



**EXISTING LEGEND**

- CENTER LINE
- BOUNDARY LINE
- EASEMENT
- GRAVEL DRIVEWAY
- PAVED ROAD
- FENCE LINE
- CPU CPU POWER LINE
- BPA BPA POWER LINE
- SAN SANITARY SEWER LINE
- WTR WATER LINE
- NWNAT NW NATURAL GAS LINE
- P OLYMPIC PIPE LINE
- IRRIG IRRIGATION LINE
- OHP OVERHEAD POWER LINE
- UGP UNDER GROUND POWER
- IW INFLUENT LINE
- A AERATION LINE
- T TELEPHONE LINE
- SD STORM DRAIN LINE
- E ELECTRICAL LINE
- 12 MINOR CONTOUR LINE
- 15 MAJOR CONTOUR LINE



BUILDING FOOTPRINT



STREET SIGN



POWER POLE



FIRE HYDRANT



TREE



STREET LIGHT



POST



CATCH BASIN



POLE



POWER TRANSMISSION TOWER



WATER VALVE



TEST PIT



BOLLARD



POWER POLE WITH DIRECTION OF OVERHEAD LINES



GUY ANCHOR



WATER METER



SANITARY MANHOLE



WATER MANHOLE



TRANSFORMER



TELEPHONE PEDESTAL



WELL



GAS RISER



LIGHT POLE



GAS VALVE

**PROPOSED LEGEND**

- W WATER LINE
- SD STORM DRAIN LINE
- SS SANITARY SEWER LINE
- \* \* \* \* \* SILT CONTROL FENCE
- 12 MINOR CONTOUR LINE
- 15 MAJOR CONTOUR LINE
- [Pattern] CONSTRUCTION ENTRANCE



o MANHOLE

\* FIRE HYDRANT

• GATE VALVE

■ CATCH BASIN

◁ REDUCER

◻ WATER METER

⊗ CROSS

⊥ TEE

⤵ 90° BEND

**ABBREVIATIONS**

- ATP ASPHALT TREATED BASE
- APPROX APPROXIMATELY
- BGID BELOW GRATE INLET DEVICE
- BLVD BOULEVARD
- BPA BONNEVILLE POWER ADMINISTRATION
- BMPs BEST MANAGEMENT PRACTICES
- CC CONCRETE CYLINDER
- CL CLASS
- CMP CORRUGATED METAL PIPE
- CONC CONCRETE
- COV CITY OF VANCOUVER
- CPU CLARK PUBLIC UTILITIES
- DEMO DEMOLITION
- DIA DIAMETER
- DIP DUCTILE IRON PIPE
- DWG DRAWING
- E EAST
- ELEV ELEVATION
- FML FLEXIBLE MEMBRANE LINER
- FH FIRE HYDRANT
- FL FLANGE
- FT FOOT OR FEET
- HDPE HIGH DENSITY POLYETHYLENE
- ID IDENTIFICATION
- IE INVERT ELEVATION
- IN INCH
- KW KILOWATT
- L LENGTH
- LBS POUNDS
- LF LINEAR FEET
- MAX MAXIMUM
- MH MANHOLE
- MIN MINIMUM
- MIL MILLIMETER
- MJ MECHANICAL JOINT
- N NORTH
- NAD NORTH AMERICAN DATUM
- NO NUMBER
- NW NORTHWEST
- NWNAT NORTHWEST NATURAL
- OD OUTSIDE DIAMETER
- PE POLYETHYLENE
- POV PORT OF VANCOUVER
- PVC POLYVINYL CHLORIDE

**ABBREVIATIONS**

- R RADIUS
- REQ'D REQUIRED
- ROW RIGHT OF WAY
- S SOUTH
- SD STORM DRAIN
- SS SANITARY SEWER
- S.R. STATE ROUTE
- STD STANDARD
- TYP TYPICAL
- W/W WITH WEST
- VMC VANCOUVER MUNICIPAL CODE
- WSDOT WASHINGTON DEPARTMENT OF TRANSPORTATION

**EROSION CONTROL NOTES:**

1. ALL EROSION AND SEDIMENT CONTROL MEASURES ARE TO BE PLACED PRIOR TO ANY LAND DISTURBING ACTIVITY CAUSED BY CLEARING OR GRADING. THE EROSION AND SEDIMENT CONTROL MEASURES SHALL BE SITED, DESIGNED AND CONSTRUCTED IN ACCORDANCE WITH THE REQUIREMENTS IN THE CITY OF VANCOUVER'S LATEST VERSION OF "GENERAL REQUIREMENTS AND STANDARD DETAILS MANUAL" AND THE WASHINGTON STATE DEPARTMENT OF ECOLOGY STORMWATER MANUAL FOR WESTERN WASHINGTON, WHERE THE CITY OF VANCOUVER GENERAL REQUIREMENTS SHALL TAKE PRECEDENCE.
2. THE DEVELOPER IS RESPONSIBLE FOR MAINTAINING EROSION PREVENTION AND SEDIMENT CONTROL MEASURES DURING AND AFTER INSTALLATION OF ALL UTILITY WORK ASSOCIATED WITH UTILITY TRENCHES.
3. PRIOR TO ANY SITE EXCAVATION, ALL STORM DRAINAGE INLETS SHALL BE PROTECTED DOWN SLOPE FROM ANY DISTURBED OR CONSTRUCTION AREAS PER THE STANDARD DETAILS TO PREVENT SEDIMENT FROM ENTERING THE STORM DRAINAGE SYSTEM PRIOR TO PERMANENT STABILIZATION OF THE DISTURBED AREAS. CLEAN THE FILTER FABRIC AS NECESSARY TO MAINTAIN DRAINAGE. REMOVE FILTER AND CLEAN CATCH BASINS FOLLOWING COMPLETION OF SITE WORK.
4. THE CONTRACTOR SHALL NOT ALLOW SEDIMENT OR DEBRIS TO ENTER NEW OR EXISTING PIPES, CATCH BASINS OR INFILTRATION SYSTEMS.
5. NEWLY CONSTRUCTED OR MODIFIED INLETS AND CATCH BASINS ARE TO BE PROTECTED IMMEDIATELY UPON INSTALLATION.
6. TEMPORARY SEEDING AND MULCHING OF FILL SLOPES AND DIVERSION DIKES SHALL BE COMPLETED WITHIN ONE WEEK AFTER ROUGH GRADING.
7. ALL EXPOSED AND UNWORKED SOILS SHALL BE STABILIZED BY THE APPROPRIATE BEST MANAGEMENT PRACTICES (BMPs). DURING THE PERIOD FROM OCTOBER 1 TO APRIL 30 NO SOIL SHALL BE EXPOSED FOR MORE THAN TWO (2) DAYS. FROM MAY 1 TO SEPTEMBER 30 NO SOIL SHALL BE EXPOSED FOR MORE THAN SEVEN (7) DAYS.
8. MATERIAL STOCKPILES ARE TO BE PROTECTED BY THE FOLLOWING MEANS:  
TEMPORARY: COVER PILES WITH TARPS OR PLASTIC SHEETING WEIGHTED WITH CONCRETE BLOCKS, LUMBER OR TIRES.  
PERMANENT: COVER PILES WITH TARPS OR PLASTIC, OR RESEED. PERIMETER AREAS AROUND PILES ARE TO BE SURROUNDED WITH EROSION CONTROL FILTER FABRIC FENCES UNTIL SOIL SURFACE IS STABILIZED WITH RESEEDING.
9. THE CONTRACTOR SHALL MAINTAIN ON SITE A WRITTEN DAILY LOG OF EROSION CONTROL BMP MAINTENANCE.
10. IF THE CITY INSPECTOR OR ENGINEER(S) HAS EVIDENCE OF POOR CONSTRUCTION PRACTICES OR IMPROPER EROSION PREVENTION BMPs, CITATIONS AND/OR A STOP WORK ORDER SHALL BE ISSUED UNTIL PROPER MEASURES HAVE BEEN TAKEN AND APPROVED BY THE CITY OF VANCOUVER. IF THE BMPs APPLIED TO A SITE ARE INSUFFICIENT TO PREVENT SEDIMENT FROM REACHING WATER BODIES, ADJACENT PROPERTIES, OR PUBLIC RIGHT-OF-WAY, THEN THE DIRECTOR SHALL REQUIRE ADDITIONAL BMPs.

**PROTECTION OF ADJACENT PROPERTIES, ROADS AND STREETS:**

11. PROVIDE A 12 INCH DEEP PAD OF CRUSHED ROCK FOR A DISTANCE OF 100 FEET INTO THE SITE FOR ALL ACCESS POINTS UTILIZED BY CONSTRUCTION EQUIPMENT AND TRUCKS. WIDTH OF THE PAD SHALL BE A MINIMUM OF 20 FEET. ALL TRUCKS LEAVING THE SITE SHALL EGRESS ACROSS THE PAD. ACCUMULATED SOIL SHALL BE PERIODICALLY REMOVED, OR ADDITIONAL ROCK SHALL BE PLACED UPON THE PAD SURFACE. ROCK SHALL BE CLEAN 4 INCH TO 8 INCH QUARRY SPALLS. ALL MATERIALS SPILLED, DROPPED, WASHED OR TRACKED FROM VEHICLES ONTO ROADWAYS OR INTO STORM DRAINS MUST BE REMOVED IMMEDIATELY.
12. PAVEMENT SWEEPING AND SHOVELING IS REQUIRED. WASHING THE PAVEMENT INTO THE STORM SYSTEM IS NOT PERMITTED.
13. INSTALL SEDIMENT FENCE IN ACCORDANCE WITH THE DETAIL SHEET PRIOR TO BUILDING CONSTRUCTION AND/OR EXCAVATION TO PREVENT SILT INTRUSION UPON ADJACENT LOTS. IF CONSTRUCTION OCCURS SIMULTANEOUSLY ON ADJACENT LOTS AND THE LOTS HAVE THE SAME OWNER DURING CONSTRUCTION, THE SILT FENCE ALONG THE COMMON LOT LINE MAY BE ELIMINATED.
14. CONSTRUCTION ROADS AND PARKING AREAS FOR THE USE OF CONSTRUCTION TRAFFIC SHALL BE STABILIZED WHEREVER THEY ARE CONSTRUCTED, WHETHER PERMANENT OR TEMPORARY.

**MAINTENANCE OF SEDIMENT CONTROL BMPs:**

15. MAINTAIN AND REMOVE ALL SEDIMENT CONTROLS AS SPECIFIED IN THE STANDARD DETAILS. THE CONTRACTOR SHALL REMOVE ALL ACCUMULATED SEDIMENT FROM THE CATCH BASINS, DRYWELLS, UTILITY TRENCHES AND STORM PIPES PRIOR TO ACCEPTANCE BY THE CITY.
16. SEDIMENT CONTROL BMPs SHALL BE INSPECTED WEEKLY AND AFTER ANY STORM EVENT PRODUCING RUNOFF. THE INSPECTION FREQUENCY FOR STABILIZED, INACTIVE SITES SHALL BE ONCE EVERY TWO WEEKS OR MORE FREQUENTLY AS DETERMINED BY THE LOCAL PERMITTING AUTHORITY BASED ON THE LEVEL OF SOIL STABILITY AND POTENTIAL FOR ADVERSE ENVIRONMENTAL IMPACTS.
17. ALL TEMPORARY EROSION PREVENTION AND SEDIMENT CONTROL MEASURES SHALL BE REMOVED WITHIN 30 DAYS AFTER SITE STABILIZATION IS ACHIEVED OR AFTER TEMPORARY BMPs ARE NO LONGER NEEDED. TRAPPED SEDIMENT SHALL BE REMOVED OR STABILIZED ON SITE. DISTURBED SOIL AREAS RESULTING FROM REMOVAL SHALL BE PERMANENTLY STABILIZED.

**DUST CONTROL:**

18. IN AREAS SUBJECT TO SURFACE AND AIR MOVEMENT OF DUST ONE OR MORE OF THE FOLLOWING PREVENTATIVE MEASURES SHALL BE TAKEN FOR DUST CONTROL:
  - MINIMIZE THE PERIOD OF SOIL EXPOSURE THROUGH THE USE OF TEMPORARY GROUND COVER AND OTHER TEMPORARY STABILIZATION PRACTICES.
  - SPRINKLE THE SITE WITH WATER UNTIL THE SURFACE IS WET.
  - SPRAY EXPOSED SOIL AREAS WITH A DUST PALLIATIVE. NOTE: USE OF PETROLEUM PRODUCTS OR POTENTIALLY HAZARDOUS MATERIALS ARE PROHIBITED.

**TEMPORARY SEEDING:**

19. EXPOSED SURFACES THAT WILL NOT BE BROUGHT TO FINAL GRADE OR GIVEN A PERMANENT COVER TREATMENT WITHIN 30 DAYS OF THE EXPOSURE SHALL HAVE SEED MIX AND MULCH PLACED TO STABILIZE THE SOIL AND REDUCE EROSION SEDIMENTATION. SEEDED AREAS SHALL BE CHECKED REGULARLY TO ASSURE A GOOD STAND OF GRASS IS BEING MAINTAINED. AREAS THAT FAIL TO ESTABLISH VEGETATION COVER ADEQUATE TO PREVENT EROSION WILL BE RESEED AS SOON AS SUCH AREAS ARE IDENTIFIED.
20. APPLY AN APPROVED TEMPORARY SEEDING MIXTURE TO THE PREPARED SEED BED AT A RATE OF 120 LBS/ACRE. NOTE: "HYDROSEEDING" APPLICATIONS WITH APPROVED SEED-MULCH-FERTILIZER MIXTURES MAY ALSO BE USED.

Let. Served on the 30th day of 04/2009 at 04:22PM by Cesar Chazamb

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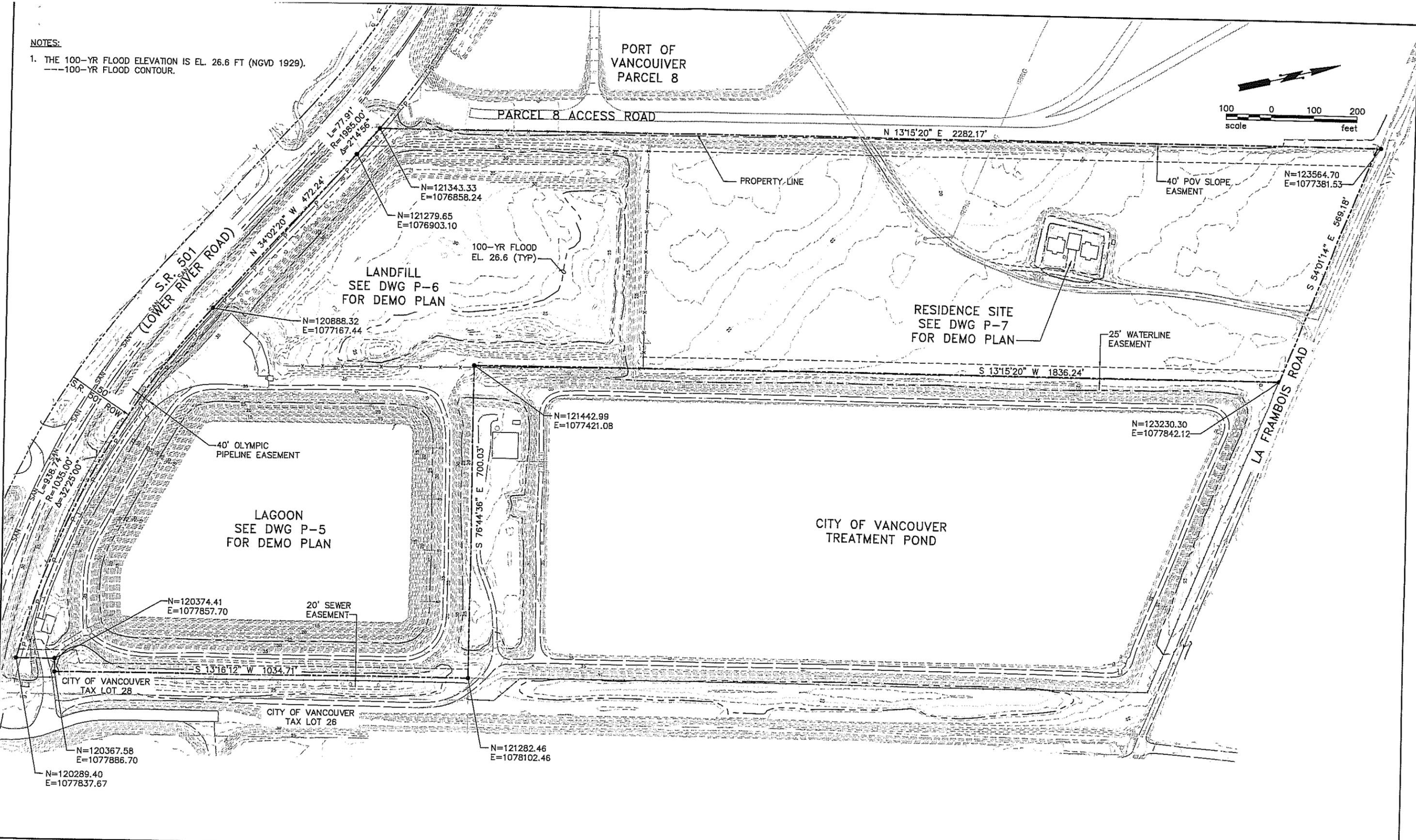
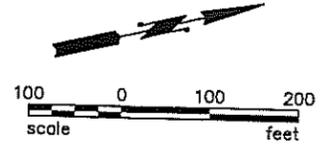
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 DESIGN BY SLD  
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 PROJ MGR SA

**PORTSIDE LAGOON & LANDFILL  
 GRADING PLANS**  
 LEGENDS, ABBREVIATIONS AND EROSION CONTROL NOTES

DRAWING NO. P-2  
 PROJECT NO. VAJDW-08-172  
 DATE: 6/29/09  
 SHEET NO. 2 OF 13

**NOTES:**

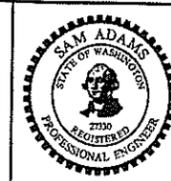
1. THE 100-YR FLOOD ELEVATION IS EL. 26.6 FT (NGVD 1929).  
 ---100-YR FLOOD CONTOUR.



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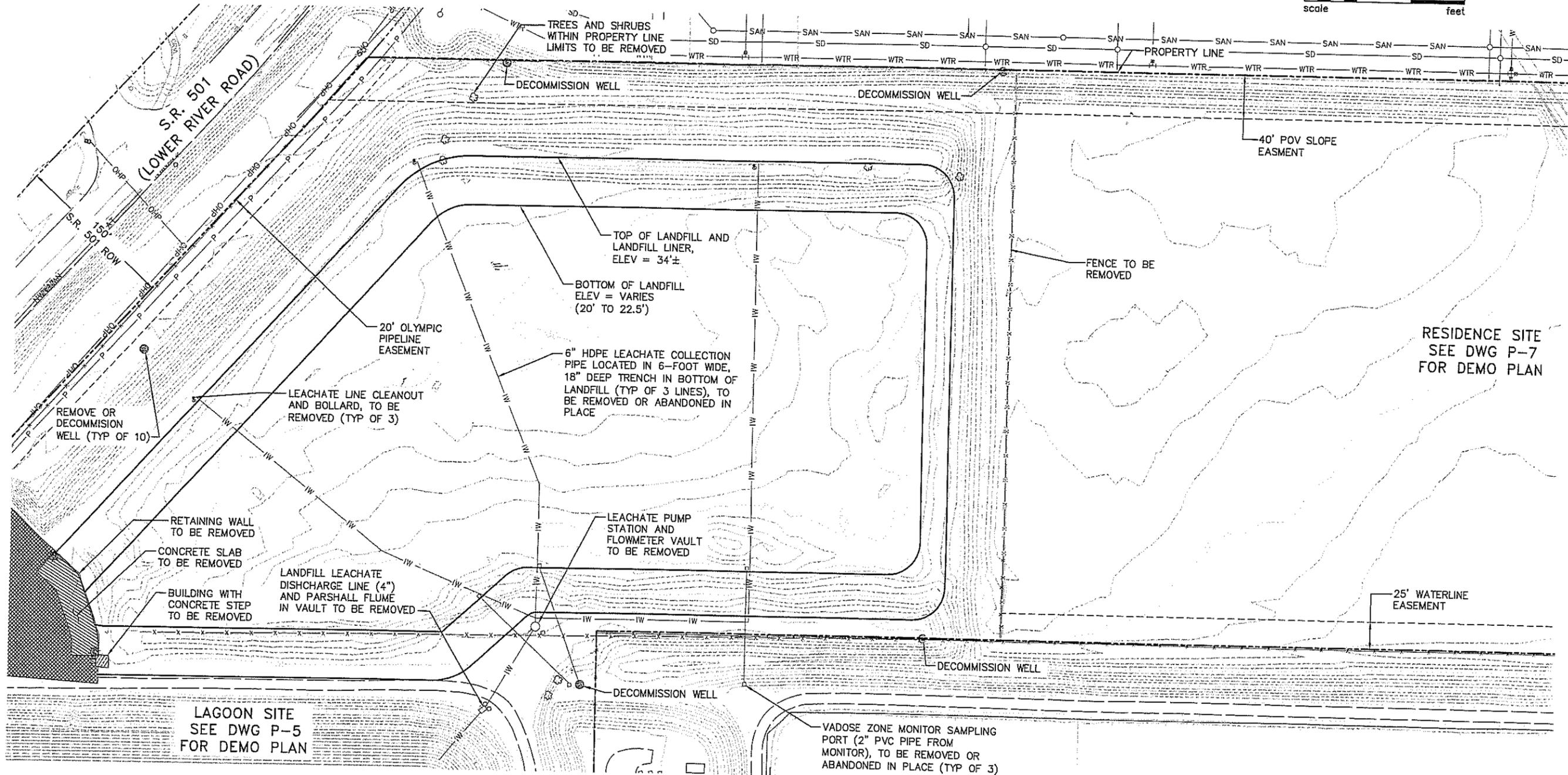
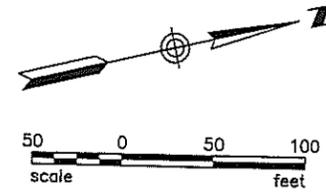
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 PROJ MGR SA

**PORTSIDE LAGOON & LANDFILL  
 GRADING PLANS  
 EXISTING SITE CONDITIONS**

DRAWING NO. **P-3**  
 PROJECT NO. VAJDW-08-172  
 DATE: 6/29/09  
 SHEET NO. 3 OF 13







RESIDENCE SITE  
SEE DWG P-7  
FOR DEMO PLAN

LAGOON SITE  
SEE DWG P-5  
FOR DEMO PLAN

**LANDFILL DEMOLITION NOTES:**

1. DEMOLITION TO INCLUDE COMPLETE REMOVAL OR ABANDONMENT IN PLACE, WHERE APPROPRIATE, OF ALL TREES, BUILDINGS, BUILDING COMPONENTS, EQUIPMENT, PAVEMENT, AND OTHER STRUCTURES.

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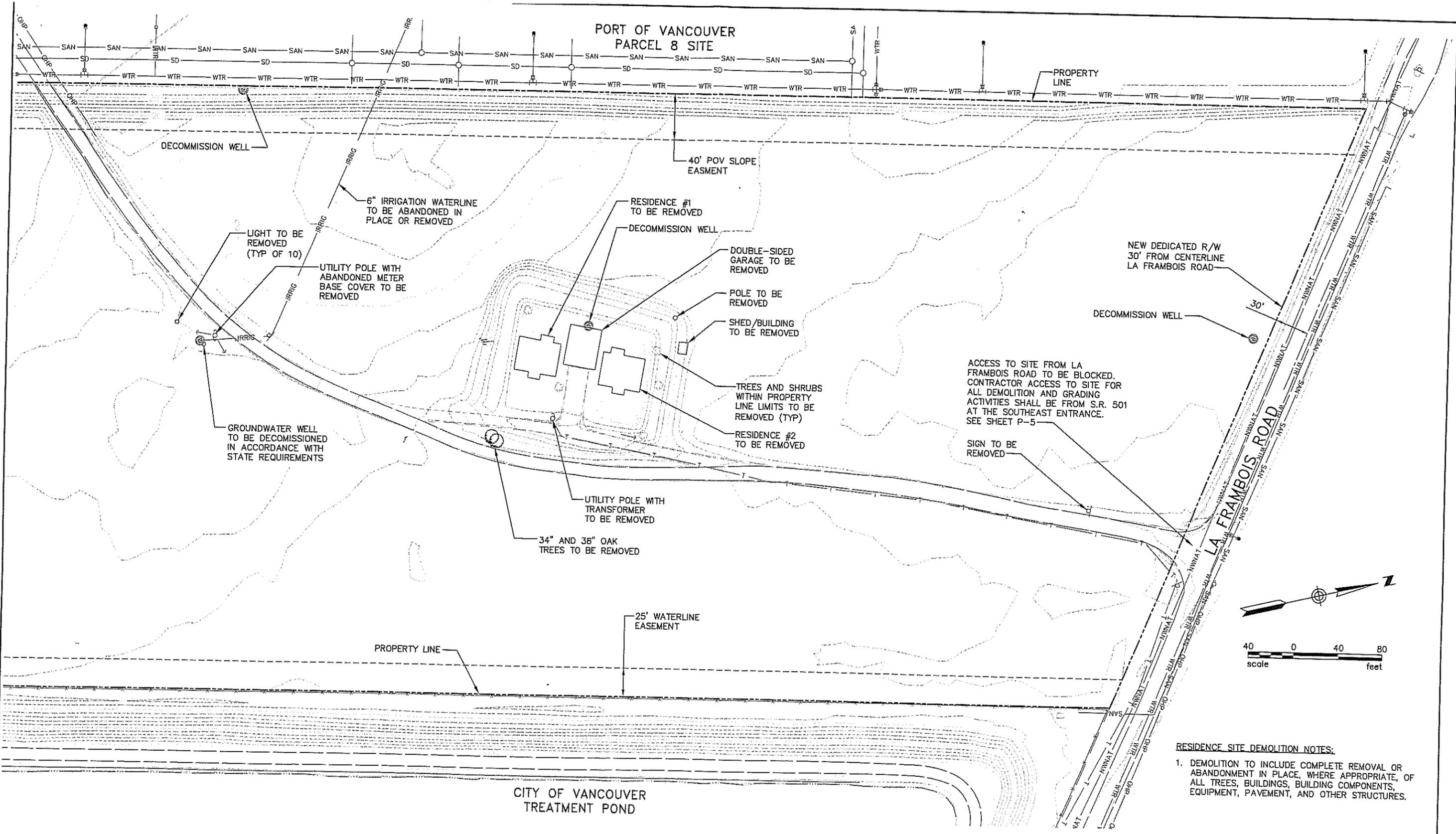


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**PORTSIDE LAGOON & LANDFILL  
 GRADING PLANS  
 LANDFILL DEMOLITION PLAN**

DRAWING NO. **P-6**  
 PROJECT NO. VAJDW-08-172  
 DATE: 6/29/09  
 SHEET NO. 6 OF 13

PORT OF VANCOUVER  
PARCEL 8 SITE



ACCESS TO SITE FROM LA FRAMBOIS ROAD TO BE BLOCKED. CONTRACTOR ACCESS TO SITE FOR ALL DEMOLITION AND GRADING ACTIVITIES SHALL BE FROM S.R. 501 AT THE SOUTHEAST ENTRANCE. SEE SHEET P-5

- RESIDENCE SITE DEMOLITION NOTES:**
1. DEMOLITION TO INCLUDE COMPLETE REMOVAL OR ABANDONMENT IN PLACE, WHERE APPROPRIATE, OF ALL TREES, BUILDINGS, BUILDING COMPONENTS, EQUIPMENT, PAVEMENT, AND OTHER STRUCTURES.

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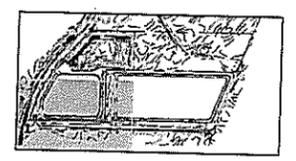
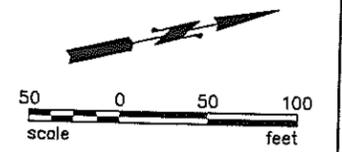
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**PORTSIDE LAGOON & LANDFILL  
 GRADING PLANS  
 RESIDENCE DEMOLITION PLAN**

DRAWING NO. **P-7**  
 PROJECT NO. VAJDW-08-172  
 DATE: 6/29/09  
 SHEET NO. 7 OF 13



KEY PLAN

2,588 LF SILT FENCE (TYP) 1  
P-13

EDGE OF EXISTING PAVEMENT

S.R. 501  
(LOWER RIVER ROAD)

150'  
S.R. 501 ROW

ENTRANCE ROUTE  
EXIT ROUTE

EXISTING ASPHALT ACCESS ROAD

SLOPE IN THIS AREA TO BE CONSTRUCTED AND ACCESS ROAD REMOVED AFTER ALL OTHER FILL IS PLACED

SILT FENCE DEFINES LIMITS OF CLEARING, GRUBBING, AND GRADING ACTIVITIES INDICATES LIMITS OF WORK

STABILIZED CONSTRUCTION ENTRANCE FOR TRUCK TRAFFIC 2  
P-13

WHEEL WASH (IF REQ'D) 3  
P-13

GRADE ALL AREAS TO DRAIN TOWARDS SEDIMENT TRAP (TYP)

EXISTING GRAVEL ROAD TO REMAIN

PROPERTY BOUNDARY

5,245 LF SILT FENCE

EDGE OF EXISTING GRAVEL ROAD

EDGE OF EXISTING PAVEMENT

CONNECT TO EXISTING ACCESS ROAD

VISION CLEARANCE AREA

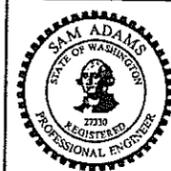
SIGHT DISTANCE AT S.R. 501 INTERSECTION	
REQUIRED =	450 FT
ACTUAL (WEST) =	900 FT
ACTUAL (EAST) =	770 FT

1  
P-8

GRADING AND EROSION CONTROL PLAN OVERVIEW

SCALE: 1"=50'

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**PORTSIDE LAGOON & LANDFILL  
 GRADING PLANS  
 CONSTRUCTION ENTRANCE**

DRAWING NO. **P-8**  
 PROJECT NO. VAJDW-08-172  
 DATE: 6/29/09  
 SHEET NO. 8 OF 13

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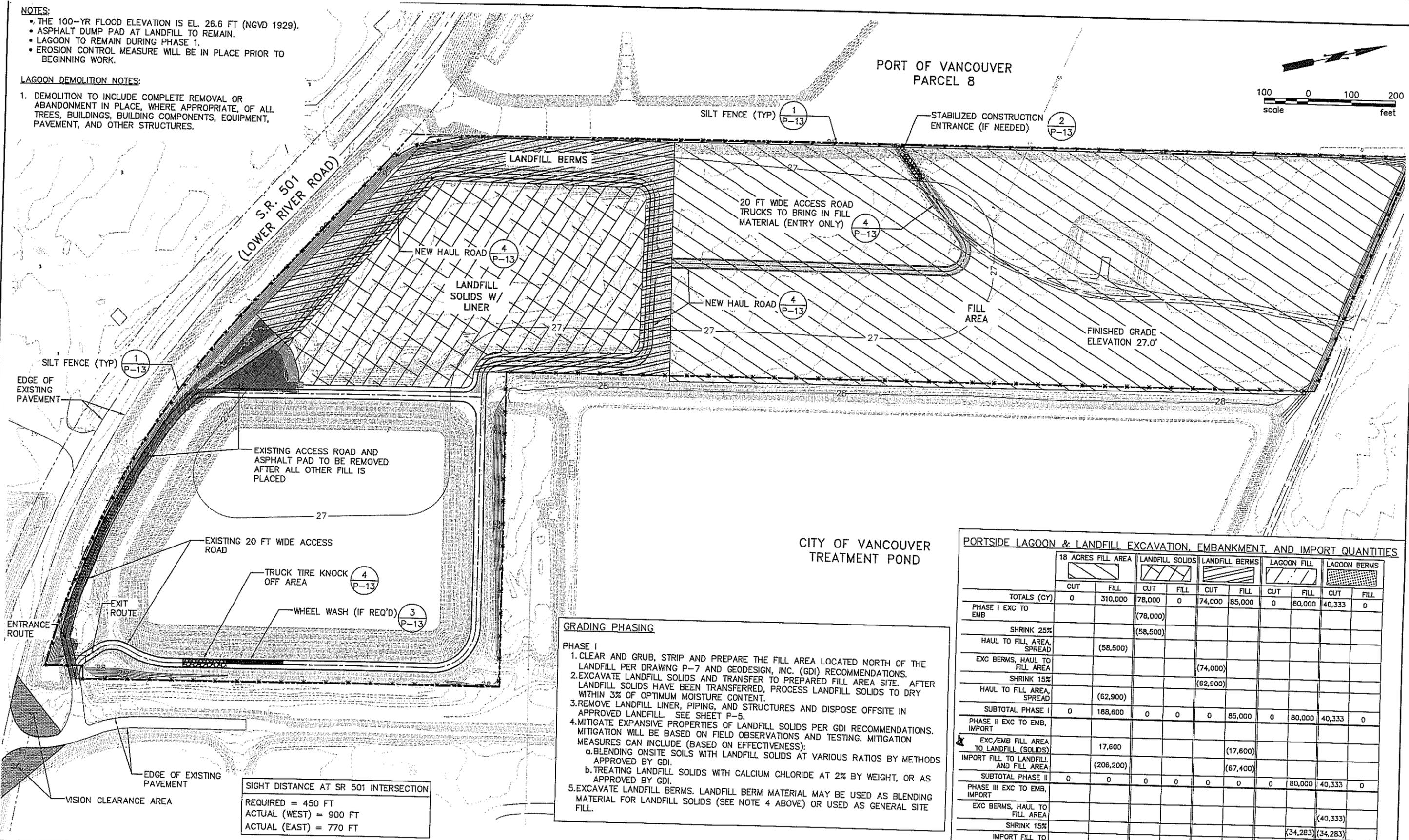
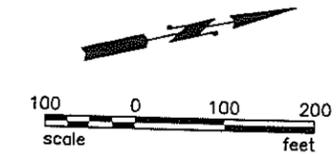
**NOTES:**

- THE 100-YR FLOOD ELEVATION IS EL. 26.6 FT (NGVD 1929).
- ASPHALT DUMP PAD AT LANDFILL TO REMAIN.
- LAGOON TO REMAIN DURING PHASE 1.
- EROSION CONTROL MEASURE WILL BE IN PLACE PRIOR TO BEGINNING WORK.

