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CLARK COUNTY
WASHINGTON

COMMUNITY PLANNING

STAFF REPORT

TO: Clark County Planning Commission

FROM: Oliver Orjiako, Director

PREPARED by: Jose Alvarez, Planner III

DATE: January 15, 2015

SUBJECT: CPZ2014-00010 NE 139th St North

BACKGROUND: A proposal (CPZ2008-00022) was submitted in 2008 to amend the Comprehensive Plan and zoning designation for parcels (185672-000, 185727-000 and 185796-000) from a light industrial designation with IL zoning to a General Commercial designation with GC zoning and parcels (185700-000 and 185762-000) from Urban Medium with R-18 zoning to General Commercial with GC zoning. A third element of the proposal was to amend the “split zoning” of parcel 185759-000 from Light Industrial with IL zoning to Urban Medium with R-18 zoning to make the entire parcel Urban Medium with R-18 zoning. The third element is not a part of this proposal.

Staff recommended the Planning Commission deny the proposal at the June 19, 2008 hearing due to the significant increase in potential trip generation which could affect nearby intersections, the Salmon Creek Avenue and 134th Street concurrency corridors and the Salmon Creek Interchange project. On the day of the hearing the applicants proposed a concomitant rezone agreement that would (1) limit the number of trips to the site based on the existing zoning (462 peak PM hours); and (2) prohibit big box retail on the properties (big box development was defined as any one retailer occupying over 100,000 sq. ft. of ground floor area). The Planning Commission recommended approval to the Board of County Commissioners based on the concomitant rezone agreement satisfying the transportation issues. The Board of County Commissioners heard the matter on October 23, 2008 and approved the Planning Recommendation to amend the comprehensive plan subject to the concomitant rezone agreement.

The agreement while proposed by the applicant was never executed due to the inability of the applicants to agree on how to allocate the 462 trips. The zoning on the properties has not been amended and is still Light Industrial and R-18. The applicants are now requesting to remove the cap of 462 peak hour trips.

This request is being processed as a post-decision review to a conditional approval of a concomitant rezone, consistent with RCW 35.63.

TRANSPORTATION ISSUES: In the intervening years since this proposal was first considered there have been several transportation related changes in the area: (1) The Salmon Creek Interchange Project phase I has been completed and opened to the public this fall; (2) Improvements along NE 10th Ave, from 149th St to 164th St, have been added to the 6-year Transportation Improvement Plan (TIP); and (3) Concurrency program has been changed to a use a corridor volume to capacity metric.

The applicant submitted a traffic impact analysis which concluded the site could generate 1,038 trips when rezoned to GC zoning. The current IL zoning, when this site is fully developed, could generate 462 trips. Therefore, approval of the rezone to GC zoning would generate 576 more trips than the current IL zoning. Due to the nature of commercial businesses most of the 576 trips are automobiles that are currently on the road system (353) and attracted to the business due to convenience. 223 trips are new vehicles on the transportation system as a result of the proposed GC zoning.

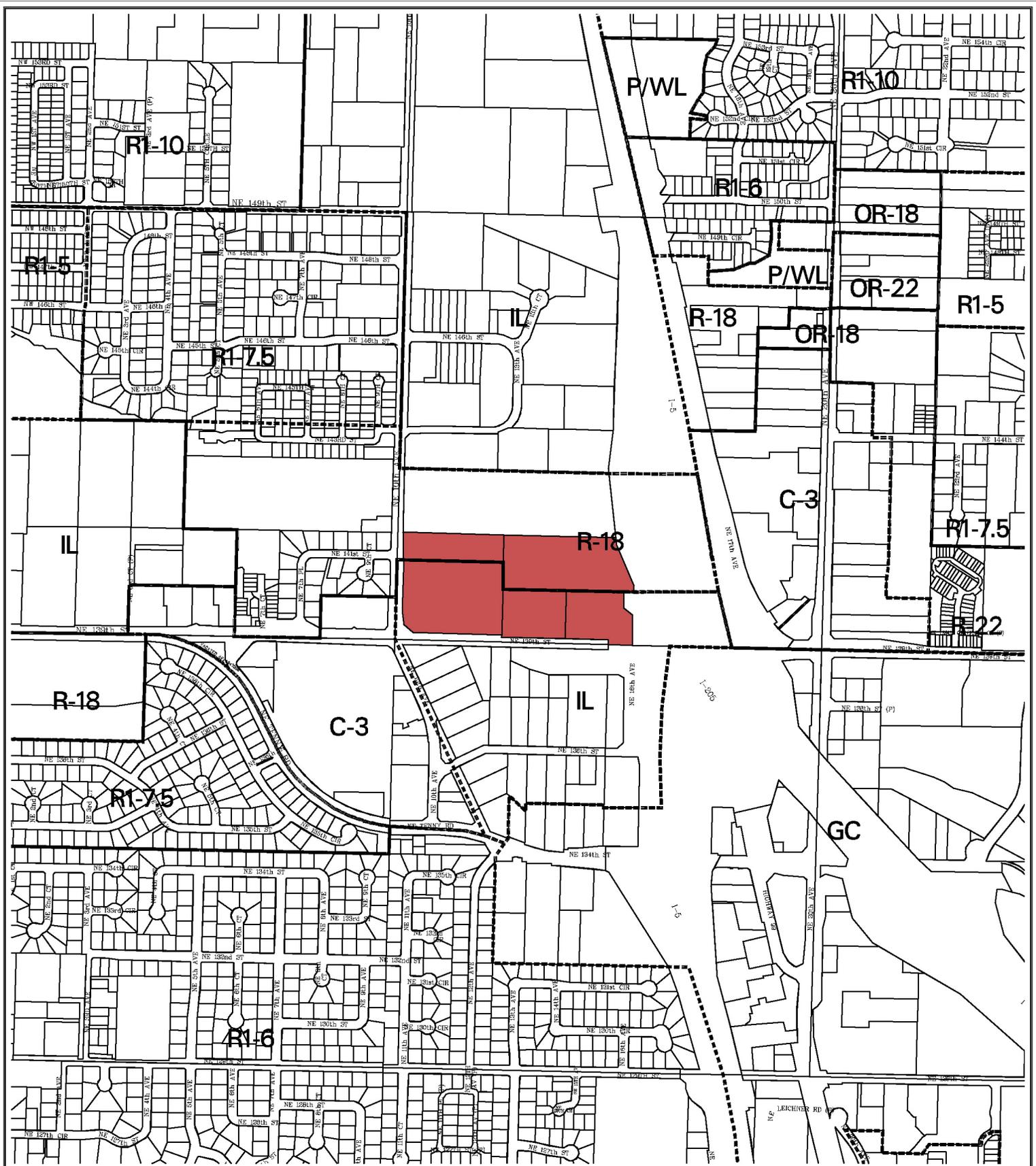
The applicant relies on the planned 10th Avenue bridge over Whipple Creek to accommodate the additional trips. The bridge was not assumed as a planned project when the rezone was proposed in 2008. This bridge building project is now listed in the County's six-year TIP, recognizing it as a priority. The project relies on state funds to complete the project.

