineering; from City of Richland Notice of Application, Public Hearing & Optional DNS (M2020-101 & EA2020-114); annotated by Northwest Land & Water on 5/25/22.

Lack of documentation for water budget changes and downstream hydraulic impact

Altering the water budget by removing native vegetation, compacting soil, and constructing impervious surfaces will generate “new” stormwater runoff. What is the off-site fate of this “new” stormwater? Once again, BCLC has not provided any documentation of the potential pre- to post-development impacts on downstream water features and community homes.

Lack of documentation for long-term maintenance, funding, and treatment

Another issue of concern is the lack of documentation for a long-term operation and maintenance (O&M) program for the stormwater infrastructure. Such a program will be needed to ensure that the infrastructure continues to function effectively. This requires a funding mechanism, in perpetuity.

It is also critical that chemical compounds are removed before stormwater reaches the shallow groundwater system or flows overland to Amon Creek and its wetland. Poor-quality stormwater must have sufficient contact time with biomass and organic carbon in swales and/or detention / retention basins before it overflows to Amon Creek and its wetlands or infiltrates to shallow

groundwater via dry wells or infiltration basins. Again, BCLC has provided no such documentation.

RECOMMENDATIONS

I highly recommend that the Willowbrook HOA and its legal counsel insist that BCLC conduct the following investigations, now, as part of the proposed development's feasibility:

- Perform a rigorous precipitation-runoff analysis for high-intensity precipitation events to determine post-development runoff rates and volumes.
- Demonstrate the stormwater infrastructure's capacity to accommodate these runoff rates and volumes. This means providing engineering drawings of the component parts of the entire stormwater infrastructure.
- Demonstrate how stormwater will be treated to improve its quality—specifically, how sediment and chemicals will be removed before they have the opportunity to overflow to Amon Creek and its wetlands, infiltrate into shallow groundwater, or flow into drywells that connect to groundwater.
- Illustrate, in an engineer's plan and profile drawings, the expected flow pathways of post-development runoff from site surfaces to the adjacent wetland complex.
- Describe the funding mechanism and budget required for stormwater infrastructure O&M, in perpetuity, and show the reasonable financial viability of this mechanism.
- Show the hydraulic impacts of the "new" stormwater generated from the proposed development as this water moves downstream/downgradient to Amon Creek, either as surface water or shallow groundwater.

If you have any questions, feel free to contact me.

Sincerely,



James T. Mathieu

James T. Mathieu, RG (Oregon) LG, LHg (Washington)
President, Principal Hydrogeologist

May 23, 2022

RE: Proposed Willowbrook Apartments—Environmental Noncompliance

In spite of the 347-page-length of the Site Plan Review application submitted to the City of Richland, the developer is hoping the City will disregard several important laws. The most fundamental law they want the City to ignore is the law of gravity, by claiming that the stream and wetlands that form the eastern side of the project site will be protected by a 150 foot “buffer zone” from the massive earth-moving and construction activities throughout the west side of the site. The simple fact that is apparent to anyone who either walks the site, or looks carefully at the site topographic maps, is that the entire project site is in the immediate watershed of the stream and wetlands, and that natural stormwater, as well as water used for dust control and other land forming and construction activities, carrying particulates and other pollutants, will be drawn by gravity downhill across the “buffer zone” and into the wetlands and stream.

The developer’s application includes consultant reports on certain ecological aspects of the site. Those reports confirm that the stream drains north into the Yakima River and then directly into the Columbia River, that it is surrounded by adjacent wetlands that have been extensively delineated based on soils and vegetation, and that the stream and wetlands are therefore Waters of the United States under the jurisdiction of the Federal Clean Water Act and corresponding state laws. In particular, the reports confirm that the stream and wetlands are habitat for the Spring Chinook and Coho salmon species that are protected by the Endangered Species Act. The reports also confirm that the site is habitat for at least several species of migratory birds, which are protected under Federal law.

However, the application fails to take the next logical step to address the significant environmental law, regulation and permitting requirements that are triggered by the special character of the site and its wildlife:

1. The developers have totally ignored the requirement to comply with requirements for a stormwater pollution prevention permit, which is required because the site is adjacent to, and drains into, a stream and its adjacent wetlands which are Waters of the United States protected under the Section 402 NPDES Permit requirements of the Clean Water Act. The permit program in Washington is administered by the Washington

Department of Ecology, and includes a mandatory 30 day public comment period.