**LAGOON DEMOLITION NOTES:**

1. DEMOLITION TO INCLUDE COMPLETE REMOVAL OR ABANDONMENT IN PLACE, WHERE APPROPRIATE, OF ALL TREES, BUILDINGS, BUILDING COMPONENTS, EQUIPMENT, PAVEMENT, AND OTHER STRUCTURES.

PORT OF VANCOUVER  
PARCEL 8



**GRADING PHASING**

**PHASE I**

1. CLEAR AND GRUB, STRIP AND PREPARE THE FILL AREA LOCATED NORTH OF THE LANDFILL PER DRAWING P-7 AND GEODESIGN, INC. (GDI) RECOMMENDATIONS.
2. EXCAVATE LANDFILL SOLIDS AND TRANSFER TO PREPARED FILL AREA SITE. AFTER LANDFILL SOLIDS HAVE BEEN TRANSFERRED, PROCESS LANDFILL SOLIDS TO DRY WITHIN 3% OF OPTIMUM MOISTURE CONTENT.
3. REMOVE LANDFILL LINER, PIPING, AND STRUCTURES AND DISPOSE OFFSITE IN APPROVED LANDFILL. SEE SHEET P-5.
4. MITIGATE EXPANSIVE PROPERTIES OF LANDFILL SOLIDS PER GDI RECOMMENDATIONS. MITIGATION WILL BE BASED ON FIELD OBSERVATIONS AND TESTING. MITIGATION MEASURES CAN INCLUDE (BASED ON EFFECTIVENESS):
  - a. BLENDING ONSITE SOILS WITH LANDFILL SOLIDS AT VARIOUS RATIOS BY METHODS APPROVED BY GDI.
  - b. TREATING LANDFILL SOLIDS WITH CALCIUM CHLORIDE AT 2% BY WEIGHT, OR AS APPROVED BY GDI.
5. EXCAVATE LANDFILL BERMS. LANDFILL BERM MATERIAL MAY BE USED AS BLENDING MATERIAL FOR LANDFILL SOLIDS (SEE NOTE 4 ABOVE) OR USED AS GENERAL SITE FILL.

	18 ACRES FILL AREA		LANDFILL SOLIDS		LANDFILL BERMS		LAGOON FILL		LAGOON BERMS	
	CUT	FILL	CUT	FILL	CUT	FILL	CUT	FILL	CUT	FILL
<b>TOTALS (CY)</b>	0	310,000	78,000	0	74,000	85,000	0	80,000	40,333	0
PHASE I EXC TO EMB			(78,000)							
SHRINK 25%			(58,500)							
HAUL TO FILL AREA, SPREAD		(58,500)								
EXC BERMS, HAUL TO FILL AREA					(74,000)					
SHRINK 15%					(62,900)					
HAUL TO FILL AREA, SPREAD		(62,900)								
<b>SUBTOTAL PHASE I</b>	0	188,600	0	0	0	85,000	0	80,000	40,333	0
PHASE II EXC TO EMB, IMPORT										
EXC/EMB FILL AREA TO LANDFILL (SOLIDS)		17,600			(17,600)					
IMPORT FILL TO LANDFILL AND FILL AREA		(206,200)			(67,400)					
<b>SUBTOTAL PHASE II</b>	0	0	0	0	0	0	0	80,000	40,333	0
PHASE III EXC TO EMB, IMPORT										
EXC BERMS, HAUL TO FILL AREA									(40,333)	
SHRINK 15%								(34,283)	(34,283)	
IMPORT FILL TO LAGOON FILL								(45,717)		

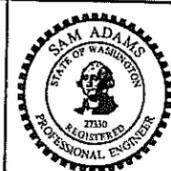
**SIGHT DISTANCE AT SR 501 INTERSECTION**

REQUIRED = 450 FT  
 ACTUAL (WEST) = 900 FT  
 ACTUAL (EAST) = 770 FT

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**PORTSIDE LAGOON & LANDFILL  
 GRADING PLANS  
 GRADING PLAN PHASE I**

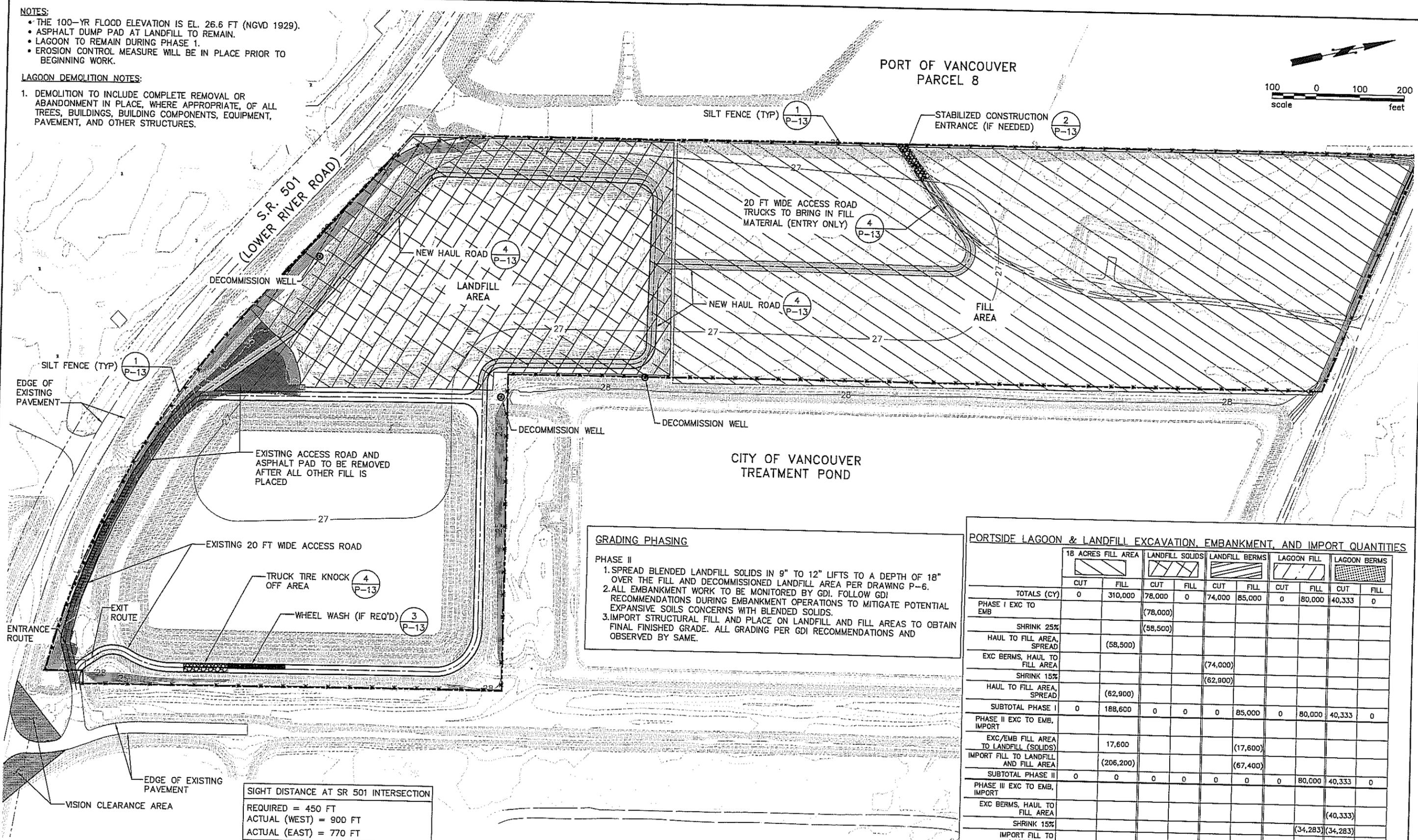
DRAWING NO. **P-9**  
 PROJECT NO. VAJDW-08-172  
 DATE: 6/29/09  
 SHEET NO. 9 OF 13

**NOTES:**

- THE 100-YR FLOOD ELEVATION IS EL. 26.6 FT (NGVD 1929).
- ASPHALT DUMP PAD AT LANDFILL TO REMAIN.
- LAGOON TO REMAIN DURING PHASE 1.
- EROSION CONTROL MEASURE WILL BE IN PLACE PRIOR TO BEGINNING WORK.

**LAGOON DEMOLITION NOTES:**

1. DEMOLITION TO INCLUDE COMPLETE REMOVAL OR ABANDONMENT IN PLACE, WHERE APPROPRIATE, OF ALL TREES, BUILDINGS, BUILDING COMPONENTS, EQUIPMENT, PAVEMENT, AND OTHER STRUCTURES.



**GRADING PHASING**

**PHASE II**

1. SPREAD BLENDED LANDFILL SOLIDS IN 9" TO 12" LIFTS TO A DEPTH OF 18" OVER THE FILL AND DECOMMISSIONED LANDFILL AREA PER DRAWING P-6.
2. ALL EMBANKMENT WORK TO BE MONITORED BY GDI. FOLLOW GDI RECOMMENDATIONS DURING EMBANKMENT OPERATIONS TO MITIGATE POTENTIAL EXPANSIVE SOILS CONCERNS WITH BLENDED SOLIDS.
3. IMPORT STRUCTURAL FILL AND PLACE ON LANDFILL AND FILL AREAS TO OBTAIN FINAL FINISHED GRADE. ALL GRADING PER GDI RECOMMENDATIONS AND OBSERVED BY SAME.

**PORTSIDE LAGOON & LANDFILL EXCAVATION, EMBANKMENT, AND IMPORT QUANTITIES**

	18 ACRES FILL AREA		LANDFILL SOLIDS		LANDFILL BERMS		LAGOON FILL		LAGOON BERMS	
	CUT	FILL	CUT	FILL	CUT	FILL	CUT	FILL	CUT	FILL
<b>TOTALS (CY)</b>	0	310,000	78,000	0	74,000	85,000	0	80,000	40,333	0
PHASE I EXC TO EMB			(78,000)							
SHRINK 25%			(58,500)							
HAUL TO FILL AREA, SPREAD		(58,500)								
EXC BERMS, HAUL TO FILL AREA					(74,000)					
SHRINK 15%					(62,900)					
HAUL TO FILL AREA, SPREAD		(62,900)								
<b>SUBTOTAL PHASE I</b>	<b>0</b>	<b>188,600</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>85,000</b>	<b>0</b>	<b>80,000</b>	<b>40,333</b>	<b>0</b>
PHASE II EXC TO EMB, IMPORT										
EXC/EMB FILL AREA TO LANDFILL (SOLIDS)		17,600				(17,600)				
IMPORT FILL TO LANDFILL AND FILL AREA		(206,200)				(67,400)				
<b>SUBTOTAL PHASE II</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>80,000</b>	<b>40,333</b>	<b>0</b>
PHASE III EXC TO EMB, IMPORT										
EXC BERMS, HAUL TO FILL AREA									(40,333)	
SHRINK 15%								(34,283)	(34,283)	
IMPORT FILL TO LAGOON FILL								(45,717)		

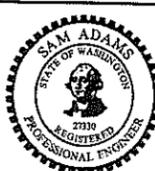
**SIGHT DISTANCE AT SR 501 INTERSECTION**

REQUIRED = 450 FT  
 ACTUAL (WEST) = 900 FT  
 ACTUAL (EAST) = 770 FT

Last Saved on Tue Jun 29 2009 at 04:07:34 by Casaradranob  
 File Name: G:\Vancouver\2008\VAJDW-08-172\12081\12081.dwg Scale: 1

MARK	REVISION DESCRIPTION	BY	APP.	DATE

1111 Main Street, Suite 300  
 Vancouver, Washington 98660  
 (360) 823-6100 FAX: (360) 823-6101



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 DESIGN BY SLD  
 CHECK BY SEE  
 PROJ MGR SA

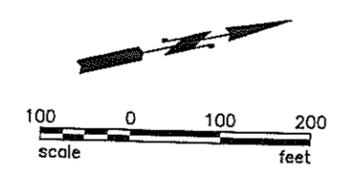
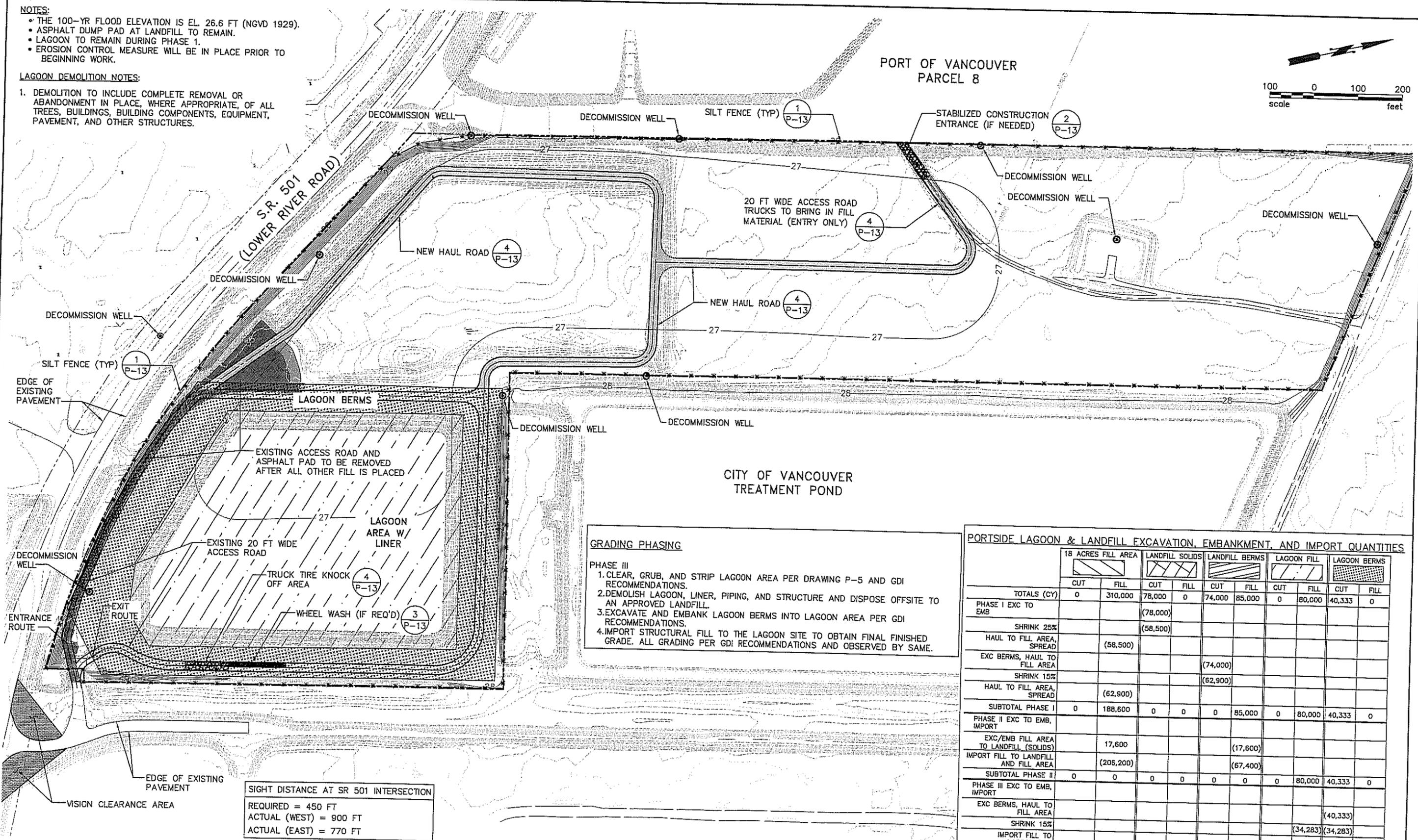
**PORTSIDE LAGOON & LANDFILL GRADING PLANS**  
**GRADING PLAN PHASE II**

DRAWING NO. **P-10**  
 PROJECT NO. VAJDW-08-172  
 DATE: 6/29/09  
 SHEET NO. 10 OF 13

- NOTES:**
- THE 100-YR FLOOD ELEVATION IS EL. 26.6 FT (NGVD 1929).
  - ASPHALT DUMP PAD AT LANDFILL TO REMAIN.
  - LAGOON TO REMAIN DURING PHASE 1.
  - EROSION CONTROL MEASURE WILL BE IN PLACE PRIOR TO BEGINNING WORK.

**LAGOON DEMOLITION NOTES:**

1. DEMOLITION TO INCLUDE COMPLETE REMOVAL OR ABANDONMENT IN PLACE, WHERE APPROPRIATE, OF ALL TREES, BUILDINGS, BUILDING COMPONENTS, EQUIPMENT, PAVEMENT, AND OTHER STRUCTURES.



**GRADING PHASING**

**PHASE III**

1. CLEAR, GRUB, AND STRIP LAGOON AREA PER DRAWING P-5 AND GDI RECOMMENDATIONS.
2. DEMOLISH LAGOON, LINER, PIPING, AND STRUCTURE AND DISPOSE OFFSITE TO AN APPROVED LANDFILL.
3. EXCAVATE AND EMBANK LAGOON BERMS INTO LAGOON AREA PER GDI RECOMMENDATIONS.
4. IMPORT STRUCTURAL FILL TO THE LAGOON SITE TO OBTAIN FINAL FINISHED GRADE. ALL GRADING PER GDI RECOMMENDATIONS AND OBSERVED BY SAME.

**PORTSIDE LAGOON & LANDFILL EXCAVATION, EMBANKMENT, AND IMPORT QUANTITIES**

	18 ACRES FILL AREA		LANDFILL SOLIDS		LANDFILL BERMS		LAGOON FILL		LAGOON BERMS	
	CUT	FILL	CUT	FILL	CUT	FILL	CUT	FILL	CUT	FILL
<b>TOTALS (CY)</b>	0	310,000	78,000	0	74,000	85,000	0	80,000	40,333	0
PHASE I EXC TO EMB			(78,000)							
SHRINK 25%			(58,500)							
HAUL TO FILL AREA, SPREAD		(58,500)								
EXC BERMS, HAUL TO FILL AREA					(74,000)					
SHRINK 15%					(62,900)					
HAUL TO FILL AREA, SPREAD		(62,900)								
<b>SUBTOTAL PHASE I</b>	<b>0</b>	<b>188,600</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>85,000</b>	<b>0</b>	<b>80,000</b>	<b>40,333</b>	<b>0</b>
PHASE II EXC TO EMB, IMPORT										
EXC/EMB FILL AREA TO LANDFILL (SOLIDS)		17,600			(17,600)					
IMPORT FILL TO LANDFILL AND FILL AREA		(206,200)			(67,400)					
<b>SUBTOTAL PHASE II</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>80,000</b>	<b>40,333</b>	<b>0</b>
PHASE III EXC TO EMB, IMPORT										
EXC BERMS, HAUL TO FILL AREA									(40,333)	
SHRINK 15%								(34,283)	(34,283)	
IMPORT FILL TO LAGOON FILL								(45,717)		

**SIGHT DISTANCE AT SR 501 INTERSECTION**

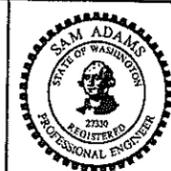
REQUIRED = 450 FT  
 ACTUAL (WEST) = 900 FT  
 ACTUAL (EAST) = 770 FT

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 File Name: C:\Users\...  
 Scale: 1

MARK	REVISION DESCRIPTION	BY	APP.	DATE

**BergerABAM**

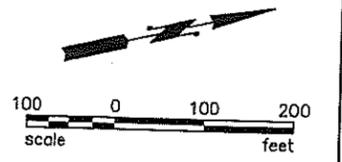
1111 Main Street, Suite 300  
 Vancouver, Washington 98660  
 (360) 823-6100 FAX: (360) 823-6101



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 DESIGN BY SLD  
 CHECK BY SEE  
 PROJ MGR SA

**PORTSIDE LAGOON & LANDFILL GRADING PLANS**  
**GRADING PLAN PHASE III**

DRAWING NO. **P-11**  
 PROJECT NO. **VAJDW-08-172**  
 DATE: **6/29/09**  
 SHEET NO. **11** OF **13**



PORT OF VANCOUVER  
PARCEL 8

S.R. 501  
(LOWER RIVER ROAD)

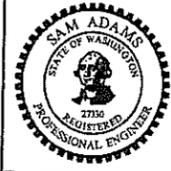
CITY OF VANCOUVER  
TREATMENT POND

Carl Street on Ave. Jun 20, 2009 at 04:58PM by C:\p\ad\ad\p\08-172\CAD\p\p\p-12.dwg Scale: 1

MARK	REVISION DESCRIPTION	BY	APP.	DATE



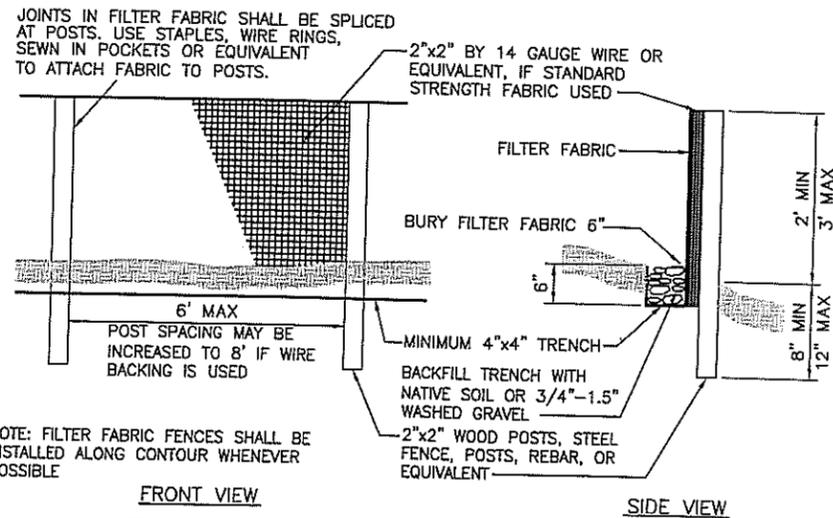
**BergerABAM**  
 1111 Main Street, Suite 300  
 Vancouver, Washington 98660  
 (360) 823-6100 FAX: (360) 823-6101



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 DESIGN BY SLD  
 CHECK BY SEE  
 PROJ MGR SA

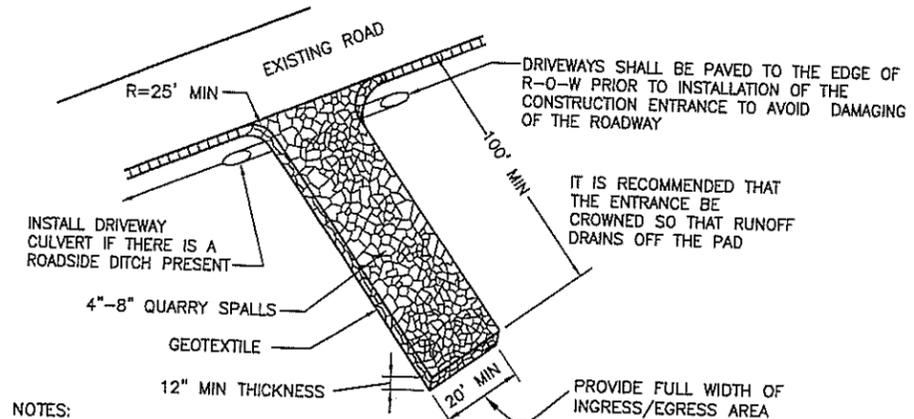
**PORTSIDE LAGOON & LANDFILL  
 GRADING PLANS  
 FINISHED GRADING PLAN**

DRAWING NO. **P-12**  
 PROJECT NO. VAJDW-08-172  
 DATE: 6/29/09  
 SHEET NO. 12 OF 13



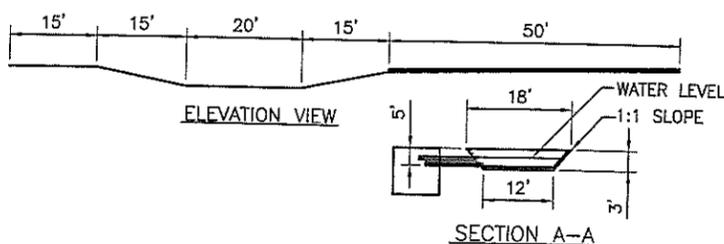
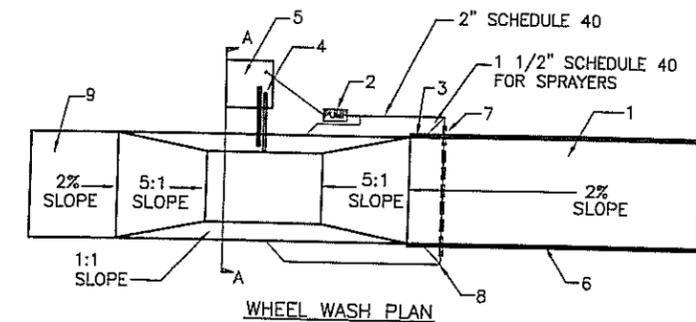
- MAINTENANCE STANDARDS:
1. SILT FENCES AND FILTER BARRIERS SHALL BE INSPECTED IMMEDIATELY AFTER EACH RAINFALL AND AT LEAST DAILY DURING PROLONGED RAINFALL. ANY REQUIRED REPAIRS SHALL BE MADE IMMEDIATELY.
  2. IF CONCENTRATED FLOWS ARE EVIDENT UPHILL OF THE FENCE, THEY MUST BE INTERCEPTED AND CONVEYED TO A SEDIMENT POND.
  3. IT IS IMPORTANT TO CHECK THE UPHILL SIDE OF THE FENCE FOR SIGNS OF THE FENCE CLOGGING AND ACTING AS A BARRIER TO FLOW AND THEN CAUSING CHANNELIZATION OF FLOWS PARALLEL TO THE FENCE. IF THIS OCCURS, REPLACE THE FENCE OR REMOVE THE TRAPPED SEDIMENT.
  4. SEDIMENT DEPOSITS SHALL EITHER BE REMOVED WHEN THE DEPOSIT REACHES APPROXIMATELY ONE-THIRD THE HEIGHT OF THE SILT FENCE, OR A SECOND SILT FENCE SHALL BE INSTALLED.
  5. IF THE FILTER FABRIC (GEOTEXTILE) HAS DETERIORATED DUE TO ULTRAVIOLET BREAKDOWN, IT SHALL BE REPLACED.

1 SILT FENCE  
P-13 SCALE: NONE



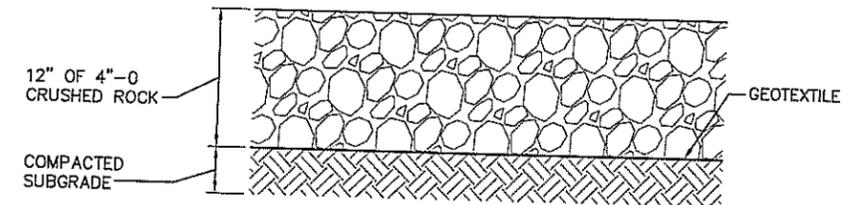
- NOTES:
1. IF THE ENTRANCE SITS ON A SLOPE, PLACE A FILTER FABRIC FENCE DOWN GRADIENT.
  2. TOP DRESS THE PAD WITH CLEAN 3" MINUS ROCK WHEN THE CONSTRUCTION ENTRANCE BECOMES CLOGGED WITH SEDIMENTS.
  3. ANY SEDIMENT CARRIED FROM THE SITE ONTO THE STREET SHALL BE CLEANED UP IMMEDIATELY.
  4. IF EQUIPMENT TRAVELS EXTENSIVELY ON UNSTABILIZED ROADS ON THE SITE, A TIRE AND VEHICLE UNDERCARRIAGE WASH NEAR THE ENTRANCE WILL BE NEEDED. PERFORM WASHING ON CRUSHED ROCK. WASH WATER WILL REQUIRE TREATMENT IN A SEDIMENT POND OR TRAP.

2 STABILIZED CONSTRUCTION ENTRANCE  
P-13 SCALE: NONE



1. ASPHALT CONSTRUCTION ENTRANCE 6 IN ASPHALT TREATED BASE (ATB).
2. 3 IN TRASH PUMP WITH FLOATS ON THE SUCTION HOSE.
3. MIDPOINT SPRAY NOZZLES, IF NEEDED.
4. 6 IN SEWER PIPE WITH BUTTERFLY VALVES. BOTTOM ONE IS A DRAIN. LOCATE TOP PIPE'S INVERT 1 FT ABOVE BOTTOM OF WHEEL WASH.
5. 8 FT X 8 FT SUMP WITH 5 FT OF CATCH. BUILD SO CAN BE CLEANED WITH TRACKHOE.
6. 6 IN ASPHALT CURB ON THE LOW ROAD SIDE TO DIRECT WATER BACK TO POND.
7. 6 IN SLEEVE UNDER ROAD.
8. BALL VALVES.
9. 15 FT ATB APRON TO PROTECT GROUND FROM SPLASHING WATER.

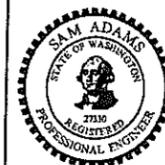
3 WHEEL WASH  
P-13 SCALE: NONE



4 ACCESS ROAD  
P-13 SCALE: NONE



1111 Main Street, Suite 300  
Vancouver, Washington 98660  
(360) 823-6100 FAX: (360) 823-6101



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PORTSIDE LAGOON & LANDFILL  
GRADING PLANS  
GRADING AND EROSION CONTROL DETAILS

DRAWING NO. P-13  
PROJECT NO. VAJDW-08-172  
DATE: 6/29/09  
SHEET NO. 13 OF 13

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MARK	REVISION DESCRIPTION	BY	APP.	DATE

**MEMORANDUM**

**DATE:** May 13, 2009  
**TO:** Gary Bickett, Program Manager, Clark County Public Health  
**FROM:** Sam Adams, PE, and Brian Carrico, AICP  
**RE:** **Portside Lagoon and Landfill**  
Project #VAJDW-08-172  
**CC:** Paul Christenson, Alan Park, and Mike Simon

---

This memorandum follows up on our meeting on March 6, 2009 to clarify some issues related to the Portside Lagoon and Landfill proposal.