Using the new concurrency standard, congestion is evaluated on the street segments and intersections. Street segments are measured by comparing the amount of traffic volumes to the carrying capacity of the roadway. A volume-to-capacity ratio of 0.90 indicates failure. The applicant's analysis indicates NE 10th Ave., north of NE 139th St., will exceed the concurrency standard with the current IL zoning (1.06) and with the proposed GC zoning (1.36). The applicant's traffic analysis shows that three intersections will fail in the future, regardless of the zone change. While the proposal intends to mitigate the impacts of the development with intersection improvements and refined signal operations, the specific mitigation requirements will come at the time of site plan approval.

In 2008, staff recommended that a concomitant rezone agreement be required that would limit the trip generation to the same PM peak hour trips (462) generated by development under the existing IL zoning designations. The capacity on NE 139th St. is no longer a limiting factor to future development along the corridor, due to the change in concurrency standards. However, concurrency failure is expected on NE 10th Ave., and the intersections at NE 10th Ave./ NE 139th St., NE 10th Ave./NE 141st St., and NE 23rd Ave./NE 134th St. The intersections can be mitigated below the concurrency standards as proposed by the applicants' traffic analysis. However, the applicants' traffic analysis has not addressed the lack of capacity on NE 10th Ave, north of NE 139th St. This segment is projected to be over capacity under the current zoning and will be exacerbated with the applicants' proposal. Therefore, staff can not recommend approval to remove the trip cap.

RECOMMENDATION AND CONCLUSIONS

Based upon the information and the findings presented in this report and in the supporting documents, staff recommends that the Planning Commission forward to the Board of Clark County Commissioners a recommendation of **DENIAL**.



File # CPZ2014-00010, SN 185672000 185700000 185726000 185727000 185796000

Location: T3N R1E SEC 23

Comp Plan Change/Rezone/Text Change/Docket I

Owner: EASTER RICHARD

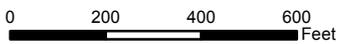


-  Subject Property
-  Zoning Boundary
-  Mining Combining District
-  Contingent Zoning
-  Urban Holding-10
-  Urban Holding-20



Geographic Information System

1:4,800



Developer's GIS Packet: Page 4 of 14

2014 Aerial Photography

Account No: 185672000, 185796000, 185727000, 185726000

Owner: MEYER CLAN LLC

Address: 13914 NE 16TH AVE

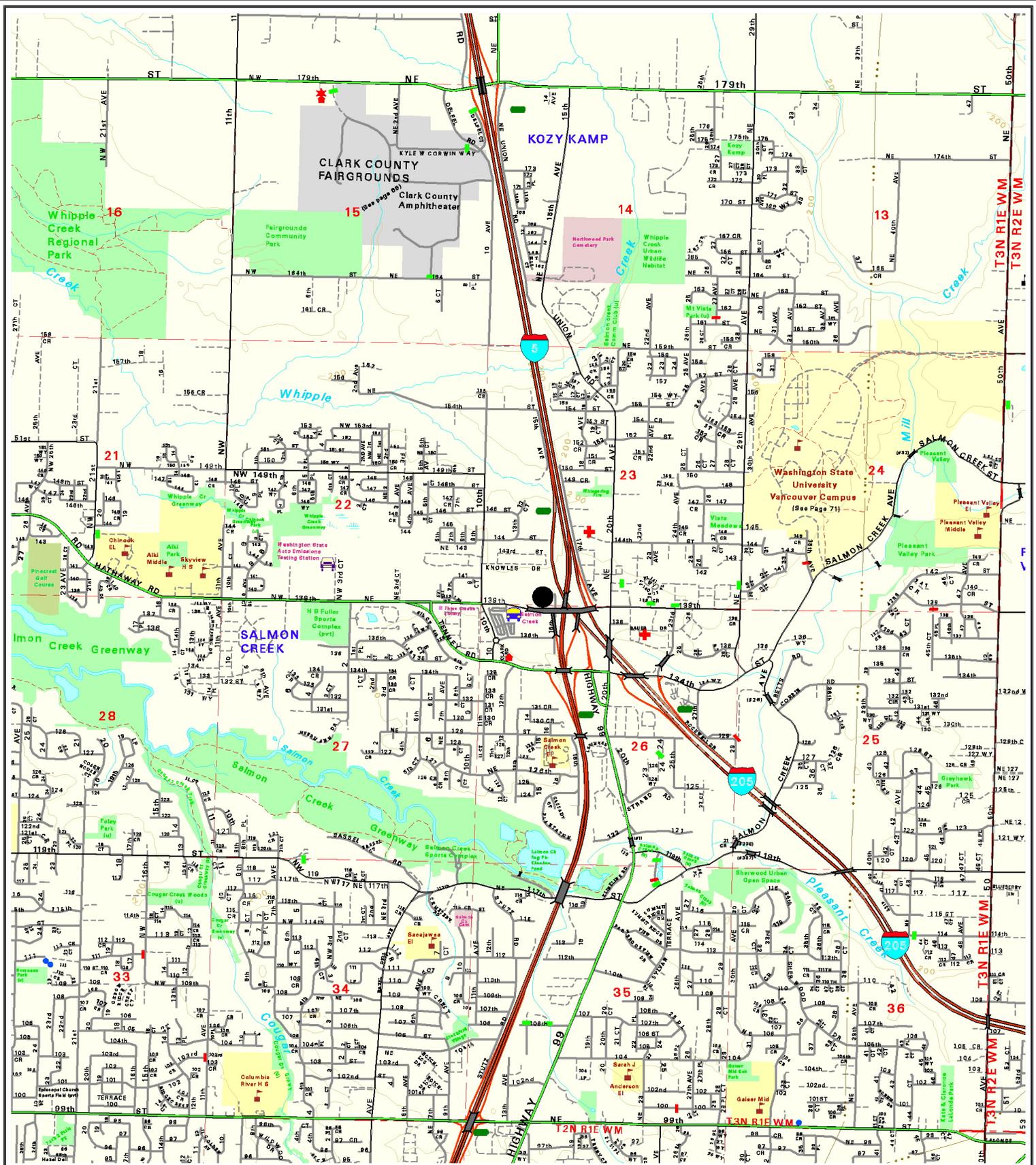
C/S/Z: VANCOUVER, WA 98685

Proposed Development Area

Printed on: December 17, 2014

31115	31114	31113
31122	31123	31124
31127	31126	31125

Information shown on this map was collected from several sources. Clark County accepts no responsibility for any inaccuracies that may be present.