2. The developers have failed to address the requirement to obtain a necessary permit from the US Army Corps of Engineers under Section 404 of the Clean Water Act, since construction on the site will deposit soils into a stream and wetlands that are Waters of the United States.
3. The CWA Section 404 requirements include preparation by the Corps of Engineers of an environmental impact analysis under the Federal National Environmental Policy Act, separate and apart from any State Environmental Policy Act analysis adopted by the City of Richland. NEPA requires examination of all potentially applicable laws and regulations, both state and Federal.
4. The stream and wetlands affected by construction on the site are habitat for Chinook and Coho salmon protected under the Federal Endangered Species Act. The potential impact on these species must be analyzed under the standards of the ESA, and the project may not then proceed without negotiation of a Federal Habitat Conservation Plan under Section 10 of the ESA, that must be approved by the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration.
5. While a contractor for the site owner identified many bird species on the site on March 19 of 2021, the contractor failed to address the requirements of the Federal Migratory Bird Treaty Act, which makes it a Federal crime to harm any migratory bird or its eggs. A single March site visit fails to identify all the migratory bird species which may visit the site over the full course of the spring and summer months, some coming from thousands of miles away. Biologists working for the U.S. Department of Energy at the Hanford Site have documented that Benton County hosts dozens of species which nest on the ground, and others on structures, such as cliff swallows that use mud (such as that available in the wetlands on the project site) to build nests on walls and the frames of new buildings under construction, including the massive Hanford Waste Treatment Plant. MBTA compliance will not be complete until a comprehensive survey is conducted over the spring and summer of 2022, followed by negotiation with the US Fish & Wildlife Service Portland regional office to obtain the applicable permits for

incidental “take” of protected birds and eggs that may occur during the construction and operation of the apartment complex.

6. The contractor reports have confirmed the presence on the site of Burrowing Owls, which are a species which the State of Washington has identified as declining significantly in its population, surviving in Washington mainly within Benton County, and therefore measures to protect the Burrowing Owl from the impacts of the construction and operation of the site must be analyzed and adopted to satisfy the State Environmental Policy Act.
7. In light of the substantial environmental compliance and permitting issues identified above, the SEPA does not allow the City of Richland to authorize construction to proceed without completing a full environmental impact analysis to justify its action. Furthermore, since the facts trigger the application of the Clean Water Act, the Migratory Bird Treaty Act, and the Endangered Species Act, Federal law requires prior completion of a full environmental impact analysis under the National Environmental Policy Act, with public participation and hearings. If the City attempts to authorize the project to proceed without compliance with Federal law, both the City and the applicant may be subject to civil and criminal enforcement actions by these Federal agencies, and civil lawsuits brought by citizens to enjoin the action. Rather than assume legal responsibility for the developer’s disregard of environmental protection laws, the City of Richland should direct the developer to negotiate with all of the state and Federal agencies cited above and demonstrate that their project has been brought into full compliance with all applicable laws, including the requirement of both SEPA and NEPA for a full analysis of the applicable requirements and opportunities for public comment and hearings on their draft decision documents, as well as on relevant permits.

Submitted by Raymond Takashi Swenson,
Lt. Colonel, USAF (Retired); JD, LL.M Environmental Law
Licensed in Washington (#27844), Utah (#3174), California (#164137), and
the US District Court for the Eastern District of Washington.
103 Hillview DR, Richland, WA 99352
509-713-0966, RaymondTSwensonLaw@gmail.com

Raymond Takashi Swenson earned his BA degree in mathematics and Juris Doctor (JD) degree at the University of Utah, and a Master of Laws (LLM) in Environmental Law at George Washington University Law School in Washington, DC, where he served at the Pentagon with the Deputy General Counsel of the Air Force for Installations and Environment, and with the General Counsel for the White House Council on Environmental Quality. He served as Chief of Environmental Law for Strategic Air Command, and Air Force Regional Counsel for the Western United States. After several years with law firms in San Francisco and Salt Lake City representing cities negotiating to receive the transfer of closing military bases, he began 22 years of service as environmental law counsel for Bechtel and then CH2M HILL/Jacobs at the Idaho National Laboratory and the Hanford Site, retiring in 2019. Since 2010 he has been on the adjunct faculty of Washington State University, teaching students in Pullman, Vancouver and the Tri-Cities, in environmental policy and law and hazardous waste management.