**Issues**

- Clarify landfill disposal process
- Decommissioning existing test wells and private well

Two documents discuss the clarifier disposal process. One is the engineering document Rufener Landfill Closure Plan, dated December 31, 2008, and the other is a letter by GeoDesign Inc. (GeoDesign) dated January 13, 2009. For more information about the closure process, please see below.

**Closure Process*****Phase I Construction Demolition***

The area immediately north of the landfill will be cleared and grubbed of vegetation as recommended by GeoDesign. Clearing and grubbing will include the removal of the existing house and utilities and decommissioning the existing private well in accordance with state standards. Please refer to Rufener Landfill Closure Plan sheets P-6 and P-7, Portside Lagoon and Landfill Shorelines and Grading Application drawings G-6 and C-5. All unsuitable material will be disposed off-site at an approved landfill.

Once the area north of the landfill has been prepared (cleared/grubbed), landfill solids will be removed and transferred to that area. The landfill solids will be stockpiled to allow the material to dewater and dry to a moisture content of 3% plus or minus of optimum per laboratory testing. It is anticipated that stockpiling will not exceed a height of 10 feet. The drying process

Mr. Gary Bickett  
Re: Portside Lagoon and Landfill  
May 13, 2009  
Page 2

will depend on the weather. Next, the landfill will be decommissioned. This work includes the demolition and removal of trees, buildings, building components, equipment, pavement, other structures and the geotextile fabric and HDPE FML liner, and the decommissioning of 10 testing wells per state standards. Please refer to Rufener Landfill Closure Plan sheets P-5 and P-7, Portside Lagoon and Landfill Shorelines and Grading Application drawings G-5 and C-7.

After landfill demolition, the stockpiled landfill material will be blended with onsite soils and/or landfill berm soils. The blending process may include the addition of calcium chloride to help stabilize the expansive/contractive nature of the landfill solids. The exact process will be based on field observations and recommendations by GeoDesign to the owner. The landfill berm contains a layer of clay which was part of the landfill liner. Please see Rufener Landfill Closure Plan sheet C-7, detail 1 for a depiction of the landfill liner with the clay layer. This material is 24 inches thick and encloses the landfill's sides and bottom. This material will become part of the blending and fill material used on site.

#### ***Phase II Construction Demolition***

The blended landfill material will be spread over both the decommissioned landfill and the area north of the landfill. It is calculated that the blended material would be 18 inches deep if placed in one lift. However, the material will be placed and compacted in lifts between 9 and 12 inches or as recommended by GeoDesign.

Next, structural fill material will be imported to the site and placed over the blended material until the final elevation is obtained. The final elevation is roughly 2 feet above the 100-year floodplain.

#### ***Phase III Construction Demolition***

The final phase of demolition will be the removal of the lagoon. Demolition includes the removal of the liner, piping, and structures. All unsuitable material will be disposed off site at an approved landfill. The existing lagoon embankment material will be excavated and placed within the lagoon area as recommended by GeoDesign. The final process will be importing structural fill to the lagoon site and filling to roughly 2 feet above the 100-year floodplain. . Please refer to Rufener Landfill Closure Plan sheets P-5 and P-7, Portside Lagoon and Landfill Shorelines and Grading Application drawings G-4 and C-6.

Other demolition procedures will include obtaining an NPDES construction permit and implementing the approved erosion control plan.

Mr. Gary Bickett  
Re: Portside Lagoon and Landfill  
May 13, 2009  
Page 3

### **Decommissioning Existing Wells**

There are nine testing wells, one private well for domestic water to the existing house, and one private irrigation well. All wells will be decommissioned according to state standards.

### **Test Wells**

It is the intent of the owner to have water samples tested to WAC indicator levels. The test wells will need to be purged prior to sampling. This information will be forwarded to you as soon as it is available.

### **Understanding of Issues**

We understand the Solid Waste Advisory Committee (SWAC) will not be reviewing the permit deferral. Since SWAC is not reviewing this issue, this may be handled administratively by you and your department or potentially through the County Commissioners. You will be conferring with Bronson Potter regarding the best course for permit deferral authorization. **Note: This may have changed since our meeting on March 6, 2009.**

Retesting the landfill solids for dioxin levels will not be necessary. Past documentation of dioxin levels is sufficient and the owner does not need to supply more information. We appreciate not having to conduct more tests.

Thank you for your assistance. If you have questions, please call us at 360/823-6100.



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

**CERTIFIED MAIL**

7008 2810 00013939 9246

June 3, 2009

Mr. Gary Bickett  
Clark County Public Health  
Environmental Health Division  
P.O. Box 9825  
Vancouver, WA 98666-8825

RE: Portside Lagoon and Landfill LLC. Permit Deferral Application

Dear Mr. Bickett:

The Washington State Department of Ecology (Ecology) is in receipt of your letter dated April 28, 2009, which states that the Clark County Environmental Health Department (County) considers the application for solid waste permit deferral submitted on behalf of La Frambois Properties, LLC, (a.k.a. Portside Lagoon and Landfill LLC) to be complete. Initial discussion of a permit deferral has focused on Shoreline Conditional Use Permit 2009-SW-03482, issued by the City of Vancouver (City) and approved by Ecology on March 16, 2009. In addition to broader development activities, that permit addresses plans to decommission the Rufener Landfill by incorporating landfilled solids with imported fill material. The stated overall purpose of the proposal is to raise the property to a level 1-2 feet above the 100 year flood plain for industrial development.

This proposal is very unusual in that a request has been made to defer solid waste permitting for an activity that has no comparable standards in applicable solid waste regulations. For the existing facility, the closure and post closure standards of WAC 173-350-400 would typically apply. Current and past facility owners or permittees have not met their regulatory obligations to maintain financial assurance. Nor have they met their obligations to close the facility in accordance with the closure/post-closure plans approved during the original permitting process. Nevertheless, there is a need to bring resolution on decommissioning this facility and a proposal that local government appears to support has been put forward. Ecology cannot offer "concurrence" in the context of WAC 173-350-710(8), *Permit Deferral* but the department will not object if local parties conclude the proposal is an acceptable resolution to what has become a very protracted situation.

Ecology has reviewed available data characterizing solids placed in the landfill. Based on that data, the department does not believe the proposed activity poses significant risk to human health or the environment. Should excavation uncover wastes not identified in previous surveys, further consideration may be warranted. The project proponent takes full responsibility for the accuracy of the data provided as well as any potential liabilities if, in the future, it is determined that a release subject to the *Model Toxics Control Act* has occurred.



Mr. Gary Bickett  
June 3, 2009  
Page 2

Ecology recommends that measures be established to ensure all the terms of the shoreline permit issued by the City are met and the project is implemented and completed as described in associated documents.

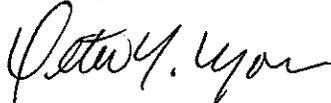
Ecology will defer to the City and County to determine how best to oversee this project. In addition, note that the following rules apply to decommissioning of the monitoring wells and domestic water wells located on-site.

- WAC 173-160-460 for resource protection wells (monitoring wells). (Contact Mike Gallagher in Ecology's Water Resources Program at (360) 407-6918)
- WAC 173-160-381 for drinking water wells. (Contact Joe Ellingson with Clark County Public Health at (360) 397-8428, ext 7251.)

We also encourage you to confirm with certainty what the implications are to the expiration of the management agreement between Portside Lagoon and Landfill, LLC and La Frambois Properties, LLC in 2011. Termination of this arrangement is referenced on page 1 of the permit deferral application attachments. This is particularly important in the context of the financial assurance required in the Shoreline Permit.

Please contact me at (360) 407-6381, if I can be of further assistance.

Sincerely,



Peter Y. Lyon  
Regional Section Manager  
Solid Waste and Financial Assistance Program

PYL:lm (p101/swfap)

cc: Brian Carlson, City of Vancouver  
Paul Christensen, La Frambois Properties, LLC  
Anita Largent, Clark County  
Bronson Potter, Clark County Prosecuting Attorney  
Chuck Matthews, Ecology Solid Waste and Financial Assistance Program  
Iloba Odum, Ecology, Vancouver Field Office  
Kim Van Zwalenburg, Ecology, SEA Program



MAR 23 2009

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

March 16, 2009

Portside Lagoon & Landfill, LLC  
1111 Main ST Ste 700  
Vancouver WA 98660

I certify that I mailed a copy of this document to the persons and addresses listed herein, postage prepaid, in a receptacle for United States mail in Lacey, Washington, on

March 18, 2009  
Signature Kimberly Nicholson

**Subject:** City of Vancouver Permit #SHL2008-00007  
PORTSIDE LAGOON & LANDFILL LLC - Applicant  
Shoreline Substantial Development and Conditional Use Permits  
# 2009-SW- 03482 - CONCURRENT FILING

Dear Applicant:

**Purpose:** Notification of Receipt of Concurrent Permit Filings and Approval of Conditional Use Permit

On 2/17/2009, the Department of Ecology received notice that City of Vancouver approved your application for a Substantial Development Permit and a Shoreline Conditional Use Permit. Your permit authorizes the placement of fill within the 100-year floodplain and development of a light industrial park consisting of 5 buildings and associated infrastructure. An existing industrial lagoon and landfill (associated with a former Boise Cascade mill) on a portion of the site will be removed. Work will occur within shoreline jurisdiction of Vancouver Lake/Columbia River (Chapter 90.58, RCW).

**Shoreline Substantial Development Permit:**

Before you begin activities authorized by this permit, the law requires you to wait at least 21 days from the date (2/17/2009) we received the decision letter from Vancouver. This waiting period allows anyone who may disagree with any aspect of this permit, including you, to appeal the decision to the state Shorelines Hearings Board.

You must wait for the conclusion of an appeal before you can begin the activities authorized by this permit. The appeal period ended March 10, 2009.

### **Shoreline Conditional Use Permit:**

By law, Ecology must review all Conditional Use Permits for compliance with the following:

- The Shoreline Management Act (Chapter 90.58 RCW)
- Ecology's Conditional Use Permit approval criteria (Chapter 173-27-160 WAC)
- The City of Vancouver Shoreline Master Program

After reviewing for compliance, Ecology must decide whether to approve, approve with conditions, or disapprove a Conditional Use Permit.

### **Our Decision:**

Ecology approves your Conditional Use Permit provided your project complies with the conditions required by City of Vancouver. **Please note that other federal, state, and local permits may be required in addition to this shoreline permit.**

### **What Happens Next?**

Before you begin activities authorized by this permit, the law requires you to wait at least 21 days from the mailing date of this letter (see certification above). This waiting period allows anyone (including you) who disagrees with any aspect of this permit, to appeal the decision to the state Shorelines Hearings Board. You must wait for the conclusion of an appeal before you can begin the activities authorized by this permit.

The Shorelines Hearings Board will notify you by letter if they receive an appeal. We recommend, however, you contact the Shorelines Hearings Board before you begin permit activities to ensure no appeal has been received. They can be reached at (360) 459-6327 or <http://www.eho.wa.gov>.

If **you** want to appeal this decision, you can find appeal instructions (Chapter 461-08 WAC) at the Shorelines Hearings Board website above. They are also posted on the website of the Washington State Legislature at: <http://apps.leg.wa.gov/wac>.

If you have any questions, please contact Kim Van Zwalenburg at (360) 407-6520.

Sincerely,



Perry J Lund, Unit Manager  
Shorelands and Environmental Assistance Program

PJL:KV:dn

cc: Jon Wagner, City of Vancouver  
Brian Carrico, BERGER/ABAM Engineering, Inc.

JAN 29 2009



P.O. Box 1995  
Vancouver, WA 98668-1995

[www.cityofvancouver.us](http://www.cityofvancouver.us)

January 28, 2009

Brian Carrico  
BERGER/ABAM Engineering, Inc.  
1111 Main St., Suite 300  
Vancouver, WA 98660

**PORTSIDE LAGOON AND LANDFILL  
PRJ2008-01104/SHL2008-00007**

Enclosed is a copy of the hearings examiner's decision and recommendation to the Department of Ecology for the above-named project.

Please note the hearings examiner's actions are final unless an appeal along with the required fee is filed in writing with the Planning Official of Development Review Services before **5 p.m., Wednesday, Feb. 11, 2009.**

Appeals may be submitted in person at the Customer Service Counter, 4400 N.E. 77th Ave., Suite L-50, Vancouver, or mailed to P.O. Box 1995, Vancouver, WA 98668.

Following the appeal period, the decision will be forwarded to the Department of Ecology for final approval. No development activities may take place until the Department of Ecology decision is issued and all appeal periods have expired.

If you have questions, I may be reached by telephone at 360-487-7885, or by e-mail at [jon.wagner@ci.vancouver.wa.us](mailto:jon.wagner@ci.vancouver.wa.us).

A handwritten signature in cursive script that reads "Jon Wagner".

**JON WAGNER, SENIOR PLANNER**  
Planning Review Team  
Development Review Services

c Michael Simon  
Parties of Record

Enclosure

**BEFORE THE LAND USE HEARING EXAMINER  
OF CITY OF VANCOUVER, WASHINGTON**

Regarding an application by Portside Lagoon and Landfill, ) **FINAL ORDER**  
LLC for shoreline substantial development and shoreline ) **PRJ2008-01104<sup>1</sup>**  
conditional use permits to prepare the property for light ) **(Portside Lagoon**  
industrial development in the City of Vancouver, Washington) **and Landfill)**

**A. SUMMARY**

1. Portside Lagoon and Landfill, LLC (the "applicant") requests approval of shoreline substantial development permits and shoreline conditional use permits to place fill within the 100-year flood plain to allow for the development of the subject property as light industrial as shown in the site development plan, Drawing Sheet C-1 of Exhibit 6, through a future site plan review approval. The site plan includes 5 buildings ranging in size from 85,200 to 302,400 square feet. The total building area proposed for the 5 buildings is 895,200 square feet. The development is proposed on a 43.05-acre property located northwest of the intersection of 26th Avenue and Northwest Lower River Road. The legal description of the property is Tax Lots 151957-002, 151959-000, 151963-000, 151969-000, 152372-004 and 151957-000, Sections 20 and 21 Township 2N, Range 1E of the Willamette Meridian (the "site"). The site and abutting properties to the north, south, southeast and west are zoned IL (Light Industrial). Properties to the northeast are zoned R-9 (Low Density Residential, 9 units per acre). The site is currently developed with a wastewater treatment lagoon and landfill containing wastewater treatment clarifier solids generated by Boise Cascade Corporation from 1989 through 1996. The applicant proposed to decommission the lagoon and landfill and fill the site to an elevation roughly two feet above the 100-year flood plain elevation for light industrial development. The applicant will incorporate the landfill material into the fill on the site.

2. Hearing Examiner Joe Turner (the "examiner ") conducted a public hearing to receive testimony and evidence about this application. City staff recommended approval of the application, subject to conditions of approval as amended at the hearing. See the Staff Report and Recommendation to the Hearing Examiner dated January 9, 2009 (the "Staff Report"). Representatives of the applicant testified in support of the application and accepted the findings and conditions in the Staff Report as amended without objections. A representative of the Fruit Valley Neighborhood association testified orally and in writing with questions and concerns about future industrial development on the site. Disputed issues or concerns in the case include the following:

a. Whether the proposal constitutes "speculative fill" that is prohibited by the Vancouver Shoreline Management Plan;

b. Whether and to what extent the proposed fill on the site will increase flood elevations in the area;

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<sup>1</sup> This application also includes Casefiles SHL2008-00007

c. Whether construction traffic will damage the existing levy east of the site;

d. Whether the potential impacts of industrial uses on the site are relevant to the approval criteria for this shoreline permit application;

e. Whether the site access and building heights are relevant to the approval criteria for this shoreline permit application; and

f. Whether the proposed fill and future industrial development pose a significant risk of air, water or ground contamination.

3. Based on the findings provided or incorporated herein, the examiner approves the application subject to the conditions at the conclusion of this final order.

#### **B. HEARING AND RECORD HIGHLIGHTS**

1. The examiner received testimony at the public hearing about this application on January 20, 2009. All exhibits and records of testimony are filed at the City of Vancouver. The examiner announced at the beginning of the hearing the rights of persons with an interest in the matter, including the right to request that the examiner continue the hearing or hold open the public record, the duty of those persons to testify and to raise all issues to preserve appeal rights and the manner in which the hearing will be conducted. The examiner disclaimed any *ex parte* contacts, bias or conflicts of interest. The following is a summary by the examiner of selected testimony and evidence offered at the public hearing.

2. City planner Jon Wagner summarized the Staff Report and the applicable standards, described the proposed development on the subject property and showed photos of the site.

a. He argued that the proposal does not constitute "speculative fill," which is prohibited by the Vancouver Shoreline Management Plan (the "VSMP"). Although the applicant has not applied for site plan approval at this time, the applicant submitted a site plan demonstrating how the applicant intends to develop the site. The shoreline permits include the proposed site plan. Therefore the applicant must develop the site consistent with this site plan or obtain City approval of an alteration of the shoreline permits through the City's post development review process. The applicant could potentially fill the site pursuant to the shoreline permits and not complete the site plan approval process. However the applicant could do the same even if the City approved the site plan simultaneously with the shoreline permits. The development schedule is dependant on market demand. The applicant must fill the site in order to develop it. With the exception of the berm around the lagoon, the entire site is below the 100-year flood plain elevation. In order to develop this site with light industrial uses the site must be filled to an elevation above the 100-year flood plain or the buildings on the site must be elevated above the flood plain or waterproofed, which would make deliveries and outdoor storage more difficult.

b. He noted that the proposed fill will not have a significant impact on the flood elevation in the area. If all of the IL zoned property in the area were filled to the same level as the site it would increase the 100-year flood plain elevation by 0.35 inches. The fill associated with this specific project would increase the 100-year flood event by 0.01 feet (0.08 inches). In addition, the fill on this site will act as a dike or levy, potentially providing additional protection of the adjacent Fruit Valley neighborhood to the east.

c. He noted that the Clark County Health Department concluded that incorporation of the existing landfill material into the fill on the site will not pose a significant risk to humans or the environment. Exhibit 24. Condition of approval 20 requires the applicant provide a financial guarantee ensuring the fill project will be completed in its entirety, and the landfill materials are completely covered, within the five-year term of the shoreline permit.

d. He opined that underground storage tanks on the site will not pose a hazard. Underground tanks may actually be safer than aboveground tanks, based on state regulations. Underground tanks up to 10,000 gallons are exempt from SEPA review pursuant to WAC 197-11-800(2)(g). Above ground tanks of 500 gallons or more are subject to SEPA. The Cadet site east of the site was contaminated with solvents due to improper disposal, not leaking storage tanks.

e. He noted that the buildings on the site will be subject to the 45-foot height limit of the IL zoning. However the buildings must be setback a minimum 50 feet from abutting residential zoned properties, which will reduce the visual impact of the buildings.

f. He requested the examiner modify condition 5 to clarify that mitigation is required for removal of the Oregon White Oak trees on the site.

g. He requested the examiner move condition of approval 4 to the "General Conditions for Future Development" section.

h. He noted that the state Department of Ecology ("DOE") has final approval authority over the shoreline conditional use permit and the use of the clarifier solids in the fill.

i. He testified that the dioxin levels on the site are well below the cleanup threshold for industrial sites. However they are very close to the cleanup threshold for residential sites. Therefore the site must remain in IL zoning. It cannot be developed for residential uses.

j. He requested the examiner modify condition 7 to require City review and approval of the documentation substantiating that use of the levee for construction equipment will not increase the risk of flooding of property east of the levee.

3. Planner Brian Carrico and attorney Michael Simon testified on behalf of the applicant, Portside Lagoon and Landfill, LLC. Mr. Carrico accepted the findings and conditions in the Staff Report, as amended, without objections. He submitted a letter responding to the DOE's concerns about speculative fill. Exhibit 26. Mr. Simon testified that the dioxin levels on the site are approximately 12 to 13 parts per trillion, well below the maximum allowable levels of 875 parts per trillion for industrial sites. DOE staff has no concerns about the dioxin levels on this site.

4. Lee McCallister, president of the Fruit Valley Neighborhood Association, testified with questions and concerns about the project. He expressed concerns with the potential impacts of future industrial development on the site. Groundwater in the area is only 25 feet below the surface and easily subject to contamination. He questioned whether the buildings will be designed to withstand earthquakes, as the soils in area are mapped for moderate to high risk of liquefaction during an earthquake. The prevailing winds in the area blow from the northwest and will carry noise, dust and odors from the site into the Fruit Valley neighborhood. He objected to the proposed access driveway in the southeast corner of the site due to noise and traffic impacts in close proximity to the residential neighborhood. The neighbors would prefer a driveway further west on Lower River Road.

5. The examiner closed the record at the end of the hearing and announced his intention to approve the applications subject to the conditions in the Staff Report, as modified at the hearing.

### C. DISCUSSION

1. City staff recommended approval of this application, based on the affirmative findings and subject to conditions of approval in the Staff Report, as modified at the hearing. The applicant accepted those findings and conditions as modified, without exceptions or corrections.

2. The examiner concludes the affirmative findings in the Staff Report show the proposed fill does or can comply with the applicable standards of the City Code, provided the applicant complies with recommended conditions of approval as modified. The examiner adopts the affirmative findings in the Staff Report as his own, except to the extent they are inconsistent with the following findings. The attached conditions include changes to the conditions of approval as discussed at the hearing.

3. The examiner finds that this project does not constitute speculative fill, which is prohibited by Policy 81 and Regulation 245 of the VSMP. Policy 81 provides:

*Fills should be permitted only when necessary for a specific development proposal that is permitted by this Master Program. They should be of the minimum size necessary to provide for the proposed use. Speculative fill activity should be prohibited. Fills waterward of the OHWM should be prohibited except in conjunction with a water-dependent or public access use when such fill is necessary and unavoidable and complies with all other policies and regulations of this Master Program.*

Regulation 245 provides:

*Fills shall be permitted only in conjunction with a permitted use, and shall be of the minimum size necessary to support that use. Speculative fills are prohibited.*

a. The proposed fill is necessary to accommodate the specific light industrial development proposed in the site plan, Drawing Sheet C-1 of Exhibit 6. The proposed light industrial development is a permitted use in the IL zone. Although the applicant did not request approval of the site plan as part of this application, the site plan is incorporated into this shoreline application. The applicant must develop the site consistent with the proposed site plan or obtain City approval of a modification of the shoreline permit through the City's post-decision review process. The Code does not require simultaneous approval of the site plan and shoreline permits.

b. The examiner finds that the proposed fill is the minimum necessary to accommodate light industrial development on this site. As the applicant noted, "the nature of light industrial development makes it infeasible to elevate only the building pads." Exhibit 26. There is no substantial evidence to the contrary.

c. No fill is proposed waterward of the OHWM.

4. The examiner finds that the proposed fill will not exacerbate flooding in the area. The applicant's Critical Areas Report demonstrates that the fill proposed on this site will increase the 100-year flood event by 0.01 feet (0.08 inches). If all of the IL zoned property in the area were filled to the same level as the site it would increase the 100-year flood plain elevation by 0.35 inches.<sup>2</sup> See Appendix B of Exhibit 8. This is consistent with VMC 20.740.120(C)(1)(a), which requires that the applicant demonstrate "[t]hat the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point." As Mr. Wagner noted, the fill on this site may function as a levy, blocking floodwaters from reaching the adjacent Fruit Valley Neighborhood.

5. The examiner finds that this project will not impact the existing levy that protects the Fruit Valley Neighborhood. The applicant is prohibited from using the levy access road unless and until the applicant provides engineering analysis demonstrating that use of the levy roadway by heavy truck traffic and other equipment used to place fill on the site will not damage the levy. See condition of approval 7. Once the project is completed the fill on the site will support and strengthen the portion of the levy abutting the site.

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<sup>2</sup> The Staff Report states that "[f]illing all lands within the flood plain in this area would increase the elevation of the 100-year flood event by 0.03 feet (0.36 inch)." P 66 of the Staff Report. This is a typographical error. The applicant's Critical Areas Report clearly states that the net rise is 0.35 inches. See p 2 of Appendix B of Exhibit 8.

6. The examiner finds that the proposed fill will not have prohibited impacts on existing views from the adjacent Fruit Valley Neighborhood. VSMP Regulation 32 provides:

*32 REGULATION:*

*As part of any Master Plan or proposal for structures over thirty-five (35) feet in height, an analysis of views from residences in areas adjoining the shoreline including view corridors, view profiles, and vertical profiles from various locations shall be submitted. The views and/or view corridors to be protected are perpendicular and at angles to the water and include those views from the residential areas adjoining the shoreline and those from within the site to the water.*

The proposed buildings will have a maximum height of 45 feet, the maximum allowed by the IL zone. Because the site is so far away from the shoreline, there are no views to the shoreline that would be affected by the development of the site. In addition, the buildings will be separated from the adjacent neighborhood. The closest residences are located to the east of the site in the Fruit Valley neighborhood, on the other side of the city wastewater treatment lagoon and the existing flood levy. The top of the lagoons and levy are higher than the adjacent residence and create a visual barrier that prevents views of the site and other adjacent shoreline areas. At the closest point, the eastern edge of the subject property is approximately 100 feet from the western boundary of the abutting Fruit Valley residential neighborhood. However the building in this portion of the site will be setback roughly 200 feet from the east boundary of the site, based on Drawing C-1 of Exhibit 6. The remaining buildings on the site will be roughly 800 feet from the adjacent neighborhood, separated by the existing city wastewater treatment lagoon. Given the significant separation between the buildings on the site and the adjacent neighborhood and the existing visual barrier created by the levy and treatment ponds, the examiner finds that industrial development on this site will not have a significant impact on existing views.

7. The Fruit Valley Neighborhood Association expressed concerns that industrial uses on this site may impact the adjacent residential neighborhood, due to noise, dust, odors etc. They also objected to the proposed access location in the southeast corner of the site.

They argued that the applicant should be required to shift the access further west on Lower River Road in order to reduce noise and other traffic impacts on the adjacent neighborhood. The examiner understands those concerns, but they are not relevant to the applicable approval criteria for the proposed fill. They may be relevant to the approval criteria for the site plan approval. The examiner encourages the neighborhood to raise those concerns during the future site plan review process. In addition, many of these impacts are regulated by local and state laws. However this site is zoned for light industrial development, which allows a wide variety of uses and activities. Some impacts can be expected from such uses.

8. The Fruit Valley Neighborhood Association also expressed concerns about existing and future contamination on the site.

a. The Clark County Health Department determined that the applicant's proposal to mix the existing landfill material on the site, wastewater treatment clarifier solids, with the fill imported to the site poses no significant threat to human health or the environment. See Exhibit 24. There is no substantial evidence to the contrary. The landfill material contains some dioxins. However the dioxin levels on the site are well below the permitted levels for industrial sites, based on recent testing. The applicant is required to conduct additional testing to confirm that dioxin levels are below standards for industrial zoned properties prior to undertaking any ground-disturbing activity on the site. See Condition 19.

b. No underground tanks are proposed at this time. However nothing in the Code prohibits the use of underground storage tanks. The examiner has no authority to regulate or prohibit the use of underground storage tanks on this site. Any underground tanks must be reviewed by the proper state and local authorities prior to installation.

c. Future development on the site will be required to comply with the City's stormwater ordinance, including any additional requirements for treatment of runoff from industrial sites. See VMC 14.25. The examiner has no authority to require that the applicant detain stormwater on this site as a condition of this shoreline permit approval.

9. This site is mapped as an area of moderate to high liquefaction susceptibility. However the applicant's geotechnical report concludes that the magnitude of liquefaction settlement in this area of Vancouver will not preclude development of the property. The report also states that once the type of development is determined, additional investigation should be completed to characterize the liquefaction hazard and to design appropriate measures to address liquefaction settlement, if necessary. The applicant is required to submit additional geotechnical investigation prior to issuance of building permits on the site and, if necessary, include appropriate measures to address liquefaction settlement in the design of any buildings on the site. See condition of approval 24.

#### **D. CONCLUSION**

Based on the findings and discussion provided or incorporated herein, the examiner concludes that PRJ2008-01104 and SHL2008-00007 (Portside Lagoon and Landfill) should be approved, because it does or can comply with the applicable standards of the Vancouver Municipal Code and the Revised Code of the State of Washington, subject to conditions of approval necessary to ensure the resulting development will comply with the Code. The proposed Shoreline Conditional Use Permit must be reviewed and approved by the proper state and federal agencies, in this instance, the Washington State Department of Ecology.

### **E. ORDER**

The Hearings Examiner recommends APPROVAL of the proposed Shoreline Conditional Use permit to the Department of Ecology subject to the conditions noted below.

The Hearings Examiner APPROVES File No. PRJ2008-01104 and SHL2008-00007 (Portside Lagoon and Landfill) Shoreline Substantial Development Permit subject to the following conditions of approval:

### **CONDITIONS OF APPROVAL**

#### **Shoreline-related Permit Approval**

1. **Decommissioning of the site's current infrastructure, including the landfill and lagoon, shall be the initial phase of the project in order for the entire 43-acre property to be utilized for the mixed material as part of the fill component.**

#### **Required Prior to Issuance of Grading Permit**

2. Receive Shoreline Approval from the Department of Ecology.
3. Obtain all other state, federal and local permits.
4. Provide a final mitigation plan for removal of the Oregon White Oak trees for approval by the planning official before any development, including grading and/or clearing begins.
5. The grading plan shall address the items suggested in section 3.2.3 page 8, Mitigation, of the JD White Critical Areas Report VAJDW-08-172 dated October 2008. The plan shall also address the items outlined in VMC 20.740.050.F Mitigation Plan Requirements.
6. Either revise the proposed construction entrance or provide documentation approved by the City substantiating that use of the levee for construction equipment will not increase the risk of flooding of property east of the levee. If such study indicates the potential for impacts could compromise the function of the levee, an alternative construction access will be required.
7. Provide a copy of a recorded covenant precluding all but emergency vehicles from having access to La Frambois Road.
8. Demonstrate the half- and full-width dimension of the proposed access road for the transport of fill material from SR 501/Northwest Lower River Road to the on-site road and where the construction entrance will be located. This road shall be constructed with a gravel surface to ensure dirt will not be tracked onto SR 501/Northwest Lower River Road.
9. Provide documentation showing access rights to the road from SR 501/Northwest Lower River Road to the on-site road east of this project.
10. Provide additional dedication of right of way to provide a total of 35 feet half-width right of way on La Frambois Road along the project's frontage.

11. Revise and re-submit the letter requesting the certificate of concurrency survey and traffic study based on the correct number of TAZ. This project is located within TAZ 39 and Vancouver TIF district area.
12. Revise and re-submit the safety analysis based on the new proposed access road located south of the project site.
13. Provide documentation documenting who is the responsible party(ies) for constructing the new alignment of 26th Avenue.
14. Provide the necessary right of way dedication for the new alignment of 26th Avenue.
15. Indicate mitigation for the addition of construction vehicles to the highway that may create an unsafe and uncomfortable environment for bicycle and pedestrian safety, which was stated on page 3-3 of the traffic study for staff review.
16. Pay the total Transportation Impact Fee due of \$6,616.40.
17. The applicant must provide the city and the Clark County Health District with test results from the on-site test wells confirming there are no groundwater impacts stemming from the landfill. Prior to commencing any ground-disturbing activity, the city and the CCHD must find the tests to be adequate and to confirm there are no impacts to the groundwater.
18. The applicant must provide professional testing results confirming that dioxin levels are below standards for industrial zoned properties. This must be reviewed and approved by the city and CCHD prior to commencing ground-disturbing activity.
19. Prior to commencing any ground-disturbing activity, the applicant must provide assurances that the fill project will be completed in its entirety within the five-year term of the shoreline permit. Such financial assurances must be acceptable to the city.
20. Prior to commencing any ground-disturbing activity, the applicant must provide the city engineering-based operation plan for review and approval. The plan shall include, as a minimum, the following:
  - a. Screening protocols, such as those currently instituted by the Port of Vancouver on the adjacent property, should be established to assure material coming in to the project adheres to grading permit standards.
  - b. The method and location where the material will be blended.
  - c. What the strata structure will be.
  - d. If a cap will be constructed, what it will look like.
  - e. The infrastructure (roads, utilities) that will be needed to complete the project.
  - f. A project time table from start to completion.
  - g. What the footprint will look like when completed.
  - h. Mixing ratios should be established taking into consideration minimal potential impact to human health or the environment. A minimum of 2-foot layers of the mixed material should be part of the plan.
21. Prior to commencing ground-disturbing activity, provide city staff with a copy of a recorded covenant indicating the site is to maintain its current zoning as light industrial.