File # CPZ2014-00010, SN 185672000 185700000 185726000 185727000 185796000

Location: T3N R1E SEC 23

● Subject Property Location

Comp Plan Change/Rezone/Text Change/Docket I



Owner: EASTER RICHARD

**Board of County Commissioners
Staff Report/ Annual Review Case - CPZ2008-00022 NE 139th Street**

Date issued: October 23, 2008

Recommendation

Staff recommends Approval (with the attached covenant) of the request to change three subject parcels from Light Industrial (ML) to General Commercial (CH). Staff recommends Approval (with the attached covenant) of the request to change two subject parcels from Urban Medium to General Commercial. Staff recommends Approval of the request to change 5.95 acres of one subject parcel from Light Industrial to Urban Medium with R-18 zoning in order to eliminate a split zone on the parcel. **The Three Creeks Special Planning Area Advisory Council heard this case on May 22, 2008 and unanimously recommended approval, but noted several concerns. Concerns included traffic generated from the site impacting levels of service on NE 10th and NE 21st Avenues, and the conversion of industrial land.**

The Planning Commission heard this request on June 19th, 2008 and unanimously recommended approval by a 6 to 0 vote, contingent on a signed covenant which limits future trip generation from the site to no more than would be generated by development under the existing zoning.

Background

The property owners are requesting to change the Comprehensive Plan and zoning designation for three parcels (185672-000, 185727-000 and 185796-000) from a Light Industrial designation with ML zoning to a General Commercial designation and Highway Commercial (CH) zoning. The applicant is also proposing to change the Comprehensive Plan and zoning designation on two parcels (185700-000 and 185726-000) from Urban Medium with R-18 zoning to General Commercial with Highway Commercial zoning. Lastly, the applicant requests to change the Comprehensive Plan and zoning on a portion of one parcel (185759-000) from Light Industrial with ML zoning to Urban Medium with R-18 zoning. Parcel 185759-000 is currently "split zoned" between Light Industrial and Urban Medium and this request would apply the same designation to the entire parcel.

The principal issue pertaining to the requested General Commercial designation is that adopted policy directs the county to apply this designation to existing strip commercial, implementing it with the highway or limited commercial zoning. The 20-year Plan "strongly discourages additional strip commercial (highway or limited commercial base zones) being applied to new areas or extending existing strip commercial areas."

The subject parcels are accessed by NE 10th Avenue and NE 139th Street. Transportation issues concerning the proposed Highway Commercial zoning include a significant increase in potential trip generation which could affect nearby intersections, the Salmon Creek Avenue and 134th Street concurrency corridors and the Salmon Creek Interchange project.

The subject property lies within the Three Creeks Special Planning area. Substantial public investments are planned in this area to support growth and development of vacant and under-utilized properties as currently designated. Transportation system improvements are being designed for the projected trip generation from light industrial and medium density residential uses. Increases to trip generation through the approval of additional commercial uses in this area have the potential to impact the planned transportation system by utilizing capacity otherwise available to other uses.

General Information

Parcel Numbers: 185759-000, 185700-000, 185726-000, 185672-000, 185727-000 and 185796-000.

Location: The subject site is located north of NE 139th Street, west of I-205, and east of NE 10th Avenue.

Area: 27.05 acres

Owner: Mobile Retreat, LLC., Hag, LLC., Dewitt Construction, Meyer Clan, LLC., T & J Meyer, LLC., Meyer.

Existing land use:

Site: 185759-000 is developed with a manufactured home park.
185700-000 is developed with one single family residence.
185726-000 is developed with one single family residence.
185672-000 is currently developed with Mtn. View Veterinary Hospital
185727-000 is developed as Dewitt Construction Co. with one single family residence on the property.
185796-000 is currently vacant.

North: Light Industrial designation with ML zoning currently developed with industrial uses.

South: Mostly undeveloped property zoned Light Industrial.

East: Interstate 205 is directly adjacent to this site.

West: Developed property zoned R-18, to the southwest is a developed C-3 property which includes a Fred Meyer.

Summary of Comments Received

The City of Vancouver has submitted comments on this proposal, noting that the property is within the City Annexation Plan, area "P" which is scheduled for consideration of annexation in 15 to 20 years. The city's comments also note that while the applicants' market study determined there is a lack of commercial land in the immediate vicinity, that a study of the general area and the county as a whole should be taken into consideration when deciding this proposal.

WSDOT submitted a letter noting an extensive wetland study has been done. There will be no access to NE 139th Street, access will be limited to NE 10th Avenue. NE 16th Avenue is utilized by the eastern portion of this site for connections to NE 136th Street. NE 16th Avenue is not planned to be improved under the SCIP. A sound wall is proposed along Interstate 5 adjacent to this site.

The neighborhood association submitted a letter which is included in the packet.

APPLICABLE CRITERIA, EVALUATION OF REQUEST AND FINDINGS

In order to comply with the Plan Amendment Procedures in the Clark County Unified Development Code (UDC 40.560.010), requests to amend the Comprehensive Plan land use map must meet **all** of the criteria in Section G, Criteria for all Map Changes. Requests to amend the zoning map must meet similar criteria (UDC 40.560.020H). For clarity, Criteria A-E in the following staff report summarizes all of the applicable criteria required for both plan and zoning map amendments.

CRITERIA FOR ALL MAP CHANGES

- A. The proponent shall demonstrate that the proposed amendment is consistent with the Growth Management Act (GMA) and requirements, the countywide planning policies, the Community Framework Plan, Clark County 20-Year Comprehensive Plan, and other related plans. (See 40.560.010G(1) and 40.560.020H(2).)***

Growth Management Act (GMA) Goals. The GMA goals set the general direction for the county in adopting its framework plan and comprehensive plan policies. The most pertinent GMA goals that apply to this proposal are Goal 1 and Goal 5.