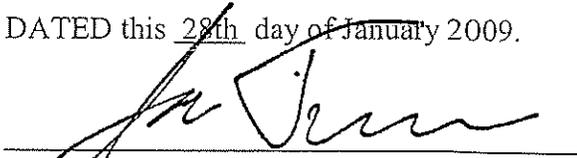
**During Construction**

22. Water mains shall be constructed within paved public rights of way or public easements.
23. A right of way permit is required for all work in the public right of way. When construction is to take place within a city of Vancouver or Clark County right of way, an approved traffic control plan is required prior to the start of construction.

**General Conditions for Future Development** - These are general comments and do not include all possible comments and conditions for the future development of this site.

24. Submit a complete geotechnical report meeting the requirements of VMC Title 17.
25. Site development is subject to shorelines and will continue to be subject to shoreline jurisdiction until such time as the site is fully developed.
26. BMPs will also be required for any future development of the site.
27. The applicant should remove pages C-8 through C-11 from the grading plan as the review for the utilities will be done with the industrial development of the parcels. For water quality and fire flow the proposed water main at the southwest corner must connect to the existing water main in Lower River Road.
28. The applicant shall provide payment of water System Development Charges, prior to the issuance of building permits.

DATED this 28th day of January 2009.

  
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Joe Turner, AICP  
City of Vancouver Hearing Examiner

**NOTE:** *Only the decision and the condition of approval are binding on the applicant as a result of this order. Other parts of the final order are explanatory, illustrative and/or descriptive. They may be requirements of local, state, or federal law, or requirements which reflect the intent of the applicant, the city staff, or the examiner, but they are not binding on the applicant as a result of the final order unless included as a condition.*

**APPEAL:** Decisions of the Hearings Examiner may be appealed to City Council. Any party with standing under Section 20.210.130(B) VMC may submit a written appeal to the planning official containing the items listed below.

1. The case number designated by the city and the name of the applicant;
2. The name and signature of each petitioner or their authorized representative and a statement showing that each petitioner has standing to file the appeal under this chapter. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative for all contact with the planning official. All contact with the planning official regarding the appeal, including notice, shall be with the contact representative;
3. The specific aspect(s) of the decision or determination being appealed, and the specific reasons why each aspect is in error as a matter of fact or law;
4. A statement demonstrating that the specific issues raised on appeal were raised during the period in which the record was open.
5. The appeal must be received no later than 14 calendar days after written notice of the decision is mailed.
6. The appeal fee is \$1,145.10 as per Chapter 20.180 VMC, Fees. The fee shall be refunded if the appellant requests withdrawal of the appeal in writing at least 14 calendar days before the scheduled appeal hearing date.



proud past, promising future

CLARK COUNTY  
WASHINGTON

**PUBLIC HEALTH**  
Environmental Public Health

January 23, 2009

Paul Christensen  
La Frambois Properties, LLC  
1111 Main Street, Suite 700  
Vancouver, WA 98660

Re: Rufener Landfill Permit

Mr. Christensen:

Enclosed please find the past due fees owed to Clark County Public Health (CCPH) for the Rufener Landfill Solid Waste Permit. Previous billings were sent to administrative headquarters of Boise Cascade, LLC, the waste generator and landfill permit holder, located in Boise, ID. However, since 2006, permit renewal notices have gone without response or payment. Your company, La Frambois, LLC, did submit payment for the 2006/07 permit, but as there was a dispute about legal responsibility at that time, we followed the advice of the Clark County Prosecuting Attorney to return that payment to you while we continued to bill Boise Cascade, LLC since they continued to be listed as the responsible party for assuring permitting, closure and post closure maintenance of this inactive landfill.

It now appears that La Frambois, dba Portside Lagoon & Landfill, has indeed assumed full ownership responsibilities. The company is currently in the process of acquiring a Shorelines/Conditional Use Permit through the City of Vancouver for property which includes the landfill footprint and, simultaneously, has submitted an application to CCPH for solid waste permit deferral. Before that application can be reviewed and an opinion issued, the account needs to be taken out of delinquency status by payment in full for the three years when it should have been permitted. Therefore, the permit invoices are enclosed for reimbursement. If you do not believe that these are your responsibility, you can certainly negotiate with Boise Cascade, LLC, but the account must be made current before we review any plans for use or decommissioning.

Please note that given your willingness to make a payment in 2006, which we were not at the time able to accept, we have elected to adjust off all outstanding interest and late fee charges, totaling \$2,416. Only the 2006-2009 permit fees are being billed, per the attached invoices, for a total of \$16,935 due. Note that the difference between the 2006 fee and those from subsequent years was due to a fee reduction by Clark County Public Health. Please contact me at 397-8160 if you have any questions or concerns regarding this issue.

Sincerely,

Gary Bickett  
Clark County Public Health

C: Prosecuting Attorney

# LANDERHOLM, MEMOVICH, LANSVERK & WHITESIDES, P.S.

ATTORNEYS AT LAW

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Michael Simon

January 13, 2009

**RECEIVED**

JAN 13 2009

CCHD Initials MS

**VIA HAND DELIVERY**

Mr. Gary Bickett  
Environmental Public Health  
1601 E. Fourth Plain Boulevard, 3<sup>rd</sup> Floor  
Vancouver, WA 98661

**Re: Portside Lagoon & Landfill**

Dear Gary:

Please accept the attached materials as our Application for a Deferral Permit for the Portside Lagoon & Landfill, also known as the Ruefner Landfill. I have enclosed two copies of the Application and supporting materials, including the City of Vancouver's Staff Report on the Shoreline Substantial Development Permit. We have a hearing on that matter on January 20<sup>th</sup>. The Staff recommends approval of the Shoreline Substantial Development Permit.

We look forward to working with you on this matter.

Sincerely,

LANDERHOLM, MEMOVICH,  
LANSVERK & WHITESIDES, P.S.



MICHAEL SIMON

MS/lng

Enclosures

cc: Portside Lagoon & Landfill

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LANDERHOLM, MEMOVICH, LANSVERK & WHITESIDES, P.S.

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December 2, 2008

*VIA E-MAIL*

Senator Craig Pridemore  
([Pridemore.Craig@leg.wa.gov](mailto:Pridemore.Craig@leg.wa.gov))

Representative Bill Fromhold  
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Paul Christensen ([pec@realvestcorp.com](mailto:pec@realvestcorp.com))

Alan Park ([alan\\_park@comcast.net](mailto:alan_park@comcast.net))

**Re: Portside Lagoon & Landfill—December 8, 2008 Meeting**

Thank you for agreeing to meet with us on this important discussion about the future of the Portside Landfill. The Hough Foundation is the owner of the landfill and a local community charity planning to provide contributions to many local charitable groups when a profit is made from the Landfill and adjacent properties. For the past six years, The Hough Foundation has worked to develop the property first as a construction-demolition landfill and now as a light industrial development. The hope is still that the property can be developed and profits contributed to the local charities. Developing the property and getting rid of the landfill would also add industrial zoned property to the community, provide the opportunity for hundreds of jobs, and get rid of a land-wasting landfill.

The goal of this letter is to review the alternatives that have been proposed for handling the clarifier solids that are in the landfill. Two of these, closing the landfill in place and trucking the clarifier solids to another landfill will not be discussed because they do not contribute to the goal

of closing the landfill in a manner that will result in a profit to The Hough Foundation and therefore to the local charities.<sup>1</sup>

### **Project Description**

The Hough Foundation plans to remove the approximate 80,000 cubic yards of clarifier solids from the Landfill and use it as a base fill on the entire 43.5 acre site for future industrial uses. This project will raise the site to an elevation of at least one foot above the 100-year floodplain. The project will demolish all the structures and the Lagoon now on site. Once they have been removed, the existing material on the site would be reworked and sufficient fill material imported from approved outside sources to raise the site to match the adjoining property being filled by the Port of Vancouver. The site requires fill to provide a stable foundation above the 100-year floodplain for future industrial uses. Preliminary estimates indicate that approximately 375,000 cubic yards of imported fill will be necessary to raise the site to an elevation at least one foot above the 100-year floodplain.

Future uses would be consistent with the City's light industrial zoning use table. (VMC 20.440.030-1)

### **Assumptions**

For the purposes of this discussion, we will assume two things regarding the clarifier solids' chemical content and physical properties.

First, the chemical content of the clarifier solids has been adequately characterized. The clarifier solids do not contain any chemicals that are harmful to the environment or to human health if they remain in an industrial zoned property. As part of any plan on using the clarifier solids on site, The Hough Foundation will execute a covenant to retain the industrial zoning of the property.

Second, the physical properties of the clarifier solids are such that they are structurally stable to be used as fill on the property. *See* the attached report from GeoTech Engineers.

Assuming the two above assumptions are correct, the clarifier solids can be used as fill for the project if we can agree on a permit process to remove it from the landfill and then to close the landfill.

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<sup>1</sup> If the clarifier solids were removed, it would cost over \$2,000,000 to truck it to the closest available landfill which is 41 miles away. This effort would take 1,463 round trips totaling 122,850 miles and using over 19,000 gallons of diesel fuel to complete. We would also require the importation of an additional roughly 80,000 cubic yards of material to replace the clarifier solids lost by removal. Closing the Landfill in place would cost approximately three million dollars.

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## Discussions

Our discussions have included the following possibilities to remove the clarifier solids from the Landfill and use it as fill for the project.

1. Beneficial Use Determination. The Hough Foundation has applied for a Beneficial Use Determination ("BUD") as "an effective substitute for natural or commercial products, in a manner that does not pose a threat to human health or the environment." The Department of Ecology ("DOE") does not agree that the BUD can be issued using this definition of a Beneficial Use but instead an applicant has to show that the material adds agronomic value to the property where the material would be added.

For the purposes of our meeting, this is an issue that is off the table because if an alternative can be agreed upon, the BUD process will be abandoned.

2. Shorelines Application. The Hough Foundation has already applied for a Shorelines Substantial Development Permit with the City of Vancouver. This Application is being processed and a hearing is set for January 20, 2009. As of now, the City of Vancouver expects to issue a DNS on the proposal, finding that the project will not create a probable significant adverse environmental impact.

As part of the SEPA Checklist under 7--Environmental Health, the City was provided with the information that the dioxin level was an average of approximately 12.5 parts per trillion ("ppt"). The City was not advised that in the Summer of 2007, an end cap came off of a pipe in the fluid containment system for the Landfill and liquid spilled onto an adjoining piece of property. This material was tested by the Health Department and the Department of Ecology and found to be harmless. If the City needs documentation about any of these tests, we need to know that as soon as possible and know what effect submitting additional materials will have on the hearing set for January.

The City of Vancouver is the lead agency for the Shorelines Permit.

After the hearing and the Hearing Examiner's decision on the Shoreline Permit, whether the permit is approved or denied, certain information must be mailed to the DOE and the Washington State Attorney General.

The Hearing Examiner's decision can be appealed to the City Council. (SMMP, p. 163), a decision of the City Council can be appealed to the Superior Court within 30 days of the date the City Council makes the decision. Pursuant to RCW 90.58.180, any person aggrieved by the granting, denying or rescinding of a permit on Shorelines of the State, may appeal to the Shorelines Hearing Board by filing a petition for review within 21 days of the date of filing the decision. The DOE or the Attorney General may also obtain review of a final decision granting

or denying an application for a permit issued by local government by filing a written petition with the Shorelines Hearing Board within 21 days from the date the final decision was filed.

The Hough Foundation would like to hear from the DOE and the Attorney General if, given what they know now, they would appeal a favorable decision on the Shorelines Substantial Development Permit.

3. Grading Permit. A grading permit will also be required for the earth movement proposed on the property. The same issues apply to the grading permit as apply to the Shorelines Permit.
4. Variance. A variance "from any section of this chapter", is allowed by WAC 173-350-710(7). The variance may be granted if the local health department finds that the solid waste handling practices or location do not endanger public health, safety or the environment; and compliance with the section from which a variance is sought would produce hardship without equal or greater benefits to the public. The variance can only be approved with the written concurrence of the DOE.

An advantage to the variance and permit deferral actions are that the Health Department can consider the "relative interests of the applicant, other owners of property likely to be affected by the handling practices and the general public." WAC 173-350-710(7)(b). Under these guidelines, the Health Department can consider more general benefits to the public than can be considered in the BUD application. So it's possible that as part of the application, considerations such as job creation, more beneficial use of property within the City, development of industrial zoned lands, etc. can be considered. These same "general welfare" considerations are also available under the permit deferral.

5. Permit Deferral. This is governed by WAC 173-350-710(8). The local Health Department may, with the concurrence of the DOE "waive the requirement that a solid waste permit be issued for a facility under this chapter by deferring to other air, water or environmental permits issued for the facility which provide an equivalent or superior level of environmental protection." The permit deferral process provides specific information to guide the Health Department's decision. Among these are a demonstration that identifies each requirement of the chapter and a detailed description of how the other environmental permits will provide an equivalent or superior level of environmental protection and evidence of compliance with Chapter 197-11 WAC, SEPA rules.

Under this process, the proposal is to identify the Shoreline Permit process as the "other environmental permits" which will provide an equivalent or superior level of environmental protection. The permit deferral would allow the Health Department to view the Shoreline Permit process as a process providing equivalent or superior environmental protection, accept the

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Shoreline Permit as the means to remove the clarifier solids from the Landfill, and then we could proceed with decommissioning the Landfill.

Clark County Code Chapters 24.12 and 24.16 provide for the creation of the Solid Waste Advisory Committee and solid waste management. CCC 24.12.090 provides the process for issuing permits to operate new or existing solid waste handling facilities. Once an application is filed, the Health Officer sends copies to the County Planning and Code Administration and Public Works Departments, the DOE, the Department of Natural Resources, the Solid Waste Advisory Commission and any other appropriate city, county, state or federal agency. CCC 24.12.110 allows the SWAC to recommend approval or disapproval of the application but (2) notes that these recommendations "shall be advisory only." CCC 24.12.120 specifically provides that the Health Department determines whether or not to issue the permit. Very curiously, CCC 24.12.160(1) provides that once the Health Department denies or suspends a permit, it shall, upon request of the applicant or holder of the permit, grant an open record appeal hearing on such denial or suspension before the health officer." There is no provision for a hearing granting the permit. The appeal is heard before the Health Officer or at his or her discretion, to a Hearing Examiner to work with the Health Officer. CCC 24.12.200 provides that except for actions which must be appealed to the Department of Ecology, "any person aggrieved by any final determination or action taken by the Jurisdictional Board of Health or a hearing examiner shall be entitled to appeal said final action or determination to the Superior Court of Clark County by writ of review within thirty (30) days of said final action or determination."

Among the issues to be decided with the variance or deferral are whether that process can begin while the Shoreline Permit is pending. Our reading of the variance and deferral sections of the WAC is that the two can run concurrently. Of course, neither the variance nor the deferral permits could be issued until after the Shoreline Permit was issued but pending the issuance, the County could work on the information provided with the Shorelines Permit and any other information it requested to prepare for a decision on the variance or deferral permits.

### Conclusion

The Hough Foundation is looking for a process to deal with the clarifier solids and the closure of the Landfill while satisfying the needs of the various governmental entities involved. We look forward to your input to help resolve this matter and give direction to The Hough Foundation to accomplish this.

Sincerely,

LANDERHOLM, MEMOVICH,  
LANSVERK & WHITESIDES, P.S.

  
MICHAEL SIMON

MS/lng

Enclosure

173-350-700 << 173-350-710 >> 173-350-715

**WAC 173-350-710**  
**Permit application and issuance.**

Agency filings affecting this section

*(1) Permit application process.*

(a) Any owner or operator required to obtain a permit shall apply for a permit from the jurisdictional health department. All permit application filings shall include two copies of the application. An application shall not be considered complete by the jurisdictional health department until the information required under WAC 173-350-715 has been submitted.

(b) The jurisdictional health department may establish reasonable fees for permits, permit modifications, and renewal of permits. All permit fees collected by the health department shall be deposited in the account from which the health department's operating expenses are paid.

(c) Once the jurisdictional health department determines that an application for a permit is complete, it shall:

(i) Refer one copy to the appropriate regional office of the department for review and comment;

(ii) Investigate every application to determine whether the facilities meet all applicable laws and regulations, conform to the approved comprehensive solid waste management plan and/or the approved hazardous waste management plan, and comply with all zoning requirements; and

(d) Once the department has received a complete application for review, it shall:

(i) Ensure that the proposed site or facility conforms with all applicable laws and regulations including the minimum functional standards for solid waste handling;

(ii) Ensure that the proposed site or facility conforms to the approved comprehensive solid waste management plan and/or the approved hazardous waste management plan; and

(iii) Recommend for or against the issuance of each permit by the jurisdictional health department within forty-five days of receipt of a complete application.

(e) Application procedures for statewide beneficial use exemptions and permit deferrals are contained in WAC 173-350-200 and 173-350-710(8), respectively.

*(2) Permit issuance.*

(a) When the jurisdictional health department has evaluated all pertinent information, it may issue or deny a permit. Every solid waste permit application shall be approved or disapproved within ninety days after its receipt by the jurisdictional health department. Every permit issued by a jurisdictional health department shall contain specific requirements necessary for the proper operation of the permitted site or facility.

(b) Every permit issued shall be valid for a period not to exceed five years at the discretion of the jurisdictional health department.

(c) Jurisdictional health departments shall file all issued permits with the appropriate regional office of the department no more than seven days after the date of issuance.

(d) The department shall review the permit in accordance with RCW 70.95.185 and report its findings to the jurisdictional health department in writing within thirty days of permit issuance.

(e) The jurisdictional health department is authorized to issue one permit for a location where multiple solid waste handling activities occur, provided all activities meet the applicable requirements of this chapter.

*(3) Permit renewals.*

(a) Prior to renewing a permit, the health department shall conduct a review as it deems necessary to ensure that the solid waste handling facility or facilities located on the site continue to:

(i) Meet the solid waste handling standards of the department;

(ii) Comply with applicable local regulations; and

(iii) Conform to the approved solid waste management plan and/or the approved hazardous waste management plan.

(b) A jurisdictional health department shall approve or deny a permit renewal within forty-five days of conducting its review.

(c) Every permit renewal shall be valid for a period not to exceed five years at the discretion of the jurisdictional health department.

(d) The department shall review the renewal in accordance with RCW 70.95.190 and report its findings to the jurisdictional health department in writing.

(e) The jurisdictional board of health may establish reasonable fees for permits reviewed under this section. All permit fees collected by the health department shall be deposited in the treasury and to the account from which the health department's operating expenses are paid.

(4) *Permit modifications.* Any significant change to the operation, design, capacity, performance or monitoring of a permitted facility may require a modification to the permit. The following procedures shall be followed by an owner or operator prior to making any change in facility operation, design, performance or monitoring:

(a) The facility owner or operator shall consult with the jurisdictional health department regarding the need for a permit modification;

(b) The jurisdictional health department shall determine whether the proposed modification is significant. Upon such a determination, the owner or operator shall make application for a permit modification, using the process outlined in subsections (1) through (3) of this section; and

(c) If a proposed change is determined to not be significant and not require a modification to the permit, the department shall be notified.

(5) *Inspections.*

(a) At a minimum, annual inspections of all permitted solid waste facilities shall be performed by the jurisdictional health department, unless otherwise specified in this chapter.

(b) All facilities and sites shall be physically inspected prior to issuing a permit, permit renewal or permit modification.

(c) Any duly authorized representative of the jurisdictional health department may enter and inspect any property, premises or place at any reasonable time for the purpose of determining compliance with this chapter, and relevant laws and regulations. Findings shall be recorded and kept on file. A copy of the inspection report or annual summary shall be furnished to the site operator.

(6) *Permit suspension and appeals.*

(a) Any permit for a solid waste handling facility shall be subject to suspension at any time the jurisdictional health department determines that the site or the solid waste handling facility is being operated in violation of this chapter.

(b) Whenever the jurisdictional health department denies a permit or suspends a permit for a solid waste handling facility, it shall:

(i) Upon request of the applicant or holder of the permit, grant a hearing on such denial or suspension within thirty days after the request;

(ii) Provide notice of the hearing to all interested parties including the county or city having jurisdiction over the site and the department; and

(iii) Within thirty days after the hearing, notify the applicant or the holder of the permit in writing of the determination and the reasons therefore. Any party aggrieved by such determination may appeal to the pollution control hearings board by filing with the board a notice of appeal within thirty days after receipt of notice of the determination of the health officer.

(c) If the jurisdictional health department denies a permit renewal or suspends a permit for an operating waste recycling facility that receives waste from more than one city or county, and the applicant or holder of the permit requests a hearing or files an appeal under this section, the permit denial or suspension shall not be effective until the completion of the appeal process under this section, unless the jurisdictional health department declares that continued operation of the waste recycling facility poses a very probable threat to human health and the environment.

(d) Procedures for appealing beneficial use exemption determinations are contained in WAC 173-350-200 (5)(g).

(7) *Variances.*

(a) Any person who owns or operates a solid waste handling facility subject to a solid waste permit under WAC 173-350-700, may apply to the jurisdictional health department for a variance from any section of this chapter. No variance shall be granted for requirements specific to chapter 70.95 RCW, Solid waste management -- Reduction and recycling. The application shall be accompanied by such information as the jurisdictional health department may require. The jurisdictional health department may grant such variance, but only

after due notice or a public hearing if requested, if it finds that:

- (i) The solid waste handling practices or location do not endanger public health, safety or the environment; and
  - (ii) Compliance with the section from which variance is sought would produce hardship without equal or greater benefits to the public.
- (b) No variance shall be granted pursuant to this section until the jurisdictional health department has considered the relative interests of the applicant, other owners of property likely to be affected by the handling practices and the general public.
- (c) Any variance or renewal shall be granted within the requirements of subsections (1) through (3) of this section and for time period and conditions consistent with the reasons therefore, and within the following limitations:
- (i) If the variance is granted on the grounds that there is no practicable means known or available for the adequate prevention, abatement, or control of pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available and subject to the taking of any substitute or alternative measures that the jurisdictional health department may prescribe;
  - (ii) The jurisdictional health department may grant a variance conditioned by a timetable if:
    - (A) Compliance with this chapter will require spreading of costs over a considerable time period; and
    - (B) The timetable is for a period that is needed to comply with the chapter.
  - (d) An application for a variance, or for the renewal thereof, submitted to the jurisdictional health department shall be approved or disapproved by the jurisdictional health department within ninety days of receipt unless the applicant and the jurisdictional health department agree to a continuance.
  - (e) No variance shall be granted by a jurisdictional health department except with the approval and written concurrence of the department prior to action on the variance by the jurisdictional health department.

(8) *Permit deferral.*

- (a) A jurisdictional health department may, at its discretion and with the concurrence of the department, waive the requirement that a solid waste permit be issued for a facility under this chapter by deferring to other air, water or environmental permits issued for the facility which provide an equivalent or superior level of environmental protection.
- (b) The requirement to obtain a solid waste permit from the jurisdictional health department shall not be waived for any transfer station, landfill, or incinerator that receives municipal solid waste destined for final disposal.
- (c) Any deferral of permitting or regulation of a solid waste facility granted by the department or a jurisdictional health department prior to June 11, 1998, shall remain valid and shall not be affected by this subsection.
- (d) Any person who owns or operates an applicable solid waste handling facility subject to obtaining a solid waste permit may apply to the jurisdictional health department for permit deferral. Two copies of an application for permit deferral shall be signed by the owner or operator and submitted to the jurisdictional health department. Each application for permit deferral shall include:
  - (i) A description of the solid waste handling units for which the facility is requesting deferral;
  - (ii) A list of the other environmental permits issued for the facility;
  - (iii) A demonstration that identifies each requirement of this chapter and a detailed description of how the other environmental permits will provide an equivalent or superior level of environmental protection;
  - (iv) Evidence that the facility is in conformance with the approved comprehensive solid waste management plan and/or the approved hazardous waste management plan;
  - (v) Evidence of compliance with chapter 197-11 WAC, SEPA rules; and
  - (vi) Other information that the jurisdictional health department or the department may require.
- (e) The jurisdictional health department shall notify the applicant if it elects not to waive the requirement that a solid waste permit be issued for a facility under this chapter. If the jurisdictional health department elects to proceed with permit deferral, it shall:
  - (i) Forward one copy of the complete application to the department for review;
  - (ii) Notify the permit issuing authority for the other environmental permits described in (d)(ii) of this subsection and allow an opportunity

comment; and

- (iii) Determine if the proposed permit deferral provides an equivalent or superior level of environmental protection.
- (f) The department shall provide a written report of its findings to the jurisdictional health department and recommend for or against the permit deferral. The department shall provide its findings within forty-five days of receipt of a complete permit deferral application or inform the jurisdictional health department as to the status with a schedule for its determination.
- (g) No solid waste permit deferral shall be effective unless the department has provided written concurrence. All requirements for solid waste permitting shall remain in effect until the department has provided written concurrence.
- (h) When the jurisdictional health department has evaluated all information, it shall provide written notification to the applicant and the department whether or not it elects to waive the requirement that a solid waste permit be issued for a facility under this chapter by deferring to other environmental permits issued for the facility. Every complete permit deferral application shall be approved or denied within ninety days after its receipt by the jurisdictional health department or the owner or operator shall be informed as to the status of the application with a schedule for final determination.
- (i) The jurisdictional health department shall revoke any permit deferral if it or the department determines that the other environmental permits are providing a lower level of environmental protection than a solid waste permit. Jurisdictional health departments shall notify the facility's owner or operator of intent to revoke the permit deferral and direct the owner or operator to take measures necessary to protect human health and the environment and to comply with the permit requirements of this chapter.
- (j) Facilities which are operating under the deferral of solid waste permitting to other environmental permits shall:
  - (i) Allow the jurisdictional health department, at any reasonable time, to inspect the solid waste handling units which have been granted a permit deferral;
  - (ii) Notify the jurisdictional health department and the department whenever changes are made to the other environmental permits identified in (d)(ii) of this subsection. This notification shall include a detailed description of how the changes will affect the facility's operation and a demonstration, as described in (d)(iii) of this subsection, that the amended permits continue to provide an equivalent or superior level of environmental protection to the deferred solid waste permits. If the amended permits no longer provide an equivalent or superior level of environmental protection, the facility owner or operator shall close the solid waste handling unit or apply for a permit from jurisdictional health department;
  - (iii) Notify the jurisdictional health department and the department within seven days of discovery of any violation of, or failure to comply with, the conditions of the other environmental permits identified in (d)(ii) of this subsection;
  - (iv) Prepare and submit a copy of an annual report to the jurisdictional health department and the department by April 1st as required under the appropriate annual reporting section of this chapter;
  - (v) Operate in accordance with any other written conditions that the jurisdictional health department deems appropriate; and
  - (vi) Shall take any measures deemed necessary by the jurisdictional health department when the permit deferral has been revoked.

[Statutory Authority: Chapter 70.95 RCW. 03-03-043 (Order 99-24), § 173-350-710, filed 1/10/03, effective 2/10/03.]



Required or Existing Permits at the Facility Site					
Type of permit (check box)	Consider for deferral	Need to Obtain	Existing Permit		
			Regulating Authority	Permit #	Expiration Date
<input checked="" type="checkbox"/> NPDES permit		X			
<input type="checkbox"/> Biosolids permit					
<input type="checkbox"/> State waste discharge permit					
<input type="checkbox"/> Conditional use permit					
<input checked="" type="checkbox"/> Stormwater permit		X			
<input type="checkbox"/> Hydraulic permit					
<input type="checkbox"/> DNR Surface mining permit					
<input type="checkbox"/> Flood control permit					
<input type="checkbox"/> Fire permit					
<input type="checkbox"/> Wetlands permit					
<input type="checkbox"/> Air operating permit					
<input type="checkbox"/> DNR Forest Practices					
<input checked="" type="checkbox"/> Other Shoreline Conditional Use Permit		X			
<input checked="" type="checkbox"/> Other Grading Permit		X			

Addition Information Required
<input type="checkbox"/> Attach a demonstration that identifies each applicable requirement of chapter 173-350 WAC and a detailed description of how the other environmental permits will provide an equivalent or superior level of environmental protection.
<input type="checkbox"/> Attach evidence that the facility is in conformance with the approved comprehensive solid waste management plan and/or the approved hazardous waste management plan.
<input type="checkbox"/> Attach evidence of compliance with chapter 197-11 WAC, SEPA rules (SEPA checklist and Determination of Non-Significance)
<input type="checkbox"/> Attach other information that the jurisdictional health department or the Department of Ecology has required in accordance with WAC 173-350-710 (8)(d)(vi).

**Signature and Verification of Applicant** (Refer to WAC 173-350.715(3) for appropriate evidence of authority)

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this application and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Paul E. Christensen  
(Applicant's Signature - printed)

manager  
(Title)

[Signature]  
(Applicant's Signature)

Jan. 5, 2009  
(Date)

**Notary Public Verification**

State of Washington

County of Clack

Signed or attested before me on

by

ROBIN E. BRADFORD  
NOTARY PUBLIC  
STATE OF WASHINGTON  
COMMISSION EXPIRES  
JANUARY 31, 2012

Robin E. Bradford  
(Signature)

My appointment expires:

Jan. 31, 2012  
(Date)

**SOLID WASTE PERMIT DEFERRAL  
RUFENER LANDFILL**

**December 2008**

***Applicant:***  
**Portside Lagoon & Landfill LLC**  
**1111 Main Street, Suite 700**  
**Vancouver, Washington 98660**  
**(360) 694-6000**



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## 1.0 INTRODUCTION/SUMMARY

The Rufener landfill was established in 1989 by the Boise Cascade Paper Group to dispose of clarifier solids generated by its paper mill located on the Vancouver waterfront, and was permitted as a limited-purpose landfill to accept primary clarifier fiber solids. Boise Cascade ceased generating waste in April 1996 when the manufacturing facility closed. The property has since been transferred to La Frambois Properties, LLC. A management agreement has been established that gives Portside Lagoon and Landfill LLC (PLL) complete management authority over the property until 2011.

PLL intends to develop the landfill and the adjacent lagoon and farmland as industrial property. In order to develop the property, PLL is proposing to mix material from the landfill with incoming soil and use the mixture as fill throughout the site. To use the materials as intended, PLL is requesting the approval of an Application for Deferral of Solid Waste Permit according to WAC 173-350-710(8).

This narrative is intended meet the requirements of WAC 173-350-710(8) and to supplement the land use application package submitted to the City of Vancouver (City), which included applications for the following permits:

- Shoreline Conditional Use Permit (SCUP)
- Shoreline Substantial Development Permit (SSDP)
- SEPA Review
- Critical Areas Permit
- Frequently Flooded Areas
- Geologic Hazard Areas
- Level 5 Tree Plan
- Archaeological Review
- Grading Permit

The existing landfill received an SSDP/SCUP (File CC-200-88) from Clark County in November 1988. The shoreline permit authorized the filling of the entire site (except for the lagoon) in 10-acre phases to a height of approximately 40 feet msl, approximately 13 feet above the 100-year flood elevation, and reclamation of the site to agricultural use.

## 2.0 PROJECT LOCATION

The site is located at 2600 and 3210 NW Lower River Road just northwest of the intersection of NW Lower River Road and W 26th Avenue. The site is located within the City's corporate limits. The landfill is located on tax parcel 151957-002 and the project also includes tax parcels 151959-000, 151963-000, 151969-000, and 152372-004. The site is located in the NW and SW Quarters of Section 21, the NE Quarter of Section 20, and the SW Quarter of Section 16, in Township 2, Range 1 East of the Willamette Meridian.

### 3.0 LANDFILL DESCRIPTION

The landfill was created solely to dispose of clarifier solids created as a byproduct of the paper manufacturing process. The project was approved in three cells. Only the first cell was constructed and received materials. The material in the landfill is homogeneous pulp sludge waste (approximately half clay and half wood fibers) and includes kaolinite clay, calcium carbonate, and cellulose fibers. There is an estimated 78,000 cubic yards (CY) of material within the landfill. Earthen berms contain the landfill, which includes a 2-foot thick bentonite and high-density polyethylene (HDPE) liner system and a leachate collection system.

The materials in the landfill contain low levels of dioxins as result of the paper bleaching process. The levels within the samples are within the range authorized by the Washington Department of Ecology for industrial activity of 875 parts per trillion (ppt). As indicated in the SEPA checklist, the dioxin levels range from 20.54 to 11.90 ppt with an average of 12.5ppt, less than 1.5% of the acceptable level.

### 4.0 OPERATIONS PLAN

The landfill will be closed by removing the clarifier solids, mixing them with imported fill, and using the mixture throughout the north portion of the project site. The operations plan covers the following:

1. Preparing the site to receive fill material from the existing landfill and imported structural fill material.
2. Placement of the clarifier solids contained in the landfill.
3. Placement of the imported structural fill.
4. Demolition of the existing landfill
5. Demolition of the existing lagoon and structures

The closure will proceed in two phases described as follows:

#### Phase 1

1. Clear and grub, strip and prepare the fill area as recommended by the ★ GeoDesign, Inc. (GDI) geotechnical report.
2. Excavate landfill solids and spread over fill area. Aerate solids to dry within 3% of optimum moisture content.
3. Mitigate expansive properties of solids based on field observations and testing as recommended by the GDI report. Based on their effectiveness, these measures can include:
  - a. Blending onsite soils with solids at various ratios by methods approved by GDI.
  - b. Treating solids with calcium chloride at 2% by weight, or as approved by GDI.
4. Remove landfill liners, remove piping or crush and abandon in place, and remove structures per drawing G-5. Dispose offsite in approved landfill.
5. Excavate landfill berms and bentonite liner to use as blending material for solids prior to compacting as embankment.

**Phase 2**

1. Excavate blended, treated solids and embankment from fill area in 11-acre former landfill area.
2. Place blended solids in 9- to 12-inch lifts to a depth of 18 inches.
3. All embankment work to be monitored by GDI. Follow GDI recommendations during embankment operations to mitigate potential expansive soils concerns with blended solids.
4. Imported structural fill can be placed on either the landfill area or the fill area per GDI recommendations.

Following completion of the work, no long-term maintenance or monitoring will be necessary beyond confirming compaction and settlement of the fill.

**5.0 ADDITIONAL INFORMATION**

**5.1 Compliance with WAC**

The landfill deferral application requires the applicant to identify each applicable requirement of WAC 173-350. As a limited purpose landfill, the operations are governed by the overall performance standards of WAC 173-350-040 and the specific standards of WAC 173-350-400.

**5.1.1 WAC 173-350-040**

WAC 173-350-040 requires the operators of solid waste facilities to:

- (1) Design, construct, operate, and close all facilities in a manner that does not pose a threat to human health or the environment;
- (2) Comply with chapter 90.48 RCW, Water pollution control and implementing regulations, including chapter 173-200 WAC, Water quality standards for ground waters of the state of Washington;
- (3) Conform to the approved local comprehensive solid waste management plan prepared in accordance with chapter 70.95 RCW, Solid waste management -- Reduction and recycling, and/or the local hazardous waste management plan prepared in accordance with chapter 70.105 RCW, Hazardous waste management;
- (4) Not cause any violation of emission standards or ambient air quality standards at the property boundary of any facility and comply with chapter 70.94 RCW, Washington Clean Air Act; and
- (5) Comply with all other applicable local, state, and federal laws and regulations.

Field Code Changed

The proposed method of closure is consistent with these standards as indicated below.

- (1) The nature of the landfill materials and the method of disposal will not pose a threat to human health or the environment. As indicated above, the landfill material consists primarily of kaolinite clay, calcium carbonate, and cellulose fibers, which pose no health hazards. Dioxin levels present in the materials are below the established limit for industrial use and will be covered by 4 to 8 feet of fill material.
- (2) The landfill materials will not be placed in areas of existing surface or groundwater and will not be directly exposed to precipitation events. There is some potential that

the landfill materials will be exposed to water resulting from precipitation events moving through the soil matrix to the level of the former landfill materials. Dioxin is only slightly water-soluble, would not be picked up by any migrating groundwater, and would not pose a pollution hazard.

- (3) The current Clark County Solid Waste Management Plan specifically discusses paper mill wastes and notes that they are handled outside the public waste stream. The plan indicates that the County should continue to support private sector handling and encourage efforts to minimize landfilling and increase composting and recycling efforts.<sup>1</sup> The efforts of PLL to close the landfill, reuse the materials on site, and redevelop the site with beneficial uses is consistent with the plan.
- (4) The project will create no emissions with the exception of those associated with the fossil fuel powered equipment necessary to conduct the work and the potential for dust. Appropriate BMPs will be employed to keep dust generation to a minimum.
- (5) The permitting process at the local level will ensure compliance with applicable standards.

#### 5.1.2 WAC 173-350-400

In addition to the general requirements listed above, WAC 173-350-400 (6) contains detailed standards for the closure of limited purpose landfills. Because this project is not a typical closure process, many of the specific standards do not apply to this project. The sections that do apply are listed below.

- (6)(a) The facility, or any portion thereof, shall close in a manner that:
  - (i) Minimizes the need for further maintenance;
  - (ii) Controls, minimizes, or eliminates threats to human health and the environment from post-closure escape of solid waste constituents, leachate, landfill gases, contaminated runoff, or waste decomposition products to the ground, ground water, surface water, and the atmosphere; and
- (d) The owner or operator shall develop, keep, and abide by a closure plan approved by the jurisdictional health department as part of the permitting process. At a minimum, the closure plan shall include the following information:
  - (i) A description of the final closure cover, designed in accordance with subsection (3)(e) of this section, the methods and procedures to be used to install the closure cover, sources of borrow materials for the closure cover, and a schedule or description of the time required for completing closure activities;
- (e) The owner or operator shall submit final engineering closure plans, in accordance with the approved closure plan and all approved amendments, for review, comment, and approval by the jurisdictional health department.

The planned method of closure meets the intent of these specific standards as follows:

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<sup>1</sup> Clark County Solid Waste Management Plan 2000, p. 7.

- 6(a)(i) The planned method of closure would eliminate any long-term maintenance needs by integrating the landfill materials with earthen fill throughout the project site.
- 6(a)(ii) The nature of the landfill materials and the method of closure eliminate the potential for decomposition and the negative impacts resulting from it. The bulk of the landfill material is inorganic and will not decompose.
- 6(d)(i) The method of closure does not include a typical cover. As indicated above, the existing materials in the landfill will be used as an initial fill layer on the industrial site. It will be mixed or treated and then covered with between 4 and 8 feet of earthen fill. The initial fill work will be completed over a period of two to three months after project approval.
- 6(e) Engineering plans are attached and signed by a licensed engineer.

WAC 173-350-400 (7) contains detailed post-closure requirements for limited purpose landfills. Because this project does not entail a typical closure, most of the specific standards do not apply to this project. The majority of the requirements establish long-term monitoring and maintenance programs. Because the landfill materials and method of closure eliminate the hazards posed by the landfill, a long-term monitoring program is not needed.

## **5.2 Clark County Solid Waste Management Plan**

See section 5.1 above for a discussion of how the project is consistent with the current Clark County solid waste management plan.

## **5.3 SEPA Compliance**

As lead agency under SEPA, the City issued an Optional SEPA Determination of Nonsignificance for the project on November 12, 2008. Under the optional SEPA process used by the City, the SEPA determination will be finalized with the land use approval process consistent with VMC 20.790.230.

## **6.0 CONCLUSION**

The Rufener landfill was permitted as a limited purpose landfill and accepted only a limited waste stream from Boise Cascade. The proposed method of closure is appropriate to the type and nature of the landfill material and protects the public health, safety, and welfare while allowing reuse of the property as a permitted industrial use.



## Staff Report and Recommendation to the Hearings Examiner

**Project Name** Portside Lagoon and Landfill  
PRJ2008-01104/SHL2008-00007

**Report Date** January 9, 2009

**Hearing Date** January 20, 2009

**Proposal** The applicant is requesting shoreline substantial development permits and shoreline conditional use permits to allow for the development of the subject property as light industrial. The proposal includes 5 buildings ranging in size from 85,200 to 302,400 square feet. The total building area proposed for the 5 buildings is 895,200 square feet.

The applicant has also requested approval of a grading and fill permit to allow the site to be filled to an elevation that is approximately 2 feet above the 100-year flood event. The applicant has chosen not to apply for the site plan and related permits associated with the ultimate development of the site at this time.

The Shoreline Conditional Use permit requires a Type III review process.

**Location** Northwest of the intersection of 26th Avenue and Northwest Lower River Road, Tax Lots 151957-002, 151959-000, 151963-000, 151969-000, 152372-004 and 151957-000 located in the NW and SW ¼ of Sec 21, T2N, R1E, NE ¼ of Sec 20, T2N, R1E and SW ¼ of Sec 16, T2N, R1E of the Willamette Meridian

**Contact** Brian Carrico  
BERGER/ABAM Engineering, Inc.  
1111 Main Street, Suite 300  
Vancouver, WA 98660  
360-823-6100

**Applicant** Portside Lagoon & Landfill, LLC  
1111 Main Street, Suite 700  
Vancouver, WA 98660  
360-695-6000

**Property Owner** La Frambois Properties, LLC  
1111 Main Street, Suite 700  
Vancouver, WA 98660

**Staff**

**Recommendation** Approval of the Shoreline Substantial Development permits with conditions, and recommendation to the Department of Ecology for approval of the Shoreline Conditional Use permits with conditions, associated with this development.

Staff also recommends approval of the grading permit subject to conditions contained at the conclusion of this report.

**Staff**

Jon Wagner, Senior Planner/Case Manager  
Lloyd Handlos, Environmental Planner  
Debi Davis-Turman, Engineering Technician II, Water  
Aaron A. Odegard, Civil Engineer, Sewer  
Mike Swanson, Civil Engineer, Surface Water  
Mahsa Eshghi, Associate Civil Engineer, Transportation  
Jen Patrick, Engineering Technician, Transportation  
John Gentry, Lead Deputy Fire Marshal  
Jeri Newbold, Plans Examiner

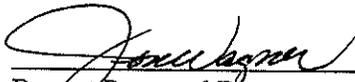
**APPEAL**

This report to the hearings examiner is a recommendation from Development Review Services. The examiner may adopt, modify or reject this recommendation. The examiner will render a written decision within ten (10) working days after the public hearing. The hearings examiner's decision may be appealed to the Vancouver City Council within fourteen (14) calendar days after the date the examiner's decision is mailed. Appeals must be made in writing and be received within this time period. The letter of appeal shall state the case number designated by the city and the name of the applicant, name and signature of each petitioner, a statement showing that each petitioner is entitled to file the appeal under VMC Chapter 20.210.130.B, the specific aspect(s) of the decision and/or SEPA issue being appealed, the reasons each aspect is in error as a matter of fact or law, and the evidence relied upon to prove the error (VMC 20.210.130.A).

A fee of \$1,000 must accompany the appeal. However, if the aggrieved party is a recognized neighborhood association, the fee assessed is \$75.

Submit the appeal request and fee to Development Review Services, Customer Service Counter, 4400 N.E. 77th Ave., Ste. L-50, or mail to P.O. Box 1995, Vancouver, WA 98668-1995.

For questions or additional information, you may contact the case manager by telephone at 360-487-7885, or by e-mail at [jon.wagner@ci.vancouver.wa.us](mailto:jon.wagner@ci.vancouver.wa.us).



Report Prepared By  
Jon Wagner, Senior Planner/Case Manager

1/08/09

Date



Chad Eiken, Manager  
Planning Review Team

1/8/09

Date

## BACKGROUND

### Project Summary/Key Issues

The applicant is requesting shoreline substantial development permits and shoreline conditional use permits to allow for the development of the subject property as light industrial. The applicant has also requested approval of a grading and fill permit to allow the site to be filled to an elevation that is approximately 2 feet above the 100-year flood event. The applicant has chosen not to apply for the site plan and related permits associated with the ultimate development of the site at this time.

The applicant has provided a plan for the development that indicates the proposed ultimate build-out of the site including building layouts, parking, streets, landscaping, etc.

### General Site Information

Zoning District	IL
Adjacent Zoning Designation	GW to the north; IL to the north, northeast and east; R-9 to the east and IH
Comprehensive Plan Designation	IND
Parcel Size	43.05 acres
Adjacent Land Uses	Residential to the east
Access Roads	Lower River Road (26th Avenue at some future date)
Existing Vegetation	Trees, grasses, shrubs
Existing Structures	Two houses with out buildings
Topography	Rolling
Habitats of Local Importance	Priority Species
Fish and Wildlife Habitat Conservation Areas	Mapping indicators
Frequently Flooded Areas	Flood Fringe
Geological Hazard Areas	No mapping indicator (Site Class C)
Wetlands	Indicators
Shoreline Management Areas	Yes, Shorelines-of-statewide-significance
Archaeology	Priority Level A
Drainage Basin	Columbia Slope
Wellhead Protection	No mapping indicators
Soils	Non-Hydric / SmA Non-Hydric / HIA Non-Hydric / HoA Hydric / MIA
Park Impact Fee District	No. 1
School Impact Fee District	Vancouver
Impacted Schools	Fruit Valley Elementary, Discovery Middle, and Hudson's Bay High
Traffic Impact Fee District	Vancouver
Traffic Impact Overlay	None
Transportation Analysis Zones	39
Sewer District	Vancouver
Water District	Vancouver
Fire Service	Vancouver
Neighborhood Association	Fruit Valley

### Procedural History

Activity	Case	Date
Annexation - Ordinance	M-2900	10/02/1990
Pre-application conference	PAC2008-00062	07/24/2008
Application submitted	SHL2008-00007	10/09/2008
Application determined fully complete	SHL2008-00007	10/30/2008
Date of vesting	PAC2008-00062	07/24/2008
Notice of application and notice of public hearing	SHL2008-00007	11/12/2008
SEPA determination: DNS	SEP2008-00053	12/19/2008
Other permits/cases	ARC2008-00039 CAP2008-00043 ENG2008-00130 GRD2008-00115 TRE2008-00126	10/09/2008 10/09/2008 10/09/2008 10/09/2008 10/09/2008
Hearing Date	SHL2008-00007	01/20/2009

### APPLICABLE REGULATIONS

#### Vancouver Municipal Code

VMC Chapters 11.80 Street Standards; 11.90 Transportation; 11.95 Transportation Concurrency; 14.04 Water and Sewer Use Regulations; 14.16 Water and Sewer Service Connections; 14.24 Erosion Control; 14.25 Stormwater Control; 16.04.160 Water Supply and Fire Hydrants; 16.04.150 Fire Apparatus Access; 16.04.170 through 16.04.210 Fire Protection Systems; 16.04.010 Premises Identification; 20.210 Decision-Making Procedures; 20.710 Archaeological Resource Protection; 20.740 Critical Areas Protection; 20.760 Shoreline Management, 20.770 Tree Conservation; 20.790 SEPA; and 20.950 Impact Fees.

#### Public Works Publications

General Requirements & Details for Water Main Construction  
General Requirements & Details for Sewer Main Construction

#### Other

RCW 58.17  
Manual on Uniform Traffic Control Devices (MUTCD)

## ANALYSIS

### **Major Issues**

Staff reviewed the proposal for compliance with applicable regulations, code criteria and standards in order to determine whether all potential impacts will be mitigated by the requirements of the code. Staff's recommendation reflects review of agency and public comments received during the comment period and knowledge gained from a site visit.

Only the major issues, errors in the development proposal and/or justification for any conditions of approval are discussed below. Staff finds that all other aspects of this proposed development comply with the applicable code requirements and require no discussion in this report.

Building code review is not performed during pre-application or site plan review. Filing of building permit application with required fees and review materials is required for a building code review.

## FINDINGS

### **Land Use**

#### **20.210 Decision-Making Procedures**

**Finding:** The Shoreline Conditional Use application is reviewed as a Type III per Table 20.210-1. As indicated in VMC 20.210.020.D, when more than one application is submitted for a given development and those applications are subject to different types of procedure, all the applications are subject to the highest type of procedure that applies to any of the applications.

Staff issued the required notices and posting. The application will be considered at a public hearing before the hearings examiner Jan. 20, 2009.

**Conclusion:** The application has been processed under the appropriate type of procedure.

### **Zoning Districts**

#### **20.440 Industrial Districts**

**Finding:** The applicant has not requested site plan review approval as part of this application. The request under consideration in this application is for Shoreline-related permit approvals for the entire development and approvals relating to grading/fill, archaeology and trees.

The site is located in an IL zone. Staff has reviewed the development plan contained in the shoreline permit application to assure the proposal can comply with the IL district standards when the applicant does request site plan review approval.

Per Table 20.440.030-1, the offices and industrial uses proposed by the applicant in the shoreline permit narrative are permitted outright in the IL zone. Further, manufacturing and production uses are permitted subject to NAICS Table 20.440-2.

## 20.440.040 Development Standards

STANDARD	IL	Indicated
Minimum Lot Size	None	43.5 acres
Maximum Lot Coverage	75%	47%
Minimum Lot Width	None	1,225'
Minimum Lot Depth	None	525'
Minimum Setbacks		
-- Front (Lower River Rd.)	25'	Not indicated**
-- Side Street (NW 26th Ave.)	10'	40'
-- Through/side (La Frambois )	10'	48'
-- Rear	0	25'
Maximum Height	45' <sup>2</sup>	45'
Minimum Landscaping Requirement (percentage of total net area)	10%	28%

\*\* Setbacks are measured from the right of way line or the back of the sidewalk, or sidewalk easement.

<sup>2</sup>Or greater, if set back 1 foot from property line for every additional 2 feet of height. See 20.440.040(C)(1)(b) for additional standards.

Compliance with these standards will be reviewed at the time of application for site plan.

**Conclusion:** The applicant has demonstrated the proposal can comply with the dimensional requirements of the IL zone. Compliance must be demonstrated during the site plan review process.

### Environmental

#### **20.710 Archaeological Resource Protection**

**Finding:** This project is located within an area of high probability for discovery of archaeological resources. An archaeological cultural resource survey was prepared by Ron Adams, PhD and John L Fagan PhD, R.P.A. of Archaeological Investigations Northwest. The report dated Oct. 1, 2008, was reviewed and recommended for approval by the city's contract archaeologist, Robert A. Freed, M.A., Nov. 10, 2008. Staff accepted the recommendation Dec. 11, 2008.

**Conclusion:** The applicant has met the requirements of 20.710.

#### **20.740 Critical Areas Protection**

The following sections describe how the application meets applicable approval criteria and performance standards of the Critical Areas Ordinance.

#### 20.740.110 Fish and Wildlife Habitat Conservation Areas

*Priority Habitats and areas associated with Priority Species as identified by the Washington Department of Fish and Wildlife. Final designations shall be based upon-site conditions and other available data or information.*

**Finding:** The applicant submitted a critical areas report entitled Portside Lagoon and Landfill, Critical Areas Report, prepared by JD White, a division of BERGER/ABAM dated October 2008. The report concluded the site was not used by wintering waterfowl to any extent due to the lack of appropriate habitat. The report indicated there are two oak trees on the site that could provide some habitat value. However, authors noted they did not observe any significant use of these trees, likely due to the adjacent agricultural and industrial uses. They also concluded that due to the zoning and likelihood of future development, the trees were unlikely to see increased use in the future; this proposal is to fill the site to prepare it for industrial development which would further isolate the trees if they were to be retained.

Due to the low value of the habitat and the low potential for future habitat use this project can meet the intent of the Critical Areas Ordinance by providing compensation primarily for the loss of the oak habitat.

#### 20.740.120 Frequently Flooded Areas

*Frequently Flooded Areas are the Areas of Special Flood Hazards identified by the Federal Insurance Administration and the Federal Emergency Management Agency and identified in The Flood Insurance Study for the City of Vancouver, Washington, and the Flood Insurance Study for Clark County, Washington. Frequently Flooded Areas include lands within the floodway and the flood fringe. Final designations shall be based upon-site conditions and other data or information.*

*Encroachments, including fill, new construction, replacement structures, substantial improvements and other development shall be prohibited unless a qualified professional provides certification demonstrating that the proposed project would not result in a net loss of flood storage capacity.*

**Finding:** In Appendix B of the JD White-prepared Critical Areas Report, the applicant provided calculations demonstrating the potential rise within the Vancouver Lake and Lake River flood plain would be 0.01 feet (0.08 inches). Cumulatively, including the Port of Vancouver projects within the area, the total potential fill will raise the base elevation less than 0.03 feet (0.35 inches). The ordinance states that "In areas where the base flood elevation has been provided (Zones A1-30, AE, AH, or AO), but a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted, unless the applicant has demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than on foot at any point."

This site is within an area where the regulatory floodway has not been designated. The site is shown on Flood Insurance Rate Map Panel 290 of 475, Community-Panel Number 530024 0290C revised Aug. 19, 1986.

The cumulative rise of 0.03 feet meets this requirement and the proposal therefore meets the standards for Frequently Flooded areas.

Additionally, the Flood Insurance Rate Map indicates the levee along the western portion of the Fruit Valley Homes subdivision offers flood protection to the residential area during a 100-year flood event.

Based on this information, staff has determined that as a condition of approval, the applicant shall **either revise the proposed construction entrance or provide documentation substantiating that use of the levee for construction equipment will not increase the risk of flooding of property east of the levee. If such study indicates the potential for impacts could compromise the function of the levee, an alternative construction access will be required.**

#### 20.740.130 Geologic Hazard Areas

*Geologic Hazard Areas include the Seismic hazards of Liquefaction and Ground Shaking Amplification where final designations shall be based upon-site conditions and other available data or information.*

**Finding:** The JD White report included a geotechnical evaluation of the site prepared by Geo Design Inc. In the report dated Oct. 8, 2008, Geo Design Inc. states that in their opinion, the magnitude of liquefaction settlement in this area of Vancouver will not preclude development of the property. They also state that once the type of development is determined, additional investigation should be completed to characterize the liquefaction hazard and to design appropriate measures to address liquefaction settlement, if necessary.

For this proposal to fill the site liquefaction will have no impact on the development. However, it will be the applicant's responsibility to provide further study when the final development is proposed.

**As a condition of approval, prior to the approval of any permits associated with structures, a complete geotechnical report meeting the requirements of VMC Title 17 shall be submitted to the city for review.**

#### 20.740.140 Wetlands

*Wetlands are those areas, designated in accordance with the Washington State Wetland Identification and Delineation Manual that are inundated or saturated by water at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions.*

**Finding:** JD White staff reviewed the site and found there were no wetlands on-site. The wetland provisions of the Critical Areas Protection Ordinance are not applicable to this site.

#### 20.740.060 Approval Criteria

*Any activity subject to this Chapter, unless otherwise provided for in this Chapter, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria. The City may condition the proposed activity as necessary to mitigate impacts to critical areas and their buffers and to conform to the standards required by this Chapter. Activities shall protect the functions of the critical areas and buffers on the site.*

- A. Avoid Impacts. *The Applicant shall first seek to avoid all impacts that degrade the functions and values of a critical area. This may necessitate redesign of the proposal.*

**Staff response:**

Wetlands – No wetlands were identified on the site.

Fish and Wildlife Habitat Conservation Areas - The function of the over-wintering habitat was found to basically be nonexistent. The two oak trees, which could be determined to be Priority Habitat, did not demonstrate significant use by wildlife, probably due to isolation by surrounding land uses. This low-function habitat is essentially avoided except for the oak tree. Mitigation for the trees is required in the conditions of approval.

Frequently Flooded Areas - The site is zoned IL; however, in its current condition is unusable for industrial development as the entire site is below the 100-year flood level. For development to occur, the critical areas cannot be completely avoided. The applicant has provided data demonstrating that even though not avoided, the level of rise is within ordinance requirements.

Grading in an area of liquefaction is not impacted; however, when the final development is determined a complete geotechnical report will be required.

- B. Minimize Impacts. *Where avoidance is not feasible, the applicant shall minimize the impact of the activity and mitigate to the extent necessary to achieve the activity's purpose and the purpose of this ordinance. The applicant shall seek to minimize the fragmentation of the resource to the greatest extent possible.*

**Staff response:**

Fish and Wildlife Habitat Conservation Areas - The applicant has demonstrated there will be no loss of function as the habitat values are very low and filling the site will not increase flood levels to above the allowable levels. Retaining the two oak trees would further isolate them from use as habitat and their removal and use as enhancement along with other plantings could potentially enhance their habitat functions.

Frequently Flooded Areas - No impacts are anticipated.

- C. Compensatory Mitigation. *The applicant shall compensate for unavoidable impacts by replacing each of the affected functions to the extent feasible. The compensatory mitigation shall be designed to achieve the functions as soon as practicable. Compensatory mitigation shall be in-kind and on-site, when feasible, and sufficient to maintain the functions of the critical area, and to prevent risk from a hazard posed by a critical area to a development or by a development to a critical area.*

**Staff response:** The applicant is not proposing compensatory mitigation for the over wintering habitat; they did, however, suggest some possibilities for the mitigation for removal of the oak trees. The city is requiring the applicant to provide a final mitigation plan as part of approval.

- D. No Net Loss. The proposal protects the critical area functions and values and results in no net loss of critical area functions and values.

**Staff response:**

Fish and Wildlife Habitat Conservation Areas - The applicant has demonstrated there will be no loss of wetland function or flood storage function. The city is requiring that a mitigation plan for the removal of the oak trees be submitted before final approval will be granted. With an approved mitigation plan, there should be no loss of functions and values.

**As a condition of approval, the applicant shall provide a final mitigation plan for approval by the planning official before any development, including grading and/or clearing, begins.**

**The plan shall address the items suggested in section 3.2.3 page 8, Mitigation, of the JD White Critical Areas Report VAJDW-08-172 dated October 2008. The plan shall also address the items outlined in VMC 20.740.050.F Mitigation Plan Requirements.**

- E. Consistency with General Purposes. *The proposal is consistent with the general purposes of this Chapter and does not pose a significant threat to public health, safety, or welfare on or off the development site.*

**Staff response:** This proposal is consistent with the General Purposes of this chapter and does not pose a significant threat to public health, safety, or welfare on or off the development site.

F. Performance Standards. *The proposal meets the specific performance standards of VMC 20.740.110 Fish and Wildlife Habitat Conservation Areas, VMC 20.740.120 Frequently Flooded Areas, VMC 20.740.130 Geologic Hazard Areas and VMC 20.740.140 Wetlands.*

**Staff response:** The specific standards for of each of the above sections are met or can be met by this proposal.

**Conclusion:** The applicant has demonstrated the proposal can comply with the applicable provisions of 20.710, subject to the conditions of approval indicated above.

### **20.760 Shoreline Management**

**Finding:** The site is located within the shoreline jurisdiction of Vancouver Lake. With the exception of the lagoon, the entire site is within Upland Urban High-Intensity Environment. The lagoon area is not indicated as being within the shoreline jurisdiction because it is separated from the 100-year flood plain by a berm. The narrative indicates the berm will be regarded and the site leveled prior to filling the area. Removal of the berm will put the lagoon area within shoreline jurisdiction, as the elevation will be below the 100-year flood plain. In this area, the definition of the shoreline jurisdiction includes all lands within the landward extent of the 100-year flood plain. This could also impact the ability of the berm to afford flood protection to the Fruit Valley Homes subdivision.

The ultimate proposal is for development of light industrial uses on the entire site. The components include fill, utility construction, transportation improvements, parking, and construction of the industrial buildings. The applicant has provided a narrative addressing the Vancouver Shoreline Management Master Program, which is attached as Exhibit 5.

Per the Use Table in Chapter 7 of the Vancouver Shoreline Management Master Program, uses/activities proposed are allowed either as a Shoreline Substantial Development Permit or by a Shoreline Conditional Use Permit.

The following table indicates each use/activity, the shoreline environment in which the use or activity is proposed, and the types of shoreline permits required.

<b>Use/Activity</b>	<b>Environment</b>	<b>Permitted by</b>
Stormwater Management	Upland Urban High-Intensity	Substantial Development Permit
Industrial Development	Upland Urban High-Intensity	Substantial Development Permit
Parking - Accessory	Upland Urban High-Intensity	Substantial Development Permit
Landfill	Upland Urban High-Intensity	Shoreline Conditional Use Permit
Utility Extensions	Upland Urban High-Intensity	Shoreline Conditional Use Permit
Transportation	Upland Urban High-Intensity	Substantial Development Permit

The applicant is requesting Shoreline Substantial Development Permits and Shoreline Conditional Use permits for all the above-listed activities.

The Vancouver Shoreline Management Master Program sets forth Policies and Regulations governing each of the activities/uses proposed. At the pre-application conference, staff identified the applicable Policies and Regulations applicable to this project. The following sections state the applicable Policy or Regulation, followed by the applicant's response and that in turn, is followed by staff's response.

The overall conclusions regarding compliance with the provisions of the Vancouver Shoreline Management Master Program is located at the end of Shoreline Management section of the staff report.

## Interpretation

### *1 POLICY:*

*All shoreline uses and modification activities should further the intent of the Shoreline Management Act and related federal, state, and local statutes and ordinances.*

### *1 REGULATION:*

*All shoreline uses and modification activities including those that do not require a Shoreline Substantial Development Permit shall (a) further the intent of the goals and policies of this Master Program; and (b) fulfill the requirements of all applicable sections of this Master Program as well as any other applicable federal, state, or local statutes ordinances, or codes. A Critical Areas Permit shall be required for all lands, all land uses, clearing and development activity, and all structures and facilities located within a critical area or buffer or on a site containing a critical area or buffer pursuant to VMC 20.740, Critical Areas Protection. Any required Critical Areas Permit shall be obtained prior to undertaking a regulated development or activity.*

### *1a REGULATION:*

*All shoreline uses and modification activities including those that do not require a Shoreline Substantial Development Permit proposed on properties containing one or more critical areas or critical area buffers shall be subject to the requirements of R16a and R16b and all other policies and regulations of this master program requiring no net loss of critical area functions and avoidance of impacts to critical areas and their buffers prior to minimization and mitigation. Proposals on properties not containing critical areas or critical area buffers shall be designed and implemented in a manner that will minimize and mitigate environmental impacts and result in no net loss of offsite critical area functions (e.g. will not cause offsite or downstream erosion or degradation of habitat, etc.).*

## Applicant's Response

The intent of the SMA is to protect the shoreline environment and public rights to the shoreline, and determine appropriate shoreline uses. The proposed project and associated shoreline modification activities fulfill the intent of these goals, the policies and requirements of the SMMP, and all applicable federal, state, and local statutes, ordinances, and codes.

The permits obtained for the project will show compliance with other city regulations. Applications for Shoreline Conditional Use Permit, Critical Areas Permit, and a SEPA checklist are being prepared as part of this application.

## Staff Response

During the review process, staff determines if the applicant has shown the proposal meets and furthers the intent of the goals and policies of this Master Program; and fulfills the requirements of all applicable sections of this Master Program as well as any other applicable federal, state, or local statutes ordinances, or codes. Also, compliance with the Critical Areas Protection provisions is reviewed as part of the process.

## 2 POLICY:

*Shoreline modification activities, with the exception of restoration, rehabilitation, stabilization, and enhancement projects, should be permitted only in association with a permitted shoreline use. Restoration, rehabilitation, and enhancement projects should be strongly encouraged.*

## 2 REGULATION:

*Shoreline modification activities shall not be permitted unless they meet the following two conditions: (1) They are necessary to support a legally existing or approved shoreline use; and (2) They fulfill all the requirements of the applicable sections of this Shoreline Management Master Program; PROVIDED that shoreline restoration, rehabilitation, and enhancement projects which only meet the second condition shall be permitted. Shoreline stabilization projects shall be supportive of an approved shoreline use to be permitted.*

### Applicant's Response

The proposed project involves various actions that are either permitted or conditionally permitted within a shoreline jurisdiction according to the shoreline use table. The site, which is zoned IL, will eventually be used for industrial development activity which is a permitted use within the urban high-intensity environment. Additionally, the proposed landfill and utility improvements are conditionally permitted under that same shoreline environment.

The SMMP specifically exempts sites further than 1,000 feet from the ordinary high water mark (OHWM) from being required to have water-dependent, water-related, or water-enjoyment uses because they are deemed to have no reasonable use connection with the water. The project site is approximately 1 mile from Vancouver Lake, and only an approximately 1-acre area along the western border is within 1,000 feet of off-site Wetland A, which is hydrologically connected to the lake.

### Staff Response

As the applicant has stated, the site is planned and zoned for industrial use. As indicated later in this report, industrial uses are permitted in the upland, urban high-intensity environment. The issue of the necessity of the fill is discussed later in this report.