- (1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.*
- (2) Reduce Sprawl. Reduce the inappropriate conversion of underdeveloped land into sprawling, low density development.*
- (3) Transportation. Encourage efficient, multi-modal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.*
- (5) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.*

Finding: The proposed amendment is consistent with State GMA Goals 2 and 5, and inconsistent with State GMA 1 and 3. The proposal would not convert land into low density development (Goal 2). The change to CH would permit commercial development on the site, and will allow a greater variety of uses that provide employment opportunities (Goal 5).

The subject site is in an urban area developed with residential subdivisions and commercial retail uses and it is anticipated that most public facilities can be extended in an efficient manner to serve the site. However, the subject site could generate substantially more trips under the proposed designation. With access limited to NE 10th Avenue and the level of service on NE 134th Street marginal to failing in the long term even with substantial new investment, adequate transportation facilities do not exist and cannot be provided in an efficient manner to serve the potential scale of development allowed under the proposed designation (Goal 1). The

transportation system planning for the Salmon Creek Interchange and adjacent corridors has been carefully coordinated with the county's adopted land use plan. The proposed amendment to the comprehensive plan map would create the potential for a substantial increase in trip generation from an access constrained site that would create negative impacts to the NE 134th St. arterial corridor (Goal 3). Limiting potential trip generation to levels equivalent to those likely to occur with development under the existing designations would ensure that planned transportation facilities will adequately serve this area.

Community Framework Plan and Countywide Planning Policies. The Community Framework Plan encourages growth in centers, urban and rural, with each center separate and distinct from the others. The centers are oriented and developed around neighborhoods to allow residents to easily move through and to feel comfortable within areas that create a distinct sense of place and community.

Policies applicable to this proposal include the following:

5.0 Transportation

Policy 5.1.8 Encourage a balanced transportation system that can be maintained at acceptable levels of service.

Finding: As discussed below, maintaining a balanced transportation system at acceptable levels of service will require careful consideration of proposals to re-designate properties to zones that allow higher trip generating uses. In areas where the transportation system capacity is demonstrably overtaxed or marginal, placing limits on additional future trips is recommended.

9.0 Economic Development Element

Policy 9.1.0 Encourage a balance of job and housing opportunities in each urban center. Provide sufficient land for business as well as homes. Businesses within the community should provide a range of job types for the community's residents.

Finding: The subject site is within the Vancouver UGA and granting the proposed commercial designation would assist in providing more commercial/service sector jobs for the community's residents. The proposed land use re-designation is consistent with this policy, however, the existing industrial designation also has the potential to supply the county with jobs for residents. Correcting the split zone (parcel # 185759-000) on the existing manufactured housing park will correct the current non-conforming uses for housing.

Clark County 20 Year Comprehensive Plan. The Clark County Comprehensive Plan contains many policies that guide urban form and efficient land use patterns. The most relevant goals and policies applicable to this application are as follows:

Policy 1.1.13 Urban Growth Area Centers (UGA) have a full range of urban levels of services and can be divided into three main categories in the following density tiers:

- Vancouver Urban Growth Area is now or will be a major urban area activity centers with a full range of residential, commercial, and industrial uses, high-capacity transit corridors, schools, major cultural and public facilities. Major urban areas centers, have or will have, urban densities of development of at least 8 units per*

net residential acre (6 gross units per acre) as an overall average. Areas along high capacity transit corridors and priority public transit corridors may have higher than average densities while other areas would have lower densities (e.g. established neighborhoods and neighborhoods on the fringes of the urban area). Regional institutions and services (government, museums, etc.) should be located in the urban core.

Finding: The re-designation of this land for more intensive commercial uses is consistent with the type and intensity of uses expected in the Vancouver Urban Growth Area.

Vancouver Urban Growth Area

Policy 1.2.9 Concentrate development in areas already served by public facilities and services. Use the provision or planned provision of public services and facilities as a means of directing development into desirable areas.

Finding: The applicant has stated that public services are available to serve the site. Based on the assessment by County staff, it is anticipated that the transportation system would be impacted by the amount of trips generated by the intensity of commercial development allowed by the Highway Commercial zoning. Limiting the potential trip generation to levels equivalent to those likely to occur with development under the existing designations would ensure that planned transportation facilities will adequately serve this area.

Policy 1.3.1 Urban densities and uses may occur throughout the urban growth area if it is provided with adequate services. Development and redevelopment in the UGA should be strongly encouraged to occur in greater intensity in major centers, transit routes and other areas characterized by both existing higher density urban development and existing urban services. Development and redevelopment should be encouraged to occur with less intensity in areas where urban development is of lower density or has not yet occurred, or in areas where urban services do not yet exist.

Finding: It is expected that adequate services will be available to serve future development at urban intensities on the site. The area is currently served by transit, and C-Tran is developing a major park and ride transit center directly south of this site.

Chapter 1 Land Use Element

GOAL: *Land use patterns and individual developments should be locationally and functionally integrated to reduce sprawl, promote pedestrian and transit use and limit the need for automobile trips and to foster neighborhood and community identity.*

Policy 1.4.1 Interrelated uses should generally be encouraged to locate in close proximity of each other:

- Frequently used commercial activities and the residential areas they serve should be allowed and encouraged to locate near to one another.*
- Schools or other frequently used public facilities and the residential areas they serve should be allowed and encouraged to locate near to one another.*

- *Commercial, industrial or other employers and the residential areas they serve should be allowed and encouraged to locate near to one another, as long as negative impacts from non-residential uses on the residential areas are mitigated.*

Finding: Approval of this application will allow highway commercial uses in close proximity to industrial and other commercial sites, and in close proximity to established residential areas to the north and west. Because of the existing industrial uses and the nature of highway commercial uses, it is unlikely that commercial uses on the site will promote pedestrian use. The existence of the major roadways in the area (I-5, I-205, NE 134th Street and the extension of NE 139th Street overpass) may also deter pedestrians from accessing the site. The requested CH zone allows commercial at a scale that is less likely to be accessed by the public on foot or bicycle.

Policy 1.4.7 Higher intensity uses should be located on or near streets served by transit.

Finding: As stated above, the site is near a current corridor served by C-Tran (NE 134th St.) and will be adjacent to a planned park and ride transit center.

Chapter 5 Transportation Element

GOAL: Develop a multi-modal transportation system.