The applicant indicates the wetland on the adjoining site is within 1,000 feet of the project. When the Port of Vancouver's Parcel 8 project was being reviewed, staff determined there was an ordinary high water mark (OHWM) associated with the pond. Upon further review and consultation with Brent Davis, the Lead Wetland Biologist with Clark County and with Kim Van Zwalenburg, Shoreline Specialist, Department of Ecology, staff has determined there is not an ordinary high water mark associated with the wetland to the west. For there to be an ordinary high water mark for shoreline purposes, the pond would have to be large enough to be considered a lake (20 acres of surface area) or have a direct connection to a larger water body (in this instance the Columbia River or Vancouver Lake). This wetland pond does not meet either criterion.

As there is no OHWM associated with the wetland on the adjoining site, the entire subject parcel is greater than 1,000 feet from an OHWM. The development is not required to meet the water-dependent, water-related, or water-enjoyment uses requirements.

**4 POLICY:**

*The policies of this Master Program provide broad guidance and direction, and should be used by the City of Vancouver in interpreting the regulations herein. Where the provisions of this Master Program conflict internally or with other statutes or ordinances, those that provide the most protection to critical areas should apply; where critical areas are not involved, the more restrictive provisions should apply.*

**4 REGULATION:** *The policies contained herein shall be liberally construed to serve the purposes of this Master Program.*

**5 REGULATION:** *Where provisions of this master program conflict with each other or with other laws, ordinances, or programs, the more restrictive provisions shall apply; PROVIDED that where such conflict involves one or more critical areas or buffers, the regulations that provide the most protection to the subject critical area(s) or buffer(s) shall apply.*

**6 REGULATION:** *Any area within shoreline jurisdiction which has inadvertently not been mapped or assigned a shoreline environment designation shall be assigned a shoreline environment designation according to its current zoning designation and shall be subject to the policies and regulations of this Master Program as such until the area can be assigned an appropriate shoreline environment designation and mapped through a formal Shoreline Management Master Program amendment.*

Applicant Response

According to the pre-application conference report, these policies and regulations "relate to how the city interprets the VSMMP, the applicant need not respond."

Staff Response

Staff concurs; the regulations associated with Policy 4 offer guidance to staff on administering and interpreting the Vancouver Shoreline Management Master Program.

**5 POLICY:**

*Water-dependent uses and water-enjoyment uses should have the closest physical relationship with the water, followed by water-related uses. Non-water-oriented uses should not generally be located within shoreline jurisdiction, although they may be permitted under certain circumstances. When they are permitted, they should be located upland of water-oriented uses and as far upland as possible.*

#### **7 REGULATION:**

*Water-dependent uses may be located anyplace within shoreline jurisdiction where their purposes will be served. Water-dependent uses shall be given priority for locating within shoreline jurisdiction, particularly in the aquatic environment and in the upland environment at the land/water interface. Water-enjoyment uses shall also be given priority for locating in shoreline jurisdiction, but shall be permitted to locate in the aquatic environment only under certain circumstances. Water-related uses shall be located in the upland environment, landward of and proximal to the water-dependent uses they support. Where a Riparian Management Area exists, water-dependent, water-related, or water-enjoyment uses may be located in the Riparian Management Area only when there are no feasible alternatives that would have a less adverse impact on the Riparian Management Area or Riparian Buffer, subject to an approved Critical Areas Permit. A road, railroad, trail, dike, or levee or a water, sewer, stormwater conveyance, gas, electric, cable, fiber optic cable, or telephone facility that cannot feasibly be located elsewhere may be located in the Riparian Management Area subject to an approved Critical Areas Permit. Non-water-oriented uses may not be located in the Riparian Management Area except as otherwise permitted under this Master Program and VMC 20.740, Critical Areas Protection. When permitted, non-water-oriented uses shall be located upland of water-oriented uses and as far upland as possible, EXCEPT under the circumstances described in the specific Shoreline Environment policies and regulations.*

#### **Applicant Response**

As previously mentioned, nearly the entire site is located further than 1,000 feet from the aquatic environment and therefore has no reasonable use connection with the water and is not subject to water-dependent, water-related, and water-enjoyment use restrictions. Additionally, none of the site contains a riparian management area or its buffer; therefore, that part of Regulation 7 restricting non-water-oriented uses is not applicable to this project. The site is located where industrial users can take advantage of the Port's marine cargo facilities.

#### **Staff Response**

The applicant has indicated a portion of the site is within 1,000 feet of the ordinary high water mark of the wetland to the west. As indicated in reference to Policy 2, Regulation 2, the entire subject parcel is greater than 1,000 feet from an OHWM. The development is not required to meet the water-dependent, water-related, or water-enjoyment uses requirements.

#### **Archaeological and Historic Resources**

#### **8 POLICY:**

*Due to the limited and irreplaceable nature of archaeological and historic resources, public and private uses and activities should be prevented from destroying or destructively altering any site having historic, cultural, scientific or educational value as identified by the appropriate authorities. Significant archaeological and historic resources should be permanently preserved for scientific study, education, and public observation.*

**10 REGULATION:**

*The policies and regulations of the Vancouver Municipal Code Chapter 20.99, Archaeological Resource Preservation, as adopted by Ordinance M-3311, on July 14, 1997, as further amended by Ordinance M-3318 adopted on August 18, 1997, and including such amendments as thereafter adopted by the City and approved by the Department of Ecology pursuant to Chapter 90.58 RCW, shall apply within shoreline jurisdiction. All applicable state and federal permits shall be secured prior to commencement of the activities they regulate and as a condition of shoreline permit approval. Development activities may commence only upon receipt of shoreline permit approval.*

**11 REGULATION:**

*The policies and regulations of the Vancouver Municipal Code Chapter 20.99, Archaeological Resource Preservation, as adopted by Ordinance M-3311, on July 14, 1997, as further amended by Ordinance M-3318 adopted on August 18, 1997, and including such amendments as thereafter adopted by the City and approved by the Department of Ecology pursuant to Chapter 90.58 RCW, shall apply within shoreline jurisdiction. When an item of archaeological interest is uncovered during the course of a ground-disturbing action or activity, the shoreline permit is temporarily suspended. All applicable state and federal permits shall be secured prior to commencement of the activities they regulate and as a condition for resumption of development activities. Development activities may resume only upon receipt of City of Vancouver approval.*

**12 REGULATION:**

*Significant archaeological and historic resources shall be permanently preserved for scientific study, education, and for public observation when feasible. Clear interpretation of historical and archaeological resources shall be provided when appropriate.*

**15 REGULATION:**

*Identified historical or archaeological resources shall be considered in park, open space, public access, and site planning. Access to such areas shall be designed and managed for maximum protection of the resource and surrounding environment.*

Applicant Response

Although the project site has been disturbed by past development activities, it is located within an area of high probability for discovery of archaeological resources. AINW completed a cultural resource survey of the project site in compliance with the city's ordinance and review standards. The survey confirmed the presence and verified the extent of a previously-recorded site within the project boundaries. AINW notes the site has been previously disturbed and lacks integrity and no protection is warranted.

Should unanticipated archaeological or historical resources be encountered during project construction beyond those resources not appropriate for protection, all ground-disturbing activity in the vicinity of the archaeological site would be halted and the city and the Department of Archaeology and Historic Preservation would be promptly notified to assure compliance with relevant city ordinances and state laws and regulations.

### Staff Response

Staff concurs with the applicant's response. Also, as indicated earlier in this report, the survey work completed by Archeological Investigations Northwest (AINW) was reviewed by the city's contract archaeologist, Rob Freed and found to be acceptable. Based on Mr. Freed's recommendation, staff accepted the conclusions of AINW's report Dec. 11, 2008.

### Environmental Impacts

#### *9 POLICY:*

*Adverse impacts to the environment and its natural processes should be avoided. When unavoidable, they should be minimized or otherwise mitigated. The treatment of critical areas within shoreline jurisdiction should be consistent with that of those outside of shoreline jurisdiction.*

#### *16 REGULATION:*

*All new shoreline uses and modification activities and their associated structures and equipment shall be located, designed, installed, constructed, conducted, managed, operated, and maintained using the best available technology and best management practices to (1) protect and enhance all forms of aquatic, littoral, or terrestrial life, and their spawning, nesting, and rearing grounds, habitats, and migratory routes, critical areas, and critical area buffers; (2) avoid adverse impact to the environment and its natural processes; and (3) achieve no net loss of critical area functions. When an adverse impact cannot be entirely avoided, it shall be minimized and mitigated. For residents of the shoreline area, this regulation shall be construed to mean that hazardous materials be disposed of and other steps be taken to protect the ecology of the shoreline area in accordance with the other policies and regulations of this Master Program as amended and all other applicable federal, state, and local statutes, codes, and ordinances.*

#### *16a REGULATION:*

*Shoreline uses and activities shall protect the functions of the critical areas and buffers on the site and result in no net loss of critical area functions.*

- a. The applicant shall first seek to avoid all impacts that degrade the functions and values of (a) critical area(s). This may necessitate a redesign of the proposal.*
- b. Where avoidance is not feasible, the applicant shall minimize the impact of the use or activity and mitigate to the extent necessary to achieve the use or activity's purpose and the purpose of this master program. The applicant shall seek to minimize the fragmentation of the resource to the greatest extent possible.*
- c. The applicant shall compensate for any unavoidable impacts by replacing each of the affected functions to the extent feasible. The compensatory mitigation shall be designed to achieve the functions as soon as practicable. Compensatory mitigation shall be in-kind and on-site, when feasible, and sufficient to maintain the functions of the critical area, and to prevent risk from a hazard posed by a critical area to a development or by a development to a critical area.*

#### *16b REGULATION:*

*Shoreline uses or activities shall not pose a significant threat to the public health, safety, or welfare on or off the development proposal site.*

*16c REGULATION:*

*Where the provisions of R16 – R16b conflict with those of VMC 20.740, Critical Areas Protection or any other statute, law, or ordinance, the regulations that provide the most protection to the critical area(s) and their buffer(s) shall prevail.*

Applicant Response

The project site has indicators for the following critical areas:

- Fish and Wildlife Habitat Conservation
- Frequently Flooded Areas
- Geologic Hazard Areas
- Wetlands

Additionally, as part of this application, the applicant has submitted a SEPA checklist that addresses any potential adverse impacts to the environment and its natural processes. Please refer to the SEPA checklists (contained within Exhibits 15 & 20) for a detailed description of potential impacts and mitigation measures.

Fish and Wildlife Habitat Conservation

Within the project vicinity, Washington Department of Fish and Wildlife (WDFW) has designated a large area of land as a priority habitat for wintering waterfowl concentrations under its Priority Habitat Species (PHS) program. Though approximately 20 percent of the area has been given a “wintering waterfowl concentration” designation, the IL-zoned site does not offer suitable habitat for wintering waterfowl, or the habitat it offers is of only marginal quality. The portions of the project site that are currently abandoned raspberry plants and upland weeds do not offer foraging or nesting habitat for wintering waterfowl.

Frequently Flooded Areas

Please refer to the Portside Lagoon and Landfill–Effect of Fill on Flood plain letter enclosed in the critical areas report of this submittal for a detailed discussion of avoidance, minimization, and mitigation for impacts to frequently flooded areas (Exhibit 8).

Geologic Hazard Areas

The site is mapped as having moderate to high liquefaction hazard. The geotechnical report completed for the adjacent property indicated liquefaction is possible in discrete, loose zones within the alluvial sand and that liquefaction settlement can occur under design levels of ground shaking. The proposed buildings could be affected during an earthquake. Prior to building permit submittal, additional investigation should be completed to characterize the liquefaction hazard and to design appropriate measures to address liquefaction settlement, if necessary. The Geotechnical Report notes that the magnitude of liquefaction settlement in this area of Vancouver will not preclude development of the property.

### Wetlands

The project site was investigated for the presence of wetlands. No wetlands were identified in the agricultural field portion of the site, currently characterized by abandoned raspberry fields and weedy upland vegetation. The constructed wastewater treatment lagoon is not considered a wetland based on the city's critical areas ordinance designation [VMC 20.740140(1)], and the Washington State Wetland Identification and Delineation Manual (1997 Ecology).

Two small depressional areas were observed on the upper surface of the landfill which apparently contains shallow seasonal ponding from direct precipitation. Because these small depressional areas are unintentionally created features-a function of how the sludge waste was contoured on the surface of the landfill-and do not provide water quality, hydrologic control, and habitat functions due to their isolation above the surrounding landscape, these areas are not considered wetlands. Please see the critical areas report submitted with this proposal for additional details.

### Staff Response

The applicant submitted a critical areas permit application. This has been reviewed and recommended for approval by the city's Environmental Planner, Lloyd Handlos. As a note, the original SEPA checklist and the revised SEPA checklist are also attached to this report as part of Exhibits 15 and 20.

### Flood Management

#### *10 POLICY:*

*Prevention of flood damages should be a goal in the design and construction of all shoreline development.*

#### *17 REGULATION:*

*A Shoreline Substantial Development Permit and Critical Areas Permit shall be required for each application for development in an area of special flood hazards. Encroachments into areas of special flood hazards shall be designed and constructed such that they cause no net increase in base flood velocity or elevation (as calculated to the nearest 0.1'). Replacement structures shall not increase flood heights or velocities over those caused by the original structure.*

### Applicant Response

The project site would be re-graded and receive approximately 353,564 cubic yards (cy) of fill material (approximately 441,564 cy if the beneficial use determination is not approved) to raise the site to an elevation of 28 feet NGVD which is 2 feet above the area's base flood elevation of 26 feet NGVD. An additional 0.5 feet of topsoil would likely be added once construction activities for buildings began, raising the finished grade to approximately 28.5 feet NGVD. The higher site elevation would reduce the possibility of flood damage to future structures, and would remove the site from the shoreline environment designation. A letter explaining the effect of fill on flood plain has been prepared by BERGER/ABAM and is attached as Appendix B of the critical areas report (Exhibit 8). The analysis shows the resultant fill from the project would not increase the base flood velocity or elevation in this area; surrounding properties, therefore, would not be subject to an increased possibility of flood damage.

### Staff Response

The applicant submitted a critical areas permit application. It has been reviewed by staff. The findings are contained in the Critical Areas Protection section of this report (beginning on page 7) Staff concluded the applicant had shown the proposal meets the Frequently Flooded provisions of the Critical Areas Protection section of the zoning code.

### *11 POLICY:*

*Flood management works should be located, designed, constructed and maintained to provide: (a) protection of the physical integrity and other properties of the shoreline and other properties which may be damaged by alterations of the geo-hydraulic system; (b) protection of water quality and natural ground water movement; (c) protection of fish, vegetation and other life forms and their habitat vital to the aquatic food chain; and (d) protection of recreation resources and aesthetic values such as point and channel bars, islands and other shore features and scenery.*

### *19 REGULATION:*

*The City of Vancouver shall require and utilize the following information during its review of shoreline flood management projects and programs:*

- a. purpose of the project;*
- b. river channel hydraulics and floodway characteristics up and downstream from the project area;*
- c. existing shoreline stabilization and flood protection works within the area;*
- d. physical, geological and soil characteristics of the area;*
- e. biological resources and predicted impact to fish, vegetation and animal habitat associated with shoreline ecological systems;*
- f. predicted impact upon area shore and hydraulic processes, adjacent properties and shoreline and water uses;*
- g. construction materials and methods;*
- h. identification, characteristics of, and potential impacts upon the channel migration zone, if any;*
- i. analysis of alternative flood protection measures both structural and non-structural; and*
- j. any required Critical Areas Report.*

### *20 REGULATION:*

*The City of Vancouver shall require that a qualified professional design flood management works.*

### *21 REGULATION:*

*Diking for flood management shall be constructed landward of the floodway boundary, channel migration zone, and associated wetlands which are directly interrelated and interdependent with the stream.*

### Applicant Response

No flood management works are proposed; therefore, this policy and its associated regulations do not apply.

Staff Response

Staff concurs with the applicant's response.

*12 POLICY:*

*Non-structural flood management solutions are preferred over structural flood management devices, and should be used wherever possible.*

*22 REGULATION:*

*Flood management measures that alter, re-route or change the natural water course of the shoreline may be approved as a conditional use only if (1) a qualified professional certifies that other flood protection and planning measures would be insufficient; the flood-carrying capacity of the watercourse will not be diminished; side channels will not be blocked; the channel migration zone will not be altered in a way that could threaten legally-established, conforming, pre-existing structures; soft armoring techniques will be used wherever possible; and removal of vegetation (including downed woody vegetation) will be avoided to the extent possible and where not possible minimized and mitigated; and (2) the applicant provides assurance that the relocated channel will be maintained such that the flood-carrying capacity of the watercourse is not diminished. Alternative measures to be analyzed shall include bioengineering (soft armoring) techniques, restrictions to development, shoreline setbacks, and comprehensive land use planning.*

*23 REGULATION:*

*Structural flood management works shall not be permitted where they will result in either (1) loss of flood storage capacity; or (2) the deflection or constriction of flood flows to a degree which will increase flood heights (calculated to the nearest 0.1') or flood velocities or a change in the channel migration zone that could threaten legally-established, conforming, pre-existing structures. (See Specific Use Policies and Regulations, Instream Structures section.)*

*23a REGULATION:*

*Where the provisions of R17 – R23 conflict with those of VMC 20.740, Critical Areas Protection or any other statute, law, or ordinance, the regulations that provide the most protection to the critical area(s) and their buffer(s) shall prevail.*

Applicant Response

The proposal requests filling within the flood plain which does not directly impact the natural watercourses in the area. A flood plain analysis, included as Appendix B of the critical areas report (Exhibit 8) indicates the calculated rise in the overall water surface elevation resulting from displacement by the imported fill required for the Portside Lagoon and Landfill site is estimated to be less than 0.01 foot (0.08 inches)—not a significant loss of flood storage area. The general site area is not in the immediate vicinity of historic flood flows and therefore should not deflect or constrict flood flows to an extent that would increase flood heights significantly on unprotected properties.

Staff Response

Staff concurs.

## Parking

### *13 POLICY:*

*Parking in shoreline areas should: (a) directly serve a shoreline use; (b) be located as far upland as possible; (c) be located and designed to minimize adverse impacts including those related to stormwater runoff, water quality, visual qualities, public access, and vegetation and habitat maintenance; (d) be appropriately screened from view from the water; and (e) be planned to achieve optimum use.*

### *24 REGULATION:*

*Parking in shoreline jurisdictions shall directly serve a shoreline use and shall be located as far upland as possible. Parking facilities serving individual buildings on the shoreline shall be located landward from the principal building being served, except when the parking facility is within, beside, or beneath the structure and adequately screened, or in cases when an alternate orientation would have less adverse impact on the shoreline.*

### *25 REGULATION:*

*Parking facilities shall be designed and landscaped to minimize adverse impacts upon adjacent shoreline and abutting properties. Landscaping shall consist of appropriate native vegetation and be planted before completion of the parking area in such a manner that plantings provide effective screening within three years of project completion.*

### *26 REGULATION:*

*Stormwater management facilities which utilize the best available technologies to prevent contamination of water bodies and which are subject to a maintenance program to assure proper functioning over time shall be provided with each parking facility.*

### *27 REGULATION:*

*Safe and convenient pedestrian circulation within the parking area and to the shoreline shall also be provided with each parking facility.*

### *28 REGULATION:*

*Parking as a primary use shall be prohibited within shoreline jurisdiction. Storage of vehicles in port areas shall not be considered parking; however, storage of vehicles in port areas shall not be permitted over water.*

## Applicant Response

Once the site is filled, all the areas proposed for parking would be out of the flood plain and more than 200 feet from the OHWM. Parking areas would be screened from SR 501 to the south and the proposed Northwest 26th Avenue to the west by street trees and parking lot landscaping. Parking areas are designed to comply with the standards of VMC.20.945. Parking is proposed as an accessory use to the light industrial uses of the site and appropriate stormwater treatment and control measures consistent with applicable city standards will be provided.

### Staff Response

As indicated earlier in this report, the site is generally greater than 1,000 feet from any ordinary high water mark. There is not any direct public access between the subject site and the shoreline area. The parking is indicated as being internal to the development; the buildings are proposed along the perimeter and the parking is between the buildings. The exception is on the most easterly portion of the development where the parking is proposed on the easterly boundary of the site.

As part of the development process, the applicant will be required to provide landscaping to screen the parking. Specific landscaping requirements will be determined at the time of submittal of the site plan review applications. As indicted in Regulation 25, landscaping is to consist of appropriate native vegetation.

All parking facilities are required to provide best available stormwater treatment technology to prevent contamination of water bodies.

Safe and convenient pedestrian circulation within the parking area will be required as part of the site plan review process when it is submitted. As there are no direct links to any publicly accessible shoreline, there will not be any required pedestrian access between this site and any shoreline area.

### Public Access

#### *14 POLICY:*

*Visual access from the shoreline and upland areas should be maintained, enhanced, and preserved. Enhancement of views should not be construed to mean excessive removal of vegetation that partially impairs views. Development, uses, and activities on or near the shoreline should not impair or detract from the public's visual and physical access to the water.*

#### *29 REGULATION:*

*In providing visual access to the shoreline, vegetation shall not be excessively removed by clearing, topping, pruning or other methods. (See Shoreline Modification and Vegetation Management policies and regulations for additional detail.)*

#### *30 REGULATION:*

*Public lands, such as street ends, submerged and surficial rights of way, and utilities shall provide public access to the water and shoreline in accordance with RCW 35.79.035. Public access sites shall be connected directly to the nearest public street and shall include provisions for all members of the community.*

#### *31 REGULATION:*

*To preserve views of the water, development in the Aquatic Environment shall be constructed so that from the OHWM waterward, no more than 50% of the lot or the developable water surface area is covered by buildings, pathways, docks, vessels, slips, or other structures. Development in the Aquatic Environment shall be constructed of non-reflective materials that are compatible in color and texture with the surrounding area.*

### **32 REGULATION:**

*As part of any Master Plan or proposal for structures over thirty-five (35) feet in height, an analysis of views from residences in areas adjoining the shoreline including view corridors, view profiles, and vertical profiles from various locations shall be submitted. The views and/or view corridors to be protected are perpendicular and at angles to the water and include those views from the residential areas adjoining the shoreline and those from within the site to the water.*

#### Applicant Response

All existing trees on the project site would be removed, but there are no trees within 200 feet of any aquatic environment. In fact, the project site is more than 900 feet from the OHWM of Wetland A and, based on this distance, construction activities would not likely restrict visual and physical access to the shoreline. In response to Regulation 30, no public lands are directly accessible from this site and, in response to Regulation 31, the proposal includes no activity within any aquatic environment. In response to Regulation 32, the proposed buildings will have a maximum height of 45 feet. Because the site is so far away from the shoreline, there are no views to the shoreline that would be affected by the development of the site. The closest residences are located to the east of the site in the Fruit Valley neighborhood on the other side of the city wastewater treatment lagoon and are at a lower elevation than the lagoons. The existing lagoons provide a visual barrier that prevents views of the site and other adjacent shoreline areas.

#### Staff Response

Staff concurs with the applicant's responses with the exception of that for Regulation 32. The application materials indicate the maximum proposed heights of the buildings are 45 feet. The application is for shoreline permit approvals for the overall development, including the building heights.

The regulation refers to a view analysis of views of residences in areas adjoining the shoreline. Shorelines are defined in RCW 90.50 as those areas within shoreline jurisdiction per RCW 90.58.030 (2)(d) and 90.58.030(2)(f).

The only residential area adjoining shoreline jurisdiction in the vicinity of this site is the Fruit Valley Neighborhood. More specifically, the Fruit Valley Homes subdivision recorded in January 1947. This area is comprised of single-story single-family dwellings. The views to the west, toward the Vancouver Lake shoreline, are currently restricted by the existing berm. This berm appears to be between 6 and 10 feet above the grade of the existing residential lots.

Any views to the Columbia River are blocked by existing industries and the Port of Vancouver development to the south.

### **15 POLICY:**

*Public access should be considered in the review of all private and public developments (including land division), and where feasible provided as close to the water's edge as possible, giving due consideration to health, safety, security, and environmental concerns.*

### 33 REGULATION:

*In the review of all shoreline substantial development or conditional use permits or variances, consideration of public access shall be required. Provisions for adequate public access shall be incorporated into a shoreline development proposal (including land division), UNLESS the applicant demonstrates one or more of the following:*

- a. Health or safety hazards to the public exist which cannot be prevented by any practical means;*
- b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;*
- c. The cost of providing the access, easement, or an alternative amenity is disproportionate to the cost of the proposed development;*
- d. Environmental harm which cannot be mitigated will result from the public access; or*
- e. Significant conflict between any access provisions and the proposed use and/or adjacent uses would occur, PROVIDED that the applicant has first demonstrated and the City of Vancouver has determined in its findings that all reasonable alternatives have been evaluated and found infeasible, including but not limited to:*

*Regulating access by such means as maintaining a gate and/or limiting hours of use;*

*Designing separation of uses and activities (e.g., fences, terracing, use of one-way glazings, hedges, landscaping, etc.); and*

*Provisions for access at a site geographically separated from the proposal such as a street end, vista or trail system.*

*In areas with public health or safety hazards, security requirements, inherent conflict with the proposed or existing shoreline use, or other difficult situations, public access may, where feasible and consistent with security requirements and with avoiding conflict with the proposed and existing use, be achieved by providing a safely and securely located and designed pathway with points of visual access to the shoreline incorporating interpretive centers explaining the use, its relationship to the shoreline, and its importance and benefit to the City.*

### 16 POLICY:

*The design of shoreline modification projects, particularly those which are publicly financed, should provide for long-term multiple use of streamway resources and public access to the shoreline.*

### 34 REGULATION:

*Provisions for public access shall be required to be designed into shoreline modification projects (such as but not limited to bulkheads, revetments, beaches, jetties, dikes, and docks) when the Planning Official determines that such access would be in the public interest.*

### Applicant Response

Because the site is over 900 feet from any aquatic environment (Wetland A located west of the project) and approximately 1 mile from Vancouver Lake, the site is extremely limited in its ability to provide public access.

Although the site is nowhere near the water, Vancouver-Clark Parks & Recreation has approved a pedestrian/bike connect along the proposed Northwest 26th Avenue which allows for a connection between SR 501 and La Frambois Road. In the decision to approve the Port's adjacent project, the city's hearings examiner determined "no other access is needed or desired" as part of the Port's SCUP and SSDP.

A portion of the proposed Northwest 26th Avenue right of way (ROW) is located on the project site and this ROW would provide access to the site in the future. Because Parcel 8 and the proposed project site would share the ROW, the approved public access for the Parcel 8 SCUP and SSDP also serves this proposal; no additional public access should be necessary.

#### Staff Response

Generally, staff concurs with the applicant's responses. However, as indicated earlier in this report, the wetland referred to as Wetland A is not an aquatic environment. Therefore, the entire site is located more than 1,000 feet from any aquatic shoreline environment.

Regarding public access, this application has been reviewed by Vancouver-Clark Parks and Recreation. They have determined no additional access is required or desirable.

#### *17 POLICY:*

*Standards should be set for public access and associated amenities. Public access should be designed to accommodate all members of the community and to provide for public safety. Adequate visibility for public safety should not result in the excessive removal of vegetation. Public access should also be designed to minimize potential impacts to private property and individual privacy. A physical separation or other method of clearly delineating public and private space in order to avoid unnecessary use conflict should be provided. These physical separations should be compatible with the goals of the Shoreline Management Act and the provisions of this Master Program.*

#### *35 REGULATION:*

*No permit shall be issued for any new or expanded building or structure of more than thirty-five (35) feet above average grade level on shorelines-of-the-state that will obstruct the view of a substantial number of residences in areas adjoining such shorelines, EXCEPT when overriding considerations of the public interest will be served.*

#### *36 REGULATION:*

*The minimum width of public access easements shall be twenty feet when the trail is not located within a public right of way, unless the administrator determines that undue hardship would result or that it is impractical or environmentally unsound. In such cases, easement width may be reduced only by the minimum extent necessary to meet public access standards. Public access easements and permit conditions shall be recorded on the deed of title and/or on the face of a plat or short plat as a condition running contemporaneous with the authorized land use, as a minimum. Said recording with the County Auditor's Office shall occur at the time of permit approval (RCW 58.17.110). The standard state approved logo or other locally approved signs that indicate the public's right of access and hours of access shall be constructed, installed and maintained by the applicant in conspicuous locations at public access sites.*

When, as discussed in Policy 14, Regulation 32 above, (1) health or safety hazards to the public exist which cannot be prevented by any practical means; (2) inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions; (3) the cost of providing the access, easement, or an alternative amenity is disproportionate to the cost of the proposed development; (4) environmental harm which cannot be mitigated will result from the public access; or (5) significant conflict between any access provisions and the proposed use an/or adjacent uses would occur, PROVIDED that the applicant has first demonstrated and the City of Vancouver has determined in its findings that all reasonable alternatives have been evaluated and found infeasible, including but not limited to:

- Regulating access by such means as maintaining a gate and/or limiting hours of use;
- Designing separation of uses and activities (e.g., fences, terracing, use of one-way glazings, hedges, landscaping, etc.); and
- Provisions for access at a site geographically separated from the proposal such as a street end, vista or trail system.
- Signs may control or restrict public access as a condition of permit approval. Future actions by the applicant, successors in interest or other parties shall not diminish the usefulness or value of the public access provided.

#### Applicant Response

Regulation 35 applies to buildings over 35 feet in height. The maximum proposed building height is 45 feet. The nearest residences are located to the east of the site in the Fruit Valley neighborhood on the other side of the city wastewater treatment lagoon and are at a lower elevation than the lagoons. The existing lagoons provide a visual barrier that prevents views of the site and other adjacent shoreline areas.

#### Staff Response

The application indicates buildings up to 45 feet are proposed. As indicated in staff's response to Policy 14, specifically Regulation 32, development of this site will not block existing views of the Vancouver Lake or the Columbia River.

#### Public Health and Safety

##### *18 POLICY:*

*Public health and safety should be considered when locating, designing, constructing, conducting, managing, operating, and maintaining shoreline uses and activities. Hazardous, substandard, degraded, neglected, or obsolete in-water, over-water, or floating structures should be rehabilitated, restored, or removed.*

##### *37 REGULATION:*

*Navigation channels shall be kept free of hazardous or obstructing uses and activities.*

##### *38 REGULATION:*

*Structures which are hazardous or neglected as determined by the City of Vancouver shall be removed at the expense of the property owner. They shall be replaced only with new structures which meet all applicable codes and are compatible with the aesthetic appeal of the shoreline.*

**39 REGULATION:**

*Structures which are substandard, degraded, or obsolete as determined by the City of Vancouver shall be rehabilitated, restored, removed, or replaced at the option and expense of the property owner. The rehabilitated, restored, or new structure shall meet all applicable codes and shall be compatible with the aesthetic appeal of the shoreline.*

**40 REGULATION:**

*All shoreline uses and modification activities and their associated structures and equipment shall be located, designed, installed, constructed, conducted, managed, operated, and maintained so as not to be a hazard to public health and safety.*

Applicant Response

Regulation 37 is not relevant because this proposal does not impact navigation channels. In response to Regulations 38 and 39, all existing buildings and improvements associated with the landfill and lagoon would be demolished or otherwise deconstructed. Furthermore, the proposed industrial buildings will be required to meet all applicable building and development standards; thereby, ensuring shoreline uses and structures are not a hazard to public health and safety.

Regulations 40a – 40i refer to geologic hazard areas as defined in this program and identified under 20.740, Critical Areas Protection. The critical areas report and the geotechnical report provide detailed information on how the project adequately addresses the requirements of the CAO and limits geological hazards.

Staff Response

Staff concurs with the applicant's response.

Shoreline Modification and Vegetation Management

**19 POLICY:**

*No clearing, grading, filling, or other land modification activity should take place prior to issuance of all necessary permits for an associated shoreline use or activity. Where critical areas or critical area buffers are involved, these activities and their impacts to critical areas and buffers should be avoided. Where they are unavoidable, impacts should be minimized and mitigated. Where critical areas or buffers are not involved, impacts should be limited to the minimum necessary to accommodate the permitted shoreline use or activity and designed to maintain natural diversity. For extensive land modification proposals, a strategic plan should be required. After construction, remaining disturbed sites should be promptly restored and replanted with appropriate native vegetation.*

#### 41 REGULATION:

*Land shall not be cleared, graded, filled, or otherwise altered prior to issuance of all necessary permits for an associated shoreline use or activity. Where critical areas or buffers are involved, these activities and their impacts to critical areas and buffers shall be avoided. Unavoidable alterations to critical areas and buffers shall be minimized and mitigated in compliance with the requirements of an approved Critical Areas Permit. Where critical areas or buffers are not involved, these activities shall be limited to the minimum necessary to accommodate the permitted shoreline use or activity, and designed to minimize impacts to the shoreline environment. Replanting and mitigation plantings shall be designed to maintain natural diversity in vegetation, species, age, and cover density. Native plant communities shall be protected and maintained to the maximum extent feasible. For proposals involving disturbance of more than 50 cubic yards of material, a restoration plan addressing replacement of critical areas structure and functions (including soil type and configuration, water quality and habitat functions), species removal, replanting, irrigation, erosion and sedimentation control, and other riparian management area and riparian buffer protections shall be required. After construction, remaining disturbed sites shall be promptly restored and replanted with appropriate native vegetation. Replanted areas shall be maintained such that within three years, the vegetation is fully re-established.*

#### 42 REGULATION:

*Modification, realignment, or straightening of stream channels, wetlands, lakes, or other water bodies shall be prohibited, except when it is demonstrated to be the only feasible alternative or an integral element of a restoration project approved by the appropriate state or federal agencies which furthers the goals and policies, and fulfills the requirements of all applicable sections of this Master Program and other applicable state, federal, and local statutes, codes, and ordinances.*

#### 43 REGULATION:

*Shoreline stabilization projects shall, to the extent possible, be planned, designed, and constructed to allow for channel migration, and shall not reduce the volume and storage capacity of streams and adjacent wetlands or flood plains. Every effort shall be made to restore channelized streams to their natural states. Streams existing in their natural states shall be so preserved, free of shoreline modification, EXCEPT for shoreline restoration, rehabilitation, or enhancement projects, and shoreline stabilization projects where all of the following can be demonstrated: (1) bank erosion threatens an established use or existing structure worth at least \$5000.00; (2) the threatened structure cannot be relocated landward of the threatened area including any area needed for bank protection or a buffer area; (3) the project will not cause a significant adverse impact on upstream or downstream properties or an impact that cannot be mitigated without developing bank stabilization measures for those properties; and (4) the project will not cause a significant adverse impact on fish, wildlife, or their habitats.*

**44 REGULATION:**

*Shoreline restoration, rehabilitation, and enhancement projects need not be supportive of an approved shoreline use to be undertaken. However, all such projects must comply with the policies and regulations of the applicable sections of this Master Program and the terms of any required Critical Areas Permit. Shoreline stabilization projects shall be supportive of an approved shoreline use to be permitted.*

**45 REGULATION:**

*The creation of new lands by diking, draining, or filling tidelands, tidal marshes, or wetlands shall be prohibited, EXCEPT where expressly permitted in accordance with an approved Critical Areas Permit.*

**46 REGULATION:**

*The City of Vancouver shall require and utilize the following information in its review of all shoreline modification proposals:*

- *purpose of the project;*
- *construction materials and method;*
- *location of project relative to the toe and crest of uplands and upland structures;*
- *ordinary, low, and high water elevations;*
- *net direction of littoral drift changes and currents;*
- *general direction and speed of prevailing winds;*
- *beach and uplands types, slopes, materials, and profiles;*
- *soil types;*
- *physical or geological stability of uplands;*
- *existing shoreline modification works in the vicinity of the project;*
- *potential impact upon area shore processes, adjacent properties and upland stability;*
- *analysis of alternative measures, both structural and non-structural; and*
- *any required Critical Areas Report.*

**Applicant Response**

No clearing, grading, or filling would take place until shoreline approval has been finalized. Land filling is necessary for the development of the property for industrial uses. The site is zoned light industrial, and developing it for light industrial uses requires filling the site to raise its elevation above the base flood elevation. The application includes a site plan that indicates how industrial uses and buildings can be accommodated on the site. The plan could be modified to reflect the needs of future users.

This proposal does not involve the substantial modification, realignment, or straightening of stream channels, lakes, or other water bodies per Regulations 42 and 46. Additionally, this proposal includes no shoreline stabilization per Regulation 43; the minor reduction in volume and storage capacity of the adjacent flood plain that would result is described thoroughly in a separate analysis. No shoreline enhancement is proposed, and Regulation 44 therefore does not apply.

The proposal requires approximately 353,564 CY of material to fill approximately 43.5 acres of land in the upland environment. This fill is necessary to raise the proposed lots 1 to 10 feet to an elevation of at least 28 NGVD. The new elevation would be 2 feet above the 100-year flood plain of 26 feet.

The filling and grading process would result in no net acreage change (i.e. no new lands would be created) because filling would not occur in tidelands, tidal marshes, or wetlands.

#### Staff Response

The applicant indicates the plan could be modified to reflect needs of future users. This process will involve compliance with shoreline regulations and may require a new shoreline permit. The mere filling of site to take it out of the flood plain does not remove the site from shoreline jurisdiction. To avoid the "speculative fill" provisions of the Vancouver Shoreline Management Master Program, the shoreline permit must include the development of the site including the building, parking areas, landscaping, etc. **Site development is subject to shorelines and will continue to be subject to shoreline jurisdiction until such time as the site is fully developed.**

#### *20 POLICY:*

*Shoreline stabilization, restoration, rehabilitation, and enhancement projects should, wherever feasible, use soil bioengineering techniques rather than structural solutions.*

#### *47 REGULATION:*

*All shoreline uses and modification activities and their associated structures and equipment shall be located, designed, installed, constructed, conducted, managed, operated, and maintained to prevent or minimize the need for shoreline defense and stabilization measures and flood protection works. For these and shoreline restoration, rehabilitation, and enhancement projects, soil bioengineering (soft armoring) techniques shall be used to rectify the situation, unless it can be demonstrated that they would be ineffective. In such cases, combination structural/non-structural solutions shall be considered and demonstrated ineffective prior to utilizing solely structural solutions.*

*Structural solutions shall be constructed only to the minimum degree necessary and shall fulfill the requirements of all applicable sections of this Master Program and any required Critical Areas Permit. Use of car bodies, scrap building materials, asphalt from street work, or any discarded pieces of equipment or appliances to stabilize shorelines shall be prohibited.*

#### Applicant Response

No shoreline defense, stabilization, or flood protection work is proposed.

#### Staff Response

Staff concurs.

#### *21 POLICY:*

*Native plant communities within shoreline jurisdiction should be protected and maintained.*

**48 REGULATION:**

*Native plant materials which are equivalent to those which would typically occur with respect to size, structure, and diversity at maturation shall be used in restoration, rehabilitation, or enhancement projects. In addition, natural features such as snags, stumps, logs or uprooted trees which support fish and other aquatic systems, and which do not intrude on the navigational channel or threaten agricultural land and existing structures and facilities, shall be left undisturbed.*

**49 REGULATION:**

*Clearing by hand-held, electric, or non-motorized equipment of invasive species listed on the State Noxious Plant List shall be permitted. The use of herbicides, fungicides, and pesticides to remove these species from streams, ponds, lakes, rivers, or wetlands shall be permitted in accordance with the terms of the required Critical Areas Permit.*

**50a REGULATION:**

*A Shoreline Substantial Development Permit and/or a Tree Removal Permit may be required prior to vegetation removal within shoreline jurisdiction. In critical areas and buffers, a Critical Areas Permit shall also be required prior to vegetation removal.*

Applicant Response

A total of 98 trees with a diameter breast height (DBH) of 6 inches or greater were recorded on the approximately 43.5-acre parcel. Most of these trees were located along the southern boundary of the landfill and the southern and eastern boundary of the lagoon. The most common species and size class of trees are Douglas fir (*Pseudotsuga menziesii*) and Ponderosa pine (*Pinus ponderosa*) between 9 and 12 inches DBH, which were planted during construction of the lagoon as a landscape screen. Trees of an appropriate species would be planted along SR 501 outside the ROW to provide screening of the site from the state highway.

Regulations 50b through 50g refer to vegetation removal within the riparian management area and its buffer. Because the project site contains neither type of area, these regulations have been omitted.

Staff Response

The tree plan and report indicates the proposed filling would damage the existing trees and there is no practical procedure for maintaining them. Under the city's tree conservation requirements, 30 tree units per acre will be required at the time the site is developed.

*50h REGULATION:*

*Outside of critical areas and buffers, trees may be limbed-up or thinned to allow visual or physical access to the shoreline, PROVIDED that:*

- limbing-up or thinning shall be done in a manner that will not cause disease or death of the trees.*
- limbing-up or thinning shall be done by a qualified arborist when more than 20% but less than 40% of the canopy (calculated based on the area of the crown, or upper portion(s) comprised of branches and leaves) is to be removed.*
- in no case shall more than 40% of the canopy be removed.*
- in critical areas or their buffers, an approved Critical Areas Permit shall be obtained prior to limbing-up or thinning.*

*50i REGULATION:*

*Outside of critical areas and buffers, excessive removal of vegetation for any purpose is prohibited. Excessive removal of vegetation shall be construed to mean (1) removal of more than 40% of the canopy of any tree or group of trees (calculated based on the area of the crown, or upper portion(s) comprised of branches and leaves); or (2) removal of more than 40% of the trees (calculated based on the number of stems) on a single parcel; or (3) removal of more than 500 square feet of brush or groundcover per parcel (for parcels of less than 10 acres) or per ten acres (for parcels of at least 10 acres), EXCEPT (1) in an emergency, vegetation may be removed to the extent necessary to abate an immediate danger to life or property; or (2) when recommended or ordered in writing by the City Fire Marshall or Department of Natural Resources to abate a substantial fire hazard; or (3) when the vegetation is comprised of "noxious weeds" as defined by this Master Program.*

*50j REGULATION:*

*Where critical areas or buffers are involved and the provisions of R41 – R50i conflict with those of VMC 20.740, Critical Areas Protection or any other statute, law, or ordinance, the regulations that provide the most protection to the critical area(s) and their buffer(s) shall prevail.*

Applicant Response

No trees would be limbed-up or thinned to allow visual access to the shoreline. Approximately 98 trees would be removed to allow grading; however, trees will be planted along Northwest Lower River Road and Northwest 26th Avenue with the initial project phase. Additional trees would be planted as development of buildings and improvements occur.

No native plant communities exist on-site to trigger Regulation 50i, which limits native vegetation removal on parcels within the shoreline jurisdiction to 500 square feet. Although plant materials would be removed as part of the grubbing process to prepare the site to accept fill material, the vegetation being removed is mostly raspberry bushes, which are competitive and difficult to control and thus have noxious weed tendencies. The entire site has been disturbed and, although the site has some native species of vegetation, they are not functioning native plant communities; thus, the removal of this vegetation is consistent with protecting native plant communities as directed by Policy 21.

Staff Response

Staff concurs.

Shorelines of Statewide Significance

*22 POLICY:*

*The following priorities are set forth in order of preference for Shorelines of Statewide Significance (RCW 90.58.020):*

- Recognize and protect the statewide interest over local interest;*
- Preserve the natural character of the shoreline;*
- Result in long-term over short-term benefit;*
- Protect the resources and ecology of the shoreline;*
- Increase public access to publicly-owned areas of the shorelines;*
- Increase recreational opportunities for the public in the shoreline;*
- Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.*

*51 REGULATION:*

*The priorities for Shorelines of Statewide Significance shall be considered in the review of all applications for development proposed along those shorelines.*

Applicant Response

This proposal requests approval to develop the project site for industrial use on land zoned IL; in addition, the comprehensive plan indicates the area is needed to meet the projected industrial needs of the city and region.

Staff Response

In addition to the applicant's response, staff finds the site is not in a natural state and that the development of the site as industrial fits with the city's long-term plan for the site as reflected in the adopted comprehensive plan and the current zoning of the site.

Regarding the resources and ecology of the site, a SEPA has been prepared and distributed. The applicant has completed a critical areas permit. That permit has been recommended for approval subject to conditions.

There is no opportunity for this site to provide additional public access to publicly-owned land. The proposed access between Lower River Road and La Frambois, through the development of the Port's Parcel 8 site to the west of the subject property will, according to Vancouver-Clark Parks and Recreation, provide the access required.

The site is located approximately 2,500 feet from the Columbia River and approximately 1 mile from Vancouver Lake. There are no opportunities for recreational activity.

#### 24 POLICY:

*Focus development in already developed shoreline areas to reduce adverse environmental impacts and to preserve undeveloped shoreline areas. In general, preserve shorelines of statewide significance for future generations and restrict or prohibit development that would irretrievably damage shoreline resources. Evaluate the short-term economic gain or convenience of developments relative to the long-term and potentially costly impairments to the natural shoreline.*

#### 53 REGULATION:

*Proposals for major development along shorelines of statewide significance shall include an analysis of the long-term effects of the proposed impacts to the shoreline for alternative development options. The development option which minimizes those impacts shall be preferred. Any remaining impacts shall be mitigated.*

#### Applicant Response

No area directly adjoining or along shorelines of statewide significance is included in this proposal, and all proposed development is approximately 1 mile and 2,500 feet from the OHWM of Vancouver Lake and the Columbia River respectively. Further, the proposal will be required to meet applicable environmental regulations as indicated in this report.

#### Staff Response

The site is zoned light industrial. As the applicant indicates, the site is removed from the OHWM by more than 1,000 feet. Therefore, under the provisions of the Reasonable use, this development is not required to be water-dependent, water-related or water-oriented. Environmental issues have been reviewed via the SEPA.

#### 26 POLICY:

*Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities or for the general enhancement of shoreline areas.*

#### 55 REGULATION:

*Proposals for major development on shorelines of statewide significance shall specifically address issues of aesthetics including, but not limited to, architectural compatibility, building materials and color, glare, landscaping, and shoreline views or view corridors.*

#### Applicant Response

While more information concerning building materials and outdoor façades will be available upon final site plan approval, the site is designed to accommodate light industrial uses. While the buildings' architecture could vary, the overall goal would be one of developing complementary designs. Street lighting will be provided for 26th Avenue consistent with city standards. Street and site landscaping would improve overall aesthetic appearances. Shoreline views would not be affected because of the relatively long distances of site development from Vancouver Lake and the Columbia River.

In addition, the project is in an area of substantial industrial development, including Port facilities directly south of the project site, the Port's Parcel 8 development immediately west of the site, the city's treatment pond and Cadet Manufacturing immediately to the east of the site. The proposed project would be consistent with the type and nature of the existing surrounding development.

#### Staff Response

The applicant has requested shoreline permits for development of the site. It has been established there are no views or view corridors associated with the development of this site. Lighting will be required to meet minimum standards. Landscaping will also be required to meet minimum standards.

The shoreline permit also proposes buildings. The applicant has provided a limited narrative and site plan indicating the general location of the buildings and indicating they will not exceed 45 feet in height. The applicant has indicated the buildings will be complementary to the existing and proposed building in the area. At this time, the majority of the industrial buildings in the area are either tilt-up concrete or metal-sided structures. Such buildings would be appropriate in this light industrial area.

#### Signage

##### *28 POLICY:*

*Signs should be designed and placed so that they: (a) are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses; (b) do not block or otherwise interfere with visual access to the water or shorelands; and (c) do not reduce automobile safety.*

##### *58 REGULATION:*

*Sign plans and designs shall be submitted for review and approval at the time of shoreline permit approval and shall be consistent with existing jurisdictional sign code. Water navigation, highway, and railroad signs necessary for operation, safety and direction shall be permitted in all shoreline environments. Free-standing pole signs, rotating signs, flashing signs, and rooftop signs shall be prohibited.*

##### *59 REGULATION:*

*All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access to the shoreline. No signs shall be placed on trees, other natural features, or public utility poles.*

**60 REGULATION:**

*All signs shall be compatible with the use and the designated shoreline environment. In addition, all signs shall be consistent with the following guidelines:*

*The size, shape, location, and design of all signs shall be compatible with building proportions and features and consistent with the overall character of the site.*

*Sign locations shall be integrated within the design of the site and adjacent streetscape.*

*Signs shall be placed so they are not obscured by landscaping when it has reached full maturity and shall be integrated with landscape elements such as walls, planters, and street furniture.*

*Consideration shall be given to the location and design of signs on adjacent parcels.*

*Multi-tenant buildings and shopping centers shall all have a comprehensive sign program. Provisions shall be made for coordination of sign dimensions, materials, textures, colors, illumination, and method and location of mounting. These signs shall be delineated in a uniform and consistent manner.*

*Traffic directionals shall be placed to promote safe and efficient traffic flow.*

*Signs shall be oriented to promote readability and serve their intended function.*

*The use of individual letters for signs is preferred over "cabinet" signs with brightly lit backgrounds or signs which have emphasized backgrounds. Sign "letters" shall be illuminated rather than the background area or backlit signs shall have opaque backgrounds.*

*The light source of externally illuminated signs shall be shielded or out of the public's view.*

*Visible braces and other supporting devices shall be incorporated as a design feature.*

Applicant Response

This proposal does not request approval of any signage; however, standard street signage, including street signs and traffic control signs, may be required. Road and/or traffic control signs would be consistent with all applicable requirements. Signage will be provided for the proposed industrial buildings and compliance with these standards can be addressed with the required sign permits.

Staff Response

All future signage would be required to meet shoreline standards.

**29 POLICY:**

*Signs relating to public property or use should be located on-site and of consistent design and color for easy recognition.*

**61 REGULATION:**

*Public information signs directly relating to a shoreline use or activity shall be permitted on-site, and shall be of consistent design and color for easy recognition. When feasible, signs shall be flush-mounted against existing buildings.*

Applicant Response

No public property signs are proposed; therefore, this policy and regulation do not apply.

Staff Response

Staff concurs.

Transportation

**30 POLICY:**

*New roads, railroads and bridges in shoreline jurisdiction should be avoided where critical areas and buffers are involved and where unavoidable, minimized and mitigated. Where critical areas or buffers are not involved they should be minimized and mitigated, and permitted only when related to and necessary for the support of permitted shoreline uses and activities or linkage with major transportation routes or corridors. Road and railroad locations should be planned to fit the topographical characteristics of the shoreline such that minimum alteration of natural conditions results. New transportation facilities should be located and designed to avoid the need for shoreline defense works and modification of natural drainage systems. The number of waterway crossings should be minimized to the maximum extent possible.*

**62 REGULATION:**

*Transportation facilities and services shall utilize existing transportation corridors whenever possible. However, if a less environmentally disruptive alternative exists, it shall be utilized instead.*

**63 REGULATION:**

*New transportation facilities shall be located and designed to prevent, and where not preventable minimize the need for shoreline protective measures such as riprap or other bank stabilization, fill, bulkheads, groins, jetties or substantial site re-grading. Transportation facilities allowed to cross over water bodies and wetlands shall utilize elevated, open pile or pier structures whenever feasible. All bridges must be built high enough to allow the passage of debris and provide three feet of clearance above the 100-year flood level.*

**64 REGULATION:**

*Shoreline transportation facilities shall be sited and designed to avoid steep or unstable areas and fit the existing topography in order to minimize cuts and fills. Cut and fill slopes shall be designed at the normal angle of repose or less. Cut, fill and sidecast slopes shall be protected from erosion by mulching, seeding, compacting, riprapping, benching or other suitable means. Bioengineering (soft armoring) is preferred.*

**65 REGULATION:**

*Transportation corridors shall, if possible, be located parallel to existing surface drainage flow. Waterway crossing shall be designed to provide minimal disturbance to banks. Roads and railroads shall be located to minimize the need for routing surface waters into and through culverts. Culverts shall be located so as to avoid relocation of the stream channel and designed to allow fish passage.*

**66 REGULATION:**

*Bridge abutments and necessary approach fills shall be located landward of wetlands, or landward of the OHWM for water bodies without adjacent wetlands, PROVIDED bridge piers may be permitted waterward of the OHWM as a conditional use.*

**67 REGULATION:**

*The City of Vancouver shall give preference to hand-held, electric, and non-motorized means of brush control over the use of potentially harmful materials (such as pesticides, herbicides, fungicides, and fertilizers) on City roads in shoreline jurisdiction. If the situation requires the use of herbicides or other potentially harmful materials, they shall be applied by a licensed applicator farther than 25 feet from wetlands, ponds, lakes, streams, or rivers and using best management practices so that chemicals do not enter water bodies or streamways.*

**68 REGULATION:**

*Transportation facilities shall not be located (1) near feeder bluffs; (3) over driftways; (4) on accretion shoreforms; (5) in areas where stream channel direction and alignment is subject to change; and (6) over water, EXCEPT to serve water-dependent or public uses consistent with this program when inland alternatives are infeasible.*

**Applicant Response**

This proposal would utilize access from the proposed Northwest 26th Avenue, which although it has not been built, has been approved. This proposal would not require any new public or private roads within the shoreline jurisdiction. The main construction access would be from the southeast corner of the project site. This proposed access is approximately directly across from the existing West 26th Avenue and is outside shoreline jurisdiction and above the 100-year flood plain.

Per Regulation 63, no shoreline protective measures or bridges are proposed as they are not necessary.

Based on existing and proposed conditions, proposed roadway improvements would have flat slopes and would not be unstable per Regulation 64.

Per Regulation 65, no water crossings are proposed or needed and no relocation of stream channels are proposed or necessary.

Per Regulation 67, the project site is located within the light industrial zone which requires landscaping. Because there are no wetlands or aquatic environments on-site, landscaped areas would be at least 900 to 1,000 feet from the closest aquatic environment (Wetland A located on Parcel 8).

Finally, per Regulation 68, the proposal is not located near feeder bluffs, over driftways, on accretion shoreforms, in areas where stream channel direction and alignment is subject to change, or over water.

#### Staff Response

The location of 26th Avenue has been reviewed and preliminary binding site plan approval has been granted. At this time, the final engineering has not been approved and the improvements of 26th Avenue have not yet commenced. Other than that clarification, staff concurs with the applicant's responses.

#### *31 POLICY:*

*Trail and bicycle systems should be encouraged along shorelines to the maximum extent feasible. Pedestrians should be provided with safe and convenient circulation facilities.*

#### *69 REGULATION:*

*Trail and bicycle systems shall be provided along shorelines consistent with the public access provisions of this Master Program and any required Critical Areas Permit. (See Public Access, Policy 15, Regulation 33 and Policy 17, Regulation 36). In addition, safe and convenient pedestrian circulation facilities shall be provided within each appropriate and permitted shoreline development.*

#### Applicant Response

Trail and bicycle systems have been provided on the access along the western boundary of the project site to encourage alternative commuting methods and public enjoyment. The proposed Northwest 26th Avenue was designed with bicyclists in mind. Two 6-foot bicycle lanes (one in each direction) would be provided and marked according to city standards.

#### Staff Response

Staff concurs. As part of the approval of the Port of Vancouver's Parcel 8 development, the port was required to provide bicycle/pedestrian access along the proposed 26th Avenue. This included a 12-foot-wide bike path along the west side of 26th Avenue extending between Lower River Road (SR 501) and La Frambois Road.

#### *33 POLICY:*

*Ingress/egress points should be designed to minimize potential conflicts with and impact on regular corridor traffic. The number of ingress/egress points should also be minimized.*

#### *71 REGULATION:*

*Ingress/egress points shall be designed to minimize potential conflicts with and impact on regular corridor traffic. The number of ingress/egress points shall also be minimized.*

### Applicant Response

Access to La Frambois Road would remain restricted to emergency access to minimize the number of ingress/egress points as approved for the Parcel 8 project. Public use of the emergency access would be restricted by barricade. All ingress and egress points will be reviewed by the city's Transportation Services to assure compliance with design standards.

### Staff Response

The applicant has indicated access to La Frambois would be restricted to emergency vehicles only. **Prior to the approval of any development permits, including grading, the applicant must file covenant precluding all but emergency vehicles from having access to La Frambois and provide the city with a copy of the recorded document.**

### *34 POLICY:*

*All debris, overburden, and other waste materials from transport facilities construction should be handled, contained and disposed of in a manner which prevents their entry into adjacent water bodies.*

### *72 REGULATION:*

*All transportation facilities shall be designed, constructed and maintained to contain, prevent, and control all debris, overburden, runoff, erosion and sediment generated from the affected areas. Relief culverts and diversion ditches shall discharge into vegetated areas or drainage facilities approved by the City of Vancouver. Any soil or debris accidentally placed in a water channel during bridge construction shall be immediately removed by approved methods. All exposed soils shall be stabilized and revegetated following completion of construction.*

### Applicant Response

Best Management Practices (BMPs) would be implemented during the construction of the site infrastructure to minimize the risk of foreign materials from entering into any water body. The overall grading and erosion control plans outline methods for reducing erosion of newly imported fill material.

### Staff Response

The applicant has indicated the proposed fill will employ Best Management Practices which **will also be required for any future development of the site.**

### Utilities

#### *35 POLICY:*

*Utility facilities and rights of way should be located outside of the shoreline area to the maximum extent possible; utility lines requiring a shoreline location should be placed underground. Utilities should be installed and facilities designed and located in a manner that protects the shoreline and water from contamination and degradation, and preserves the natural landscape.*

**73 REGULATION:**

*In shoreline areas, utilities shall be placed underground unless demonstrated to be infeasible. Further, such lines shall utilize existing rights of way, corridors or bridge crossings whenever possible. Proposals for new corridors in shoreline areas involving water crossings shall fully substantiate the infeasibility of existing routes.*

**74 REGULATION:**

*Transmission and distribution facilities shall cross shoreline jurisdiction by the shortest and most direct route feasible, unless another route would cause less environmental damage.*

**75 REGULATION:**

*All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially injurious to water quality are prohibited, unless no other alternative exists. In those limited instances when permitted by conditional use, automatic shut off valves shall be provided on both sides of the water body. Construction of utilities under water or in adjacent wetlands shall be timed to avoid fish migratory and spawning periods and subject to other conditions of an approved Critical Areas Permit. Filling in shoreline jurisdictions for utility facility or line development purposes is prohibited. Permitted crossings shall utilize the least environmentally damaging techniques and all disturbance shall be mitigated. Utility facilities requiring withdrawal of water from streams or rivers shall be located only where minimum flows as established by the Washington State Department of Fisheries can be maintained.*

**76 REGULATION:**

*Utility development shall, through coordination with government agencies, provide for compatible multiple use of sites and rights of way. Such uses include shorelines access points, trails and other forms of recreation and transportation systems, providing such uses will not unduly interfere with utility operations or endanger public health and safety.*

**77 REGULATION:**

*Utility facilities shall be located and designed so as not to require shoreline protection works. Clearing of vegetation for the installation or maintenance of utilities shall be avoided, and where unavoidable kept to a minimum. Upon project completion any disturbed areas shall be restored as nearly as possible to their pre-project conditions, including replanting with appropriate native species and maintenance care until the newly planted vegetation is established. Such clearing in critical areas or buffers shall also be subject to the conditions of an approved Critical Areas Permit.*

**78 REGULATION:**

*Applications for installation of utility facilities shall include the following:*

- a. Description of the proposed facilities;*
- b. Reason(s) why the utility facility requires a shoreline location;*
- c. Alternative locations considered and reasons for their elimination;*
- d. Location of other utility facilities in the vicinity of the proposed project and any plans to include the facilities of other types of utilities in the project;*
- e. Plans for reclamation of areas disturbed both during construction and following decommissioning and/or completion of the primary utilities useful life;*

- f. *Plans for control of erosion and turbidity during construction and operation;*
- g. *Identification of any possibility for locating the proposed facility at another existing utility facility site or within an existing utility right of way; and*
- h. *Any required Critical Areas Report.*

#### Applicant Response

All utilities would be placed underground and would not need to cross any water bodies. The utilities are in the most direct route feasible based on the proposed development layout. Per Regulations 75 and 76, the fill proposed is not for the placement of utilities but rather to allow for the industrial development of the site in conformance with comprehensive plan and zoning requirements. The utility development is solely to provide utilities for future tenants.

Utilities would not obstruct future public access ROW or trails, and would be designed so they would not endanger public health and safety. Utilities would be placed in underground utility trenches within rights of way or private utility easements. Placing utilities underground provides unobstructed access to the public trail and unhindered views. As previously mentioned, no shoreline protection works are proposed; therefore, Regulation 77 does not apply. The application materials provide the necessary information to satisfy Regulation 78.

#### Staff Response

Staff concurs.

#### Water Quality

##### *36 POLICY:*

*The quantity and quality of surface and groundwater should be preserved and protected through treatment of stormwater, erosion control, restoration of degraded water discharge systems, and other appropriate actions.*

##### *79 REGULATION:*

*The quantity and quality of surface and groundwater shall be preserved and protected.*

##### *79a REGULATION:*

*Potentially harmful materials shall not be allowed to enter any body of water or wetland, or to be discharged onto the land except in accordance with the terms of an approved Critical Areas Permit and the provisions of VMC 14.26, Water Resources Protection. Herbicides, fungicides, fertilizers, and pesticides shall not be applied within 25 feet of a waterbody.*

##### *79b REGULATION:*

*Connections that could allow conveyance of any solid, liquid or gas material not composed entirely of surface and storm water directly to water resources is prohibited, except (1) those specifically allowed through the City of Vancouver's Water Resources Protection Program; (2) those conveying discharges pursuant to an approved NPDES or state waste discharge permit; or (3) those conveying effluent from permitted or authorized on-site sewage disposal systems to subsurface soils. Prohibited connections include floor drains inside an operation which stores or uses hazardous materials, unless approved by the city for connection to sanitary sewer.*

*79c REGULATION:*

*Effective erosion control measures shall be utilized during construction and operation of shoreline uses and activities and shall comply with the provisions of VMC 14.24, Erosion Control.*

*79d REGULATION:*

*Surface water runoff shall be minimized as well as controlled and treated on-site so that water quality and receiving shoreline properties and features are not adversely affected. The hydraulic storage capacity of floodways and wetlands shall be used to manage stormwater runoff peaks and to mitigate degraded water quality from stormwater runoff peaks only when no other option exists. Projects shall comply with VMC 14.25, Stormwater Control and all other applicable federal, state, and local statutes, codes, and ordinances.*

*80 REGULATION:*

*Equipment for the management (including but not limited to transportation, storage, distribution, handling or application) of potentially harmful materials including but not limited to oil, chemicals, or hazardous materials shall be maintained in a safe and leakproof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected according to all applicable federal, state, and local statutes, codes, and ordinances including VMC 14.26, Water Resources Protection.*

*80a REGULATION:*

*Where critical areas or buffers are involved and the provisions of R79 – R80 conflict with those of VMC 14.26, Water Resources Protection or VMC 20.740, Critical Areas Protection or any other statute, law, or ordinance, the regulations that provide the most protection to the critical area(s) and their buffer(s) shall prevail.*

Applicant Response

Civil and engineering plans have been designed to meet the requirements of the city's surface water management and erosion control programs. The grading plan was developed and will be implemented so all stormwater runoff will remain on-site. After completion of the filling operations, stormwater will be directed to a low area on the property for storage and infiltration into the surrounding soil. The grading plan includes a truck wash area which will be paved and all wash water will discharge to the existing lagoon. When the lagoon is filled, the wash water runoff will be directed to a low-lying area adjacent to the truck wash and will remain on-site. A gravel road has been proposed from the washing area to the exit onto Lower River Road to limit any residual sedimentation transport from equipment. It has been proposed that all stormwater runoff from buildings, private roads, and parking lots will remain on-site and be treated for water quality and quantity per city standards.

Staff Response

Staff concurs. Staff also notes that all development will be required to meet the standards of VMC 14.26. The applicant has also applied for a critical areas permit. Staff has recommended approval of that permit, subject to certain conditions.

## Wetlands

### Applicant Response

The city's Pre-Application Conference Report lists SMMP Policy 37 and regulations 81 through 81s as applicable to this project based on the assumption that a wetland might exist in the project area. The critical areas report confirms no wetlands or buffers are located in the project area; therefore, these policies and regulations do not apply and are not listed in this narrative.

### Staff Response

Staff concurs; there are no wetlands or wetland buffers on the site.