5.2 Multi-modal System Policies

- 5.2.2 *Transit related options, including high capacity transit, shall be encouraged in order to reduce congestion and to improve and maintain air quality*
- 5.2.7 *A safe and secure walkway network shall be established within urban areas and rural centers.*

Findings: C-Tran does not currently serve this site, however there will be several lines available when the Salmon Creek Park & Ride is relocated across NE 139th Street to the south. The applicant will be required to construct curb and sidewalk along the subject parcel's frontage as part of the development process. Improvements will comply with both Clark County development code and the requirements of the Americans with Disabilities Act. The proposed zone change and comprehensive plan amendment meets the above stated policies.

GOAL: Optimize and preserve the investment in the transportation system.

5.3 System Preservation Policies

- 5.3.1 *Development projects shall adhere to minimum access spacing standards along arterial and collector streets to preserve the capacity of the transportation system. The county shall also work with the state to ensure that minimum access spacing standards for state highways are maintained.*

Findings: Access will be provided to the subject parcel via NE 10th Avenue. There will be no access to NE 139th Street. The applicant proposes an internal street connecting the site to NE

16th Avenue. Specific driveway spacing issues will be addressed during the development review process.

5.3.5 *The local street system shall be interconnected to eliminate the need to use collector or arterial streets for internal local trips.*

Findings: The above goal can be met by ensuring street connectivity through the site during the development review process. The applicant proposes an internal street connecting the site to NE 16th Avenue.

Implementation Strategies

- *Require private developments to access collector and local access streets, versus direct access to the arterials. Encourage consolidation of access in developing commercial and high density residential areas through shared use driveways, interconnected parking lots and local access streets that intersect with arterials.*

Findings: Access to NE 139th Street, which is a principal arterial, will not be approved for any future development of this site. Existing development code standards address access to arterial and collector streets and access consolidation.

- *Use transportation, land use and other measures to maintain or reduce vehicle miles traveled and peak hour trips by single occupant vehicles.*

Findings: Commercial or office uses at this location could potentially reduce vehicle miles traveled due to the growing market area north, west and east of this site.

5.3.6 *The county will protect the public's investments in existing and planned freeway and separated grade interchanges.*

Findings: During the last seven years, the Salmon Creek area has experienced significant traffic congestion or Concurrency problems. The area has been in Concurrency failure two separate times. Following both failures and the inability of new development to make the needed capacity improvements, the Board of County Commissioners adopted development moratoria. The first moratorium was adopted in December 2001 and ended in April 2003, with the County advancing two road improvement projects and reducing the travel speed standard on the Salmon Creek Avenue corridor. The second moratorium was adopted in July 2005 and ended in September 2007 with the County committing to fund and schedule construction of the Phase 1 Salmon Creek interchange Project.

The 134th Street and Salmon Creek Avenue area has been studied extensively as a result of this recent history. These evaluations have indicated long-term capacity limitations on the corridors due to the convergence of I-5, I-205, the 134th Street corridor, and the associated interchanges. Additionally, the lack of cross-circulation due to the Salmon Creek waterway and the Interstate roadways has exacerbated these problems.

As a result of this situation, there is limited capacity available in the future to serve new development. The most recent projections of long-term traffic demands and available capacity were made in September 2007 as part of the Comprehensive Growth Management Plan update. That analysis concluded that there are approximately 1,500 new PM peak hour trips that will impact the Salmon Creek corridor over the next 20 years based on current zoning and

development projections. This growth projection when combined with the adopted capital facilities plan for roadway improvements in the area, will allow the area to remain out of Concurrency failure. However, the modeling indicates that there is no excess capacity remaining for rezoning of land. Additionally, this analysis requires the construction of the Phase 2 Salmon Creek Interchange improvement, which is presently unfunded.

Given that situation, County staff believe that a very cautious approach be taken involving any rezone requests that would directly impact the Salmon Creek Interchange and adjacent concurrency corridors.

The applicant's traffic study initially reported a net additional trip generation at the site of 573 PM peak hour trips as a result of the rezone. This projection was changed to 70 PM peak hour trips based on an addendum dated January 31, 2008. The rationale for the reduction was the recognition that much of the site has now been determined to be un-developable due to the presence of critical lands.

Staff's analysis indicates that due to the location of the property, traffic could access the site area from multiple directions, thus allowing trips to be distributed with minimal impact on the interchange or any one Concurrency corridor. Based on that finding, staff recommends that a concomitant rezone agreement be required that would limit the trip generation to the same PM peak hour trips as could be generated by development under the existing zoning designations.

Chapter 9 Economic Development

Policy 9.1.3 The county and cities will encourage long-term growth of businesses of all sizes, because economic diversification and stratification are important factors in overall job growth for the county and cities.

Finding: Both the existing Light Industrial designation and the requested designation of General Commercial are consistent with this policy. The proposed amendment would allow for different economic development opportunities than the existing industrial designation and could offer job growth in specific sectors (e.g., service sector).

Policy 9.1.11 Conversion of industrial or employment center lands to non-industrial or non-employment center districts may occur within the following parameters:

- *Protect and preserve lands zoned heavy industrial for heavy industrial uses.*
- *Protect employment center lands from conversion to residential.*
- *Consider rezoning of employment center lands to non-retail commercial, office campus, or business park if the proponent can show that (a) the zone change would accommodate unforeseen and rapidly changing commercial development needs, and (b) the proposed designation is more suitable than the current designation given the land's site specific characteristics, and (c) the proposed zone change will generate jobs at a higher density than the current comprehensive plan zone allocation.*

Finding: The applicant is requesting a conversion of industrial land to commercial uses. This property is currently part of the county's industrial land inventory. The applicant is requesting a conversion of industrial land to commercial for a likely regional shopping center. The applicant argues that the General Commercial designation with CH zoning would create 257 commercial related jobs, approximately 246 more jobs than would be created if left as Light Industrial.

Policy 9.4.3 Encourage commercial and mixed-use developments located on current or planned transit corridors; encourage transit-oriented site planning and design.

Finding: As discussed earlier, public transit service is currently near the subject site. Based on the existing employment in the area and the commercial development expected east of the site, as well as the extension of NE 139th Street over the Interstate, it is possible that transit service to the site will be feasible in the future.

Conclusion: Criterion A can be met with an appropriate concomitant agreement relating to future traffic generation from the site. The county's transportation impact analysis concludes that the transportation system will be impacted by the change in land use designation. An action to grant highway commercial uses on the site is contrary to Comprehensive Plan policy 9.1.11 for employment lands.

B. The proponent shall demonstrate that the designation is in conformance with the appropriate locational criteria identified in the Clark County Comprehensive Plan and the purpose statement of the zoning district. (See 40.560.010G(2) and 40.560.020H(2).)

General Commercial (CG)

This designation is applied to existing strip commercial areas as highway or limited commercial zoning. The strip commercial areas are generally characterized as narrow bands of commercial uses adjacent to major and minor arterial roadways. The 20-Year Plan strongly discourages additional strip commercial (highway or limited commercial base zones) being applied to new areas or extending existing strip commercial areas.

Additional Commercial Criteria

- Extension of those areas of strip commercial development designated General Commercial is discouraged by the 20-Year Plan. These strips attract traffic to the area and many businesses along the street become points of turning movements. This greatly reduces the traffic capacity of the streets and increases the potential number of traffic accident situations. Commercial strips are usually backed by residential uses which increases the number of residential-commercial conflicts unnecessarily. The commercial uses are oriented toward the street and usually pay little attention to the rear of the property abutting the residential uses.*
- The strips along major roads are generally so long that available commercial property exceeds the demand in the area and residential uses are left along the street, mixed with commercial activities. The linear nature of these developments, the number of driveways crossing sidewalks and the lack of alternative cross traffic or pedestrian circulation make these areas convenient and accessible only to automobile traffic.*

- *Provide a market analysis which identifies the need for the new commercial area/center.*
- *Provide a land use analysis of available commercially designated and zoned land in the market area of the proposed site and a determination of why the existing commercial land is inadequate.*

Purpose.

Highway Commercial (CH) District. These commercial areas are intended to serve large areas of the county, the traveling public and also to recognize areas of existing strip development. These areas are generally located at the interchanges and along state highways and interstates. New commercial areas shall not contribute to additional strip development patterns. Uses allowed in this district may involve drive-in, large space users, outdoor sales, wholesale activities, repair services and other heavy commercial users. This district is limited to the general commercial comprehensive plan designation.

Finding: The Comprehensive Plan locational criteria states that the General Commercial designation is applied to *existing* strip commercial areas, as implemented through highway or limited commercial zoning. This site is "located at the interchanges and along state highways and interstates", if the subject site were already zoned for Highway Commercial, it would fit the purpose statement in the Unified Development Code. The 20-Year Plan strongly discourages this designation from being applied to new areas or extending existing strip commercial areas. However, in this particular instance staff finds that this site is visible to the motoring public from Interstate 5, there is an established residential development directly across NE 10th Avenue, a collector street, from the site and due to planned changes there will be no access to this site from NE 139th Street. Given these somewhat unique factors staff believes it is highly unlikely that this site will develop in a strip pattern of commercial development.

Conclusion: While the Comprehensive Plan discourages additional strip development (generally identified and Highway Commercial or Limited Commercial zone designations) staff believes that given the rather unique aspects of this site strip commercial development is highly unlikely to occur. Criterion B is met.

C. *The map amendment or site is suitable for the proposed designation and there is a lack of appropriately designated alternative sites within the vicinity. (See 40.560.010G(3).)*

Finding: The applicant has provided a market analysis that indicates a need for additional commercial space. The applicant's market analysis relies on the concept of "retail sales leakage" and the county's vacant and buildable lands model to indicate the need for additional retail in Clark County. Land to the northeast of the site was recently zoned for highway commercial uses, which undermines the argument that there is a "lack of appropriately designated alternative sites within the vicinity," but the market analysis provided by the applicant has concluded that Clark County as a whole requires additional commercial land and that within the 3 mile trade area an additional 266 acres will be required to meet the anticipated commercial demand.

The county recently adopted an updated Comprehensive Plan in September 2007. That document did not identify any additional need to commercial land in the county. Further, any analysis that relies on retail sales leakage to form a conclusion will always show a need for additional commercial land.

Conclusion: There is abundant Highway Commercial and similar zoning along Highway 99 and in the vicinity. The applicants' market analysis shows a need for additional commercial land in the identified trade area, however recently adopted county documents directly contradict the applicants' analysis. However, the county does not have criteria that clearly delineates the necessary components of a market analysis. Staff cannot evaluate the submitted analysis under adopted criteria. Criterion C is met.

D. The plan map amendment either; (a) responds to a substantial change in conditions applicable to the area within which the subject property lies; (b) better implements applicable comprehensive plan policies than the current map designation; or (c) corrects an obvious mapping error. (See 40.560.010G(4) and 40.560.020H(3).)

Finding: The Salmon Creek Interchange Project and the extension of 139th Street over the two interstate freeways certainly represent a change in conditions. However, major planned public investments in transportation facilities should not be a rationale for changing the land use designations of nearby properties, because it can lead to premature failure of the planned improvements.

Conclusion: As discussed above, the Salmon Creek Interchange project and the extension of NE 139th Street is a substantial change in conditions. However, major planned public investments in transportation facilities should not be a rationale for changing the land use designations of nearby properties. There has certainly been a change in conditions, however transportation plans are made with an eye to current zoning. Public Works staff has stated that no additional trips are available in the area. Criterion D has been met.

E. Where applicable, the proponent shall demonstrate that the full range of urban public facilities and services can be adequately provided in an efficient and timely manner to serve the proposed designation. Such services may include water, sewage, storm drainage, transportation, fire protection and schools. Adequacy of services applies only to the specific change site. (See 40.560.010G(5) and 40.560.020H(4).)

Finding: The site is in the Vancouver Urban Growth area and is part of a developing major center. A full range of urban public facilities and services will be available to serve commercial uses at the site, consistent with the existing and anticipated commercial and residential growth in the area. As discussed earlier in this report, without mitigation the proposed land use change will negatively impact the transportation system. County staff recommends a concomitant rezone agreement that limits future trips from this site to the number that would be generated by development under the existing zoning.

Conclusion: Criterion E can be met with a concomitant rezone agreement controlling future trips generated from the subject site.

RECOMMENDATION AND CONCLUSIONS

Based upon the information provided by the applicant and the findings presented in this report, staff recommends that the Planning Commission forward a recommendation of **APPROVAL** to modify the Comprehensive Plan and Zoning Maps from Light Industrial with ML zoning and Urban Medium with R-18 zoning to General Commercial and CH zoning. Staff recommends **APPROVAL** of the request to eliminate the split zone on parcel 185759-000. In summary, the reasons for approval is as follows:

- (1) Because of the potential to generate substantially higher traffic that would affect the Salmon Creek Interchange, the proposal would be in direct conflict with the county's commitment to protect the public's investments in existing and planned freeway and separated grade interchanges unless there is a concomitant rezone agreement that limits future trips from the site to the number that could be generated by development under the existing zoning designations.
- (2) Based on the site configuration, strip type development is unlikely to occur. The site is near an interstate freeway and is visible to the motoring public.

Recommendation Summary

The following table lists the applicable criteria and summarizes the findings of the staff report for Annual Review Case CPZ2008-00022. The Planning Commission findings will be added to the table after public deliberation at the Planning Commission hearing scheduled for this application.

COMPLIANCE WITH APPLICABLE CRITERIA		
	Criteria Met?	
	Staff Report	Planning Commission Findings
Criteria for All Map Changes		
A. Consistency with GMA & Countywide Policies	Yes, with covenant	Yes, with covenant
B. Conformance with Location Criteria	Yes	Yes
C. Site Suitability and Lack of Appropriately Designated Alternative Sites	Yes	Yes
D. Amendment Responds to Substantial Change in Conditions, Better Implements Policy, or Corrects Mapping Error	Yes	Yes
E. Adequacy/Timeliness of Public Facilities and Services	Yes, with covenant	Yes, with covenant
Recommendation:	Approval, with covenant	Approval, with covenant



ARTHUR D. CURTIS
PROSECUTING ATTORNEY

CURT WYRICK
CHIEF DEPUTY

DENNIS M. HUNTER
CHIEF CRIMINAL DEPUTY

E. BRONSON POTTER
CHIEF CIVIL DEPUTY

SHARI JENSEN
ADMINISTRATOR

March 31, 2009

Mike Wynne
Attorney at Law
1014 Franklin Street
Vancouver WA 98660

RE: *Concomitant Rezone Agreement / Meyer, et. al.*

Dear Mike:

This letter is written to reply to your proposed concomitant rezone agreement. I have made one grammatical modification on the first full page of writing, omitting the word "to" and requesting that a new paragraph be added to either Conditions 2(a) or Remedies 3(b). I will give you the discretion where this paragraph should be located. The additional paragraph should read as follows:

Clark County's sole responsibility upon final rezone of the affected properties shall be limited to processing applications on a "first-come first-serve" basis. Once all available trips have been committed, Clark County will deny all future permits for development on any property that is subject to this covenant.

Please find that I have also stricken paragraph 10 regarding attorney's fees. There is nothing in the Board's resolution that contemplated the approval of that language. Clark County routinely makes all parties responsible for their individual attorney's fees and, therefore, will not approve as to form this provision.

Please review my comments and contact me if you have any questions.

Sincerely,

Christopher Horne
Sr. Deputy Prosecuting Attorney

CH/tk

CIVIL DIVISION

Recording Requested By And
When Recorded Return To:

Michael J. Wynne
1014 Franklin Street, Suite 106
Vancouver, WA 98660

CONCOMITANT REZONE AGREEMENT

Grantors: Thomas F. Meyer and Jean L. Meyer, husband and wife; T&J Meyer, LLC, a Washington Limited Liability Company; Meyer Clan, LLC, a Washington Limited Liability Company; HAG, LLC, a Washington Limited Liability Company; and DeWitt Properties, a Washington Limited Liability Company

Grantee: Clark County, Washington, a political subdivision of the State of Washington

Abbreviated Legal Descriptions: #152 SEC 23 T3N R1EWM; #54 SEC 23 T3N R1EWM; #19 SEC 23 T3N R1EWM; #82 SEC 23 T3N R1EWM; #152 SEC 23 T3N R1EWM

Assessor's Property Tax Serial Numbers: 185796-000; 185700-000; 186672-000; 185726-000; and 185727-000.

CONCOMITANT REZONE AGREEMENT

CLARK COUNTY, WASHINGTON.

AND

THOMAS F. & JEAN L. MEYER, T & J MEYER, LLC, MEYER CLAN, LLC,
HAG, LLC AND DEWITT PROPERTIES, LLC

November 18, 2008

An Agreement and Covenant to Clark County, a Municipal corporation and political subdivision of the State of Washington (hereinafter "County"), from Thomas F. & Jean L. Meyer, T & J Meyer, LLC, Meyer Clan, LLC, HAG, LLC and DeWitt properties, LLC (hereinafter "Applicant").

Applicant are owners of certain real properties in Clark County, legally described in Exhibit 'A' which applicant wishes to rezone (hereinafter "Properties"), whereby Applicant covenants to County that if the Properties described in Exhibit 'A' are rezoned from Light Industrial (ML) zoning with Light Industrial (ML) comprehensive plan designation and Residential (R-18) zoning with Urban Medium (UM) comprehensive plan designation to Highway Commercial (CH) zoning and General Commercial (GC) comprehensive plan designation, that the Properties will be used only in accordance with this Covenant and subject to the conditions herein described.

Applicant herein covenants and agrees to County on behalf of themselves and all of their heirs, assigns and successors in interest into whose ownership the Properties might pass, as follows, it being specifically agreed to that this is a covenant which touches, concerns, enhances, benefits and runs with the Properties of the Applicant:

1. **Title.** Applicants are the sole and exclusive owners of the real properties situated in Clark County, Washington, legally described in Exhibit "A" attached hereto.
2. **Conditions.** The rezone and comprehensive plan designation shall be subject to the following conditions:
 - a. Development or re-development of the Properties shall result in no more than 462 peak PM hour vehicle trips.
 - b. "Big-box" retail use is prohibited on the properties. "Big-box" development is any one retailer occupying over 100,000 square feet of ground floor area.
3. **Remedies.** This Covenant may be enforced by the County in any or all of the following ways at its option:
 - a. By the County's refusal to issue either site plan review approval and/or preliminary/final plat approval, building permits and/or occupancy permits in the case that this Agreement has not been fully observed in the construction, development and use of the Properties by Applicant, or any of its successors in interest, or by the revocation of any such permits for the failure of Applicant, or its successors to observe any of the provisions of this Agreement made pursuant thereto, but said revocation may only occur after a hearing by

→ Clark County's sole responsibility upon 2 rezone shall be to process application on a...

These are by GC will deny all their permits and develop. etc

initial all available 11/18/16

the Board of County Commissioners, or the County Land Use Hearings Examiner for which ten (10) days notice by publication in a paper of general circulation has been given as well as to affected parties by registered mail, return receipt requested and/or certified mail:

- b. By bringing a suit in any court of competent jurisdiction for monetary damages to cover the expected cost of the County's performance of any and all obligations covenanted herein and which are to be performed by the County, or its direction, on behalf of any obligor,
- c. For injunction to cause specific performance of this Agreement, or for other appropriate relief as may be deemed desirable by County;

- 4. **Binding.** This Covenant shall remain in full force and effect until amended, modified or terminated by the action of Applicant and Clark County in zoning proceedings appropriate for that purpose. Nothing in this Covenant shall be construed as limiting in any way the authority of Clark County, or its governmental successors, from approving amendments or modifications to this Covenant at the request of Applicant, its heirs, assigns or successors in interest. It is expressly provided that this Covenant may be amended, modified or terminated solely by the approval of Clark County, or its governmental successors, at the request of Applicant, its heirs, assigns or successors, and under no circumstances shall any approval by any other person or entity be required in order for Applicant to amend, modify or terminate this Covenant in whole or in part.
- 5. **Filing.** This Agreement shall be filed with the Clark County Auditor so as to appear as a covenant within the chain of title for the Properties.
- 6. **Severability.** This Agreement is expressly made and entered into under the authority of RCW 36.70B.170. Should any court of competent jurisdictions find any provision of this Agreement to be invalid under RCW 36.70B or otherwise, the remainder of this Agreement shall remain in full force and effect.
- 7. **Successors.** This Agreement and all of its provisions, and each of them, shall be binding upon Applicant, and any and all of its heirs, assigns and successors in interest into whose respective ownership the Properties may pass, and any obligation made herein by

Applicant shall be enforceable against all of their heirs, assigns and successors of interest into whose ownership real property may pass, and all of them.

8. **Annexation, Incorporation, Successors, and Assigns.** Subject to the terms hereof, the provisions of this Agreement shall extend to, bind and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns. This Agreement shall be recorded with the real property records of Clark County. This Agreement is binding on the parties hereto, their successors, and assigns, including the city, town, or municipality that assumes jurisdiction through incorporation or annexation of the area covering the Properties by this Agreement. The terms of this Agreement shall be binding on all successors, assigns or future parties in interest, including, but not limited to and through future annexation or incorporation of area in which the development exists.
9. **Applicable law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Jurisdiction over and venue of any suit arising out of or related to this Agreement, shall be exclusively in the state and federal courts of Clark County, Washington. In the event of any apparent conflicts between the provisions of the County Code or ordinances and this Agreement, this Agreement shall prevail.
10. **Attorney's fees.** In the event that any lawsuit is instituted by either party to this Agreement arising out of or pertaining to this Agreement, including any appeals and collateral actions relative to such lawsuit, the substantially prevailing party as determined by the court shall be entitled to recover its reasonable attorney's fees, expert witness fees, and all costs and expenses incurred relative to such lawsuit from the substantially non-prevailing party, in addition to such other relief as may be awarded.
11. **Entire Agreement.** This Agreement contains the entire Agreement between the parties with respect to this matter. It may not be modified except in a writing signed by the party against whom enforcement of the modification is sought.
12. **Waiver.** The waiver by a party of a breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach by that party. No waiver shall be valid unless in writing and signed by the party against whom enforcement of the waiver is sought.

13. **Notice.** All correspondence and any notice required in this Agreement shall be delivered to the following parties:

If to County: Clark County
Community Planning
1300 Franklin St., 3rd Floor
Vancouver, WA 98660

If to Property Owners: Michael J. Wynne
Attorney at Law
1014 Franklin Street, Suite 106
P.O. Box 26
Vancouver, WA 98666-0026

Whenever possible a copy of the notice will be sent to the parties to be notified by electronic mail on the date the notice is given. Notice may also be given by personal service on the party to be notified; by commercial overnight courier; or by U.S. mail, postage prepaid. In the event that notice is given by personal service or by commercial courier, notice will be deemed to have been given upon the date that notice is actually delivered to the party to be notified. In the case of notice provided by U.S. Mail, notice will be deemed to have been given three days following the deposit of the notice in a United States mailbox.

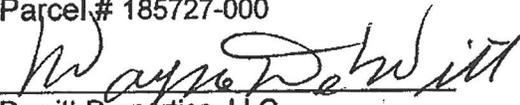
14. **Effective Date.** The Effective Date of this Agreement is January 1, 2009.
15. **Execution.** The following representatives of the parties are authorized to, and do hereby, execute on behalf of the party so indicated.

DATED this 22nd day of December, 2008

APPLICANTS:

For:

Parcel # 185727-000


Dewitt Properties, LLC

STATE OF WASHINGTON)
) ss.
COUNTY OF Clark)

I certify that I know or have satisfactory evidence that Thomas F. Meyer is the Member/Manager of T&J Meyer, LLC, a Washington Limited Liability Company and said person acknowledge that he signed this instrument and acknowledged it to be his free and voluntary act on behalf of the company for the uses and purposes mentioned in this instrument.

DATED: 12-22-08


Print Name: Michael J. Gunn
NOTARY PUBLIC for the State of
Washington residing in Ridgefield
Commission expires: January 29, 2010

STATE OF WASHINGTON)
) ss.
COUNTY OF Clark)

I certify that I know or have satisfactory evidence that Thomas F. Meyer is the Member/Manager of the Meyer Clan, LLC, a Washington Limited Liability Company and said person acknowledge that he signed this instrument and acknowledged it to be his free and voluntary act on behalf of the company for the uses and purposes mentioned in this instrument.

DATED: 12-22-08


Print Name: Michael J. Gunn
NOTARY PUBLIC for the State of
Washington residing in Ridgefield
Commission expires: January 29, 2010

EXHIBIT A:

Property Ownership

Property Owner	Account Number	Legal Description	Approximate Acres	Site Address (Vancouver)
Meyer Clan, LLC	185672-000	#19 SEC 23 T3N R1EWM	2.95	13914 NE 16th Ave.
T & J Meyer, LLC	185700-000	#54 SEC 23 T3N R1EWM	5.75	14002 NE 16th Ave.
Hag, LLC	185726-000	#82 SEC 23 T3N R1EWM	2.37	14019 NE 10th Ave.
DeWitt Properties, LLC	185727-000	#83 SEC 23 T3N R1EWM	7.08	13909 NE 10th Ave.
Meyer, Thomas F. & Jean L.	185796-000	#152 SEC 23 T3N R1EWM	2.95	none