## Industrial Development

### *55 POLICY:*

*Industrial development should not be located in or on sensitive or ecologically valuable shorelines such as natural accretion shoreforms. Solid waste landfills should not be located in shoreline jurisdiction.*

### *151 REGULATION:*

*Industrial development shall be located and designed to avoid critical areas, and where unavoidable or where critical areas are not involved minimize the need for and mitigate the impacts of initial or continual dredging, filling, dredge spoil disposal and other harbor, channel, or shoreline stabilization or maintenance activities.*

### *154 REGULATION:*

*Best management practices shall be employed for handling general debris and toxic, potentially harmful, or hazardous materials to prevent them from entering the water. In the event that any of these materials do enter the water, best management practices and the best available technologies shall be employed for prompt and effective cleanup.*

*154a REGULATION: Solid and hazardous waste landfills shall be prohibited in shoreline jurisdiction.*

### *155 REGULATION:*

*Appropriate native vegetation shall be used to buffer nearby uses and the shoreline from the impacts of industrial development EXCEPT in cases where it would hinder public access. These buffers shall not be used to store industrial equipment or materials, nor to dispose of waste. They may be used for outdoor recreation consistent with the other provisions of this Shoreline Management Master Program.*

### *156 REGULATION:*

*Display and other exterior lighting shall be designed, shielded, and operated to minimize glare, avoid illuminating nearby properties, and prevent traffic hazards.*

### Applicant Response

Since the city has designated the site for light industrial use under its comprehensive plan and zoning maps, it would be inconsistent with the city's zoning ordinance to restrict its potential for industrial use because fill is needed. While the site's location minimizes the need for shoreline maintenance, it requires initial filling.

The project would eliminate the solid waste landfill, which is a non-conforming shoreline use.

BMPs would be employed to prevent debris and/or toxic or hazardous materials from being conveyed to the water. The proposed stormwater system is designed to minimize potential debris from entering the system. The potential for toxic or hazardous materials entering the water is minimal.

Trees of an appropriate species would screen the project site from SR 501 and the proposed Northwest 26th Avenue. Additional trees may be required during future site plan review to provide additional screening from surrounding non-industrial properties.

No exterior lighting is proposed as part of this shoreline permit; therefore, Regulation 156 does not apply. Exterior lighting will be provided in the proposed parking lots and with the proposed buildings. Lighting standards will be selected consistent with Regulation 156. Lighting will be downward directed, shielded and located to avoid glare and illumination of adjacent properties or roadways.

### Staff Response

Staff concurs.

### Fill

#### *80 POLICY:*

*Shoreline fills shall be avoided in critical areas or buffers. Where unavoidable or where critical areas or buffers are not involved, they should be minimized, and designed and located so that there will be no significant damage to and no net loss of function of existing critical areas, ecological systems or natural resources, and no alteration of local currents, surface water drainage of flood waters which would result in a hazard to adjacent life, property, and natural resource systems. Their perimeters should be designed to avoid or eliminate erosion and sedimentation impacts, both during initial fill activities and over time. In evaluating fill projects, such factors as conflict with potential and current public use of the shoreline and water surface area, total water surface reduction, navigation restriction, impediment to water flow and drainage, reduction of water quality, and destruction of habitat should be considered. Further, the Planning Official should assess the overall value of the fill site in its present state versus the proposed shoreline use to be created to ensure consistency with the Shoreline Management Act and this Master Program.*

**240 REGULATION:**

*Applications for fill permits shall include the following information:*

- a. proposed use of the fill area;*
- b. physical chemical and biological characteristics of the fill material;*
- c. source of fill material;*
- d. method of placement and compaction;*
- e. location of fill relative to natural and/or existing drainage patterns;*
- f. location of the fill perimeter relative to the OHWM;*
- g. perimeter erosion control or stabilization means;*
- h. type of surfacing and runoff control devices; and*
- i. any required Critical Areas Report.*

**241 REGULATION:**

*Environmental review of proposed fills shall be accomplished concurrently with review of the intended use, and the threshold determination concerning the need for an environmental impact statement shall be based on this combined project review.*

**242 REGULATION:**

*Fills shall be designed, constructed and maintained to prevent, minimize, and control all material movement, erosion and sedimentation from the affected area. Perimeters of permitted fill projects shall be designed and constructed with silt curtains, vegetation, retaining walls, or other mechanisms and appropriately sloped to prevent erosion and sedimentation both during initial fill activities and afterwards. Such containment practices shall occur during the first growing season following completion of the fill.*

**243 REGULATION:**

*Fill shall be avoided in critical areas or buffers where possible. Pile or pier supports or other support methods shall be utilized instead of fills whenever feasible, particularly for permitted development in floodways or wetlands. Fill materials shall be sand, gravel, soil, rock or other similar material. Use of polluted dredge spoils or sanitary landfill materials is prohibited. Fill construction shall be timed to minimize adverse impacts, including but not limited to damage to water quality and aquatic life. Adverse impacts to critical areas or buffers shall be mitigated such that no net loss of function results.*

**244 REGULATION:**

*Fill on dry land shall not result in substantial changes to surface water drainage patterns off the project site and onto adjacent properties. Fills shall be designed to allow surface water penetration into groundwater supplies where such conditions existed prior to filling.*

**Applicant Response**

This narrative contains all the necessary information to satisfy the requirements of Regulation 240. The site will eventually be occupied by an industrial use consistent with the comprehensive plan and zoning requirements. The physical, chemical, and biological characteristics of the fill material are addressed in the geotechnical report. There will be various sources of fill material which will be based on availability and regional construction activities. The geotechnical report also contains specifications for the placement and method of compaction for fill material.

While overland runoff of stormwater is minimal, landfilling may disrupt the existing drainage patterns of stormwater. The erosion control plan describes proposed methods of controlling erosion and sedimentation.

A SEPA checklist is being submitted as part of this application package. As all city codes can be complied with, it is anticipated that a determination of nonsignificance or mitigated determination of nonsignificance will be issued by the city.

An erosion control and grading plan explains proposed methods of controlling erosion and sedimentation consistent with the erosion control requirements of VMC.14.24 and Regulation 242.

In response to Regulation 243, this proposal would not place any fill in critical areas or buffers because none exist on the project site. Pile or pier supports are not practical based on the proposed industrial use and relatively lengthy distance from any water body or wetland. All fill materials will be either non-polluted sand, gravel, soil, or rock. The application proposes to use the existing landfill materials as part of the fill for the project. The existing landfill is a Private Limited Purpose / Special Use landfill. It does not contain sanitary or household or other waste from the general waste stream.

As described in Regulation 244, once the site has been filled, existing drainage patterns would be altered. Post-development drainage patterns would not direct runoff to adjacent parcels. Post-development drainage would be directed to locations where existing runoff leaves the site.

#### Staff Response

Staff generally concurs. However, based on comments received from the Clark County Public Health (Exhibit 21), certain clarifications and conditions are appropriate.

Gary Bickett, Program Manager, Clark County Public Health, in his letter dated Dec. 29, 2008; (Exhibit 21) indicated the inactive landfill contains only wastewater treatment clarifier solids generated by Boise Cascade Corporation from 1989 through 1996. The landfill has not met the closure requirements of Chapter 173-350 WAC. One option for regulatory compliance is through Permit Deferral. The proponent is in the process of applying to Clark County Public Health (CCPH) deferral of the solid waste permit to the shorelines permit, if so approved.

He goes on to state that Clark County Public Health does not believe incorporating approved imported fill with the material currently within the landfill for grading purposes would be a significant risk to human health or the environment if protective criteria and conditions are established within any approved shorelines permit.

Clark County Public Health also has the following comments:

- The landfill currently has five monitoring wells, four of which have been routinely monitored until almost three years ago. Prior to permit deferral approval and decommissioning of the landfill, testing of these wells is required for those indicator parameters listed in Chapter 173-350-500 WAC. Testing must confirm there are no groundwater impacts stemming from the landfill.

- While CCPH is comfortable with the characterization of the material conducted so far by Boise Cascade Corporation in 2001, Entrix in 2007, and CCPH leachate testing in 2008, final assurance that dioxin levels are below standards for industrial zoned properties will be a pre-condition of any permit deferral approval.
- An approved shorelines permit should include assurances that the fill project will be completed in its entirety and within established timelines such as the period in which the permit is valid. The applicant should also provide a method of assurance there will be follow through with project completion as described in the application.
- An approved shorelines permit should include an engineered based operation plan that, at a minimum, includes the following:
  - Screening protocols, such as those currently instituted by the Port of Vancouver on the adjacent property, should be established to assure material coming in to the project adheres to grading permit standards.
  - A method and location where the material will be blended. What the strata structure will be. If a cap will be constructed, what it will look like. The infrastructure (roads, utilities) that will be needed to complete the project.
  - A project time table from start to completion. What the footprint will look like when completed.
  - Mixing ratios should be established taking into consideration minimal potential impact to human health or the environment. A minimum of 2-foot layers of the mixed material should be part of the plan.
  - Decommissioning of the site's current infrastructure, including the landfill and lagoon, should be the initial phase of the project in order for the entire 43-acre property to be utilized for the mixed material as part of the fill component.
- There should be some assurance that current zoning, light industrial, is long term through a covenant or some other means.

Based on these comments, staff finds the following conditions are appropriate:

**The applicant must provide the city and Clark County Public Health with test results from the on-site test wells confirming there are no groundwater impacts stemming from the landfill. Prior to commencing any ground-disturbing activity, the city and the CCPH must find the tests to be adequate and confirm there are no impacts to the groundwater.**

**The applicant must provide professional testing results confirming dioxin levels are below standards for industrial zoned properties. This must be reviewed and approved by the city and CCPH prior to commencing ground-disturbing activity.**

**Prior to commencing any ground-disturbing activity, the applicant must provide assurances the fill project will be completed in its entirety within the five-year term of the shoreline permit. Such financial assurances must be acceptable to the city.**

Prior to commencing any ground-disturbing activity, the applicant must provide the city engineering-based operation plan for review and approval. The plan shall include, as a minimum, the following:

- Screening protocols, such as those currently instituted by the Port of Vancouver on the adjacent property, should be established to assure material coming in to the project adheres to grading permit standards.
- The method and location where the material will be blended.
- What the strata structure will be.
- If a cap will be constructed, what it will look like.
- The infrastructure (roads, utilities) that will be needed to complete the project.
- A project time table from start to completion.
- What the footprint will look like when completed.
- Mixing ratios should be established taking into consideration minimal potential impact to human health or the environment. A minimum of 2-foot layers of the mixed material should be part of the plan.

Decommissioning of the site's current infrastructure, including the landfill and lagoon, shall be the initial phase of the project in order for the entire 43-acre property to be utilized for the mixed material as part of the fill component.

Prior to commencing ground-disturbing activity, the applicant shall provide city staff with a copy of a recorded covenant indicating the site is to maintain its current zoning as light industrial.

*81 POLICY:*

*Fills should be permitted only when necessary for a specific development proposal that is permitted by this Master Program. They should be of the minimum size necessary to provide for the proposed use. Speculative fill activity should be prohibited. Fills waterward of the OHWM should be prohibited except in conjunction with a water-dependent or public access use when such fill is necessary and unavoidable and complies with all other policies and regulations of this Master Program.*

*245 REGULATION:*

*Fills shall be permitted only in conjunction with a permitted use, and shall be of the minimum size necessary to support that use. Speculative fills are prohibited.*

*246 REGULATION:*

*Fills shall be permitted only where the applicant demonstrates to the satisfaction of the City and State approval authorities that the proposed action or parts of the action in critical areas or buffers cannot be avoided and where unavoidable or where critical areas or buffers are not involved will be minimized and mitigated to result in no net loss of function (including water quality, habitat, natural drainage and circulation patterns, currents, river and tidal flows, and flood storage capacity). The City shall consult with the appropriate state and federal agencies to assess the potential and actual environmental impacts from the proposed fill and determine appropriate mitigation measures.*

**247 REGULATION:**

*Fill waterward of OHWM shall be prohibited, EXCEPT it may be permitted as a conditional use (1) when it is necessary to support a water-dependent or public access use, and (2) in accordance with the provisions of an approved Critical Areas Permit. In the Columbia River, fills shall be prohibited between the OHWM and -15 feet CRD unless shallow water habitat will be created as mitigation.*

*Regulation 248 was moved to the Industrial Development section as Regulation 154a by Ordinance M-3803, effective 03/06/2007.*

Applicant Response

This proposal is in conjunction with light industrial development which is permitted according to the city's land use code, comprehensive plan, and shoreline jurisdiction. The concept plan (Sheet C-1) provides example building envelopes, parking plans, and generalized landscape plans. The plans may be modified prior to final site plan approval to address the needs of the specific end user.

The project site has no wetlands, riparian areas, or buffers, and is not critical habitat for any endangered species. Additionally, no in-water fill is proposed and construction activities would comply with VMC.14.24 relating to stormwater control. Fill in this area will not adversely alter the natural drainage and circulation patterns, or currents and tidal flows because of the site's relatively long distance from water bodies.

In response to Regulation 247, this project does not propose any fill waterward of the OHWM. The entire project site is uplands and there are no wetlands or buffers.

Staff Response

The fill is proposed in conjunction with an office/light industrial development. Such developments are allowed in the IL zone and are permitted in urban upland high-intensity environment.

The fill will be used to raise the elevation of the entire site above the 100-year flood plain. Given the nature of office/light industrial developments, it is not practical to only raise the foot print of the buildings, leaving the parking, loading and any outdoor storage areas below the flood plain elevation and below the elevation of the buildings.

Urban: High-Intensity

**97 POLICY:**

*Water-dependent and water-enjoyment uses and activities should have the closest physical relationship with the water.*

**285 REGULATION:**

*Water-dependent and water-enjoyment uses and activities shall have priority for locating in the Urban: High-Intensity Environment. Development within critical areas or buffers shall be subject to a Critical Areas Permit.*

**286 REGULATION:**

*A non-water-oriented use or activity may locate in the Urban: High-Intensity Environment when: it will not cause more than 25% (or 85% within the Special Columbia River Management Area) of the length of the total frontage to be consumed by non-water-oriented uses; OR it will not cause more than 25% (or 85% within the Special Columbia River Management Area) of the portion of the project area within shoreline jurisdiction to be consumed by non-water-oriented uses; OR it is part of a master-planned project and both the amount of shoreline area it consumes as well as its location within shoreline jurisdiction are justified to the satisfaction of the public review body. If a master-planned project consists of more than one parcel (regardless of ownership), the total of the lengths of the shoreline frontages of all the involved parcels shall be considered by the public review body in determining the amount and location of non-water-oriented uses to be permitted.*

**287 REGULATION:**

*When (1) an existing non-water-oriented use or activity vacates its space/structure(s) within the Urban: High-Intensity Environment or remains unused for three years, AND (2) the maximum allowed percentage of that frontage or project is still occupied by other existing non-water-oriented uses or activities, the space/structure(s) shall either be occupied by or redeveloped for a water-oriented use or activity in accordance with the other applicable policies and regulations of this Shoreline Management Master Program. This regulation is intended to reduce the amount of non-water-oriented uses in this sub-environment to the prescribed level by attrition, and to maintain it at that level.*

**288 REGULATION:**

*When a project includes a dedicated easement for a public trail which (1) is of sufficient (as determined by the Director) width, (2) traverses the parcel(s) along the water frontage as closely as possible (as determined by the Director), (3) connects at both ends to a proposed or existing trail system, and (4) provides points of visual access or view corridors with interpretive displays when not occupying the water frontage, the Director shall allow flexibility in the following use and development standards:*

*Use Standards:*

*Non-water-oriented uses may consume as much as 50% of the water frontage or total project area within shoreline jurisdiction.*

*Development Standards:*

*Setbacks from the OHWM to structures may be reduced by 10%.*

*Maximum lot coverage may be increased to as much as 75%.*

*Maximum structure height may be increased to 60' (feet) or by 10%, whichever is higher, as long as the Public Access provisions of this Program are met.*

Applicant Response

The site cannot sustain water-dependent or water-related light industrial uses based on its physical separation from the closest waterbodies of Vancouver Lake and the Columbia River (1 mile and 2,500 feet respectively). The SMMP has determined that sites further than 1,000 feet from the OHWM do not have a reasonable use that is related to the water and are therefore exempt from the requirements for water-dependent, water-oriented, and water-enjoyment uses.

The existing single-family residences and structures would be demolished to accommodate the proposed grading. Industrial development is consistent with the shoreline master planning provisions and with the underlying IL base zone.

Staff Response

Staff concurs.

*98 POLICY:*

*Thinning or removal of vegetation in the Urban: High-Intensity Environment should be limited to that necessary to accommodate the permitted use(s) and activity (ies) and to provide physical and visual access to the shoreline consistent with critical areas protection.*

*289 REGULATION:*

*Land development techniques which allow as much vegetation as possible to be retained shall be used in the Urban: High-Intensity Environment in compliance with the provisions of this Master Program and the terms of any required Critical Areas Permit.*

Applicant Response

The entire project site will need to be cleared to allow the grading and filling of the site. None of the grading and filling activities will occur within approximately 2,500 feet of any aquatic environment (including wetlands) or critical habitat areas (including riparian management areas).

Staff Response

The applicant has indicated the entire site must be cleared to allow for the filling of the site. As part of the tree plan, the applicant indicates the existing trees must be removed to allow the filling of the site and, given the location of the trees, there is not an opportunity to retain any of them.

The geotechnical study indicates all organic material must be removed from the site to allow for the fill to be suitable to support structures.

### Substantial Development Approval Criteria

**Finding:** WAC 173-27-150 sets forth the review criteria for substantial development permits. The following address these criteria.

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

**Conclusion:** As indicated elsewhere in this report, staff has reviewed the applicant's submittals and found the proposal is in compliance with the policies and procedures of the Shoreline Management Act, the provisions of WAC 173-27 and the Vancouver Shoreline Management Master Plan.

### Shoreline Conditional Use Permit Requirements

Landfills and utilities require conditional use permits within the city's urban, high-intensity environment. The SCUP must be approved by Ecology after being recommended for approval by the city's hearings examiner. SCUP approvals are based on the following criteria.

#### *Conditional Use Permit Decision Criteria:*

1. *For uses which are listed in this SMP as conditional uses in the environment in which they are proposed to be located, the Hearing Examiner/Planning Commission may approve or approve with conditions or modifications an application, any approval being subject to approval by Ecology, if the decision maker finds the applicant has demonstrated the development proposal is consistent with all of the following criteria. The Hearing Examiner/Planning Commission may deny an application if the decision maker finds the applicant has not demonstrated the development proposal is consistent with all of the following criteria.*
  - a. *The policies of RCW 90.58.020 and the policies of the SMP: provided, that conditional use permits should also be granted in a circumstance where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020.*

### Applicant Response

The policies of RCW 90.58.020 and the SMMP would be satisfied by the proposal as described in this narrative and the critical areas report.

### Staff Response

The applicant has demonstrated the project can meet the policies of RCW 90.58.020 and the Vancouver Shoreline Management Master Program.

- b. The proposed use or activity will not interfere with the normal public use of public shorelines.*

Applicant Response

The uses which require conditional approval (i.e., landfill and utilities) are critical to the functionality of the project. This proposal would complete ROW improvements for the previously approved Northwest 26th Avenue which includes a pedestrian/bicycle path that was required as part of the Parcel 8 shoreline permit.

The Portside Lagoon and Landfill project would in no way hinder access to this future amenity or any other normal public use of the shorelines of Vancouver Lake and the Columbia River.

Staff Response

Staff concurs (see response to Policy 16, Regulation 34).

- c. The proposed use of the site and design of the project is compatible with other allowed uses with the area.*

Applicant Response

The project site is almost completely surrounded by industrial uses with only a very small area near residential uses (see section 4.3 of this narrative). The landfill, and utility improvements and industrial development are consistent and compatible with other industrial uses in the area. The industrial development of this parcel would continue the clustering effect of industrial services in the area.

Staff Response

Staff concurs with the Applicant response. Additionally, this area is designated for light industrial development in the comprehensive plan and is zoned for light industrial use.

- d. That the proposed use will cause no unreasonably adverse effects to the shoreline environment in which it is to be located.*

Applicant Response

The proposed landfill and utility conditional uses would cause no unplanned adverse effects to the shoreline. The site would no longer be within shoreline jurisdiction once filling has reached the final grade because the elevation would be above the 100-year flood plain. Removing this property from the 100-year flood plain is necessary to provide building pads for structures safely above the height of flood hazards. Constructing light industrial uses such as manufacturing, warehouse, and industrial flex buildings requires building pads that could not be accommodated using other flood hazard reduction methods (e.g., piles, piers, flood proofing, etc.). The city's comprehensive plan states the area's need for light industrial uses, and both the plan and the city's zoning maps designate the project site for IL uses. Requiring a method other than landfill to raise the lot area above the flood plain would be infeasible.

Therefore, filling the site should not be considered to have unreasonably adverse effects to the shoreline environment because the proposed development fosters the goals of the city's comprehensive plan and zoning and encourages the desired light industrial uses.

Utility improvements for water, sewer, and stormwater would be needed to foster future development of the site and are necessary to accommodate the proposed industrial development of the site. Utilities would be placed underground in areas that would be outside the shoreline jurisdiction once fill has been placed.

#### Staff Response

The applicant has prepared a SEPA checklist which has been distributed. No unreasonably adverse impacts to the shoreline environment were noted in the responses received.

The applicant has also submitted a critical areas preservation permit application. This permit application states that no significant impacts to the critical areas associated with this development are anticipated. This application has been reviewed by staff and recommended for approval.

- e. The public interest will suffer no substantial detrimental effect.*

#### Applicant Response

The public interest would be served through the proposed appropriate use of the shoreline which would provide economic benefits through local jobs and taxes. The development of the project site would create no anticipated detrimental effects to the public interest.

#### Staff Response

The proposal meets the applicable requirements of Vancouver Shoreline Management Master Program, is in compliance with the comprehensive plan and zoning for the area and has been reviewed and found to be in compliance with SEPA.

- f. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.*

#### Applicant Response

The development would not produce substantial adverse effects to the shoreline environment and is consistent with surrounding uses; therefore, the conditional uses should be approved. The Port project adjacent to the site is the only known SCUP in the immediate vicinity of the project site, other than the permit for the existing landfill. The proposed project will result in a reduction in the impacts to shoreline resources by eliminating an industrial waste landfill from the area. It is also consistent with the SCUP issued for the adjacent industrial development.

### Staff Response

The review has included the potential for cumulative impacts relating to critical areas protection. Should any additional developments be proposed that would require a shoreline conditional use permit, they would also need to perform a cumulative impact analysis.

*g. The proposal complies with all other applicable requirements, criteria and standards of the City.*

### Applicant Response

The proposal would be consistent with applicable city requirements, criteria, and standards as demonstrated in this narrative and in the associated studies, reports, and permit applications.

### Staff Response

Staff has reviewed the submittal and finds that subject to the following conditions, the application complies with applicable requirements of the VSMMP.

- Site development is subject to shorelines and will continue to be subject to shoreline jurisdiction until such time as the site is fully developed.
- Prior to the approval of any development permits, including grading, the applicant must file covenant precluding all but emergency vehicles from having access to La Frambois and provide the city with a copy of the recorded document.
- BMPs will also be required for any future development of the site.

Compliance with the other applicable requirements and regulations are addressed in the sections relating to those requirements,

### **20.770 Tree Conservation**

**Finding:** A Level V Tree Plan was prepared for the site. The survey indicated there are a total of 98 trees with Diameters Breast Height (DBH) of 6 inches or greater. These trees constitute 225.5 tree units.

The site contains 43.5 acres. The minimum tree density is 30 tree units per acre. The total number of tree units required is 1,305.

The application indicates no trees will be planted in association with the proposed grading and filling of the site. Trees will be planted when the site is developed. However, the applicant has indicated approximately 107 trees will be planted along SR 501 and the proposed Northwest 26th Avenue. No tree plan has been provided for either of these street projects.

At the time of the individual site plan review applications, the applicant will be required to show how each portion of the project will meet the tree density requirements.

**Conclusion:** The applicant will be required to meet the applicable provisions of 20.770 as part of the site plan review process.

## **20.790 SEPA**

**Finding:** Notice of application, public hearing, and an Optional SEPA determination of nonsignificance were issued Nov. 12, 2008. In response to that notice the city received comments from the Clark County Public Health District, Southwest Clean Air Agency, Fruit Valley Neighborhood Association (FVNA); Washington State Department of Transportation, and State of Washington Department of Ecology (Exhibits 16, 17, 18, 19, 21, 22, and 23).

Based on those comments, staff requested the applicant to revise the checklist to address the concerns indicated in the comments. The applicant provided the revised checklist on Dec. 8, 2008. Staff reissued the SEPA checklist Dec. 19, 2008 (Exhibit 20). The comment period closed Jan. 2, 2009, and additional comments were received from the Department of Ecology (Exhibit 22). It must be noted that any party may testify at the public hearing regarding the substantive issues associated with the SEPA determination.

Under the provisions of VMC 20.790.640F2a(1)(b), the deadline for filing a SEPA procedural appeal is 5 p.m., Friday, Jan. 16, 2009. Should a procedural appeal be filed in a timely manner, it would be considered at the public hearing Jan. 20, 2009.

Substantive SEPA comments may be presented at the public hearing and will be considered by the hearings examiner.

**Conclusion:** SEPA review processes have been followed and staff recommends issuance of a final determination of nonsignificance.

## **Additional Development Standards**

### **20.915 Impact Fees**

**Finding:** Park impact fees and school impact fees are required only for development that includes residential development. This proposal is for industrial use only; therefore, no park or school impact fees are required.

The site is within the Vancouver Traffic Impact Fee area. The formula for calculating the transportation impact fees (TIF) within the Vancouver Traffic Impact Fee area is:

$$\text{TIF} = \text{Average Daily Trips} \times \$139 \times .85$$

Impact fees are required prior to the issuance of any building permits. At this time, the applicant has not requested site plan approval or building permits. The only development application requested at this time is for grading.

**Conclusion:** The applicant will be required to pay traffic impact fees prior to the release of building and/or grading permits.

## **VMC Title 11 Streets and Sidewalks**

### **11.90 Transportation Development Standards**

#### **Proposed Construction Access**

**Finding:** The applicant is proposing construction access from an existing gravel road east of the project site. The application does not, however, indicate the dimensions. To meet city standards, the applicant must provide the following information:

- **The final grading plans shall demonstrate the half- and full-width dimension of the proposed access road for the transport of fill material from SR 501/Northwest Lower River Road to the on-site road and where the construction entrance will be located. This road shall be constructed with a gravel surface to ensure dirt will not be tracked onto SR 501/Northwest Lower River Road.**
- **The applicant shall provide documentation showing access rights to the road from SR 501/Northwest Lower River Road to the on-site road east of this project.**

**Conclusion:** The applicant can meet the city requirements for the proposed access road subject to the above-described conditions.

#### **Future 26th Avenue Alignment**

**Finding:** The applicant has proposed an alternative alignment of 26th Avenue to access the site from SR 501/Northwest Lower River Road. This alternative would connect with SR 501/Northwest Lower River Road directly across from the main driveway to the Port of Vancouver's administrative offices. This will impact the southwest corner of the project site as well as the southeast portion of the Port of Vancouver's Parcel 8 project.

**The applicant shall dedicate the necessary right of way for the new alignment of 26th Avenue prior to issuance of the grading permit.**

**In addition, prior to approval of the grading permit, the applicant must provide documentation indicating who is the responsible party(ies) for constructing the new alignment of 26th Avenue.**

**Conclusion:** The applicant has shown the proposal can meet the standards of 11.90, subject to the above-described conditions.

#### **SR 501/Northwest Lower River Road**

**Finding:** The plans indicate the existing right of way of SR 501/Northwest Lower River Road is 150 feet wide adjoining the subject property. This meets the minimum right of way requirement. Further, city standard street frontage improvements are not required along Lower River Road for this project.

**Conclusion:** The applicant has shown the proposal meets city standards for the SR 501/Northwest Lower River Road frontage.

#### **La Frambois Road**

**Finding:** The applicant has indicated no access will be taken from La Frambois Road for this project. **This will be a requirement of approval.**

Street frontage improvements will not be required along the La Frambois Road frontage of the property. To meet right of way dedication standards, the **applicant will be required to provide a total of 35 feet half-width right of way on La Frambois Road along the project's frontage, prior to the issuance of a grading permit.**

**11.95 Transportation Concurrency Management**

**Finding:** The proposed development is located within Transportation Analysis Zone 39 (TAZ) and is located within an adopted Transportation Management Zone (TMZ) as following:

Corridor/TMZ	Limits of Corridor
Fourth Plain Boulevard	I-5 to Port of Vancouver

The following Average Daily Trips (ADT) and AM and PM peak hour vehicular trips are based on the request for certificate of concurrency survey letter and Traffic Impact Analysis dated September 2008, from Anne Sylvester, PTE with Parametrix Inc. The trip generation is based on the traffic engineer's surveyed data as following:

Time Period	Entering Trips	Exiting Trips	Net Total ADT Trips
ADT	28	28	56
AM Peak Hour	7	2	9
PM Peak Hour	2	7	9

These trips are associated with the proposed grading and filling of the site. The analysis does not account for the trips associated with the future development of the site for industrial uses.

The site generated trips will be distributed to the following TMZs within which the project is located:

Corridor Name	Corridor Limit	Number of PM Peak Trips to Corridor	TAZ
Fourth Plain Boulevard	Port of Vancouver to I-5	4	39

Based on the ADT as calculated in the previous findings in this report, the TIF due at the time of building permit is as follows:

Traffic Impact Fee Area	Impact Fee/Trip	Mill/Plain Overlay Fee/Trip	New Average Daily Trips	Traffic Impact Adjustment	Total Traffic Impact Fee
Vancouver	\$139	NA	56	x .85	\$6,616.40

Based on the findings in the traffic study and average daily trips (ADT) as calculated in the previous findings in this report, for the applicant to meet city standards, the following conditions must be met:

1. The submitted request letter and the traffic study are indicating the project location is within TAZ 38. The site is actually located within TAZ 39. **The applicant shall revise and re-submit the letter requesting the certificate of concurrency survey and the traffic study based on the correct number of TAZ. This project is located within TAZ 39 and Vancouver TIF district area.**
2. The submitted traffic safety analyses are based on the previous location of access road which was the future alignment of 26th Avenue. **The applicant shall revise and re-submit the safety analysis based on the new proposed access road located south of the project site.**
3. **Mitigation shall be provided for the addition of construction vehicles to the highway that may create an unsafe and uncomfortable environment for bicycle and pedestrian safety, which was stated on page 3-3 of the traffic study.**
4. **Prior to issuance of the grading permit, the applicant shall pay the total TIF due of \$6,616.40.**

The city issued a certificate of concurrency for this application Dec. 31, 2008 (Exhibit 12).

**Conclusion:** The applicant has shown the proposal can meet the city's requirements subject to the conditions indicated.

## **VMC Title 14 Water and Sewer**

### **14.04 Water**

**Finding:** The site is within the city of Vancouver water service areas. The applicant is proposing to connect to city water.

City records show an existing 24-inch ductile iron (DI) water main and an existing 12-inch DI water main in Lower River Road. In La Frambois Road there is an 8-inch DI water main ending approximately 900 feet east of the northeast corner of the proposed project site.

Fire flow records dated March 31, 1994, for the hydrant located on West 26th Avenue and Fire Stone Lane show a static water pressure of 80 pounds per square inch (psi), a residual water pressure of 71 psi, and a calculated capacity of 5,626 gallons per minute (gpm) at 20 psi. It is estimated that at least 3,500 gpm of fire flow is available from the fire hydrants in the surrounding area.

The preliminary grading plan shows the proposed fire hydrants, fire protection and water meters. The submittal was reviewed under case number ENG2008-00130. The application was deemed fully complete Oct. 17, 2008. The following conclusions and conditions are based on the preliminary plans submitted.

To meet city standards, civil plans will be required for the proposed development of the site. **The applicant should remove pages C-8 through C-11 from the grading plan as the review for the utilities will be done with the industrial development of the parcels. For water quality and fire flow, the proposed water main at the southwest corner must connect to the existing water main in Lower River Road.** Depending on the proposed water users on the site, a larger main through the site may be required.

Prior to civil plan approval, the applicant shall submit civil plans to show compliance with the above requirements.

**Water mains shall be constructed within paved public rights of way or public easements.**

**A right of way permit is required for all work in the public right of way. When construction is to take place within a city of Vancouver or Clark County right of way, an approved traffic control plan is required prior to the start of construction.**

**The applicant shall provide payment of water System Development Charges (SDCs) prior to the issuance of building permits.**

**Conclusion:** The applicant has shown the project can meet the standards of VMC 14.04 relating to public water. As the applicant has only requested a grading permit, full civil plans will be required with the development plans for this site.

#### **14.04 Sanitary Sewer**

**Finding:** The application was reviewed by sewer staff in October 2008 under case number ENG2008-00130. Review comments reminded the applicants that downstream construction approval and related coordination is required. Project civil review will be performed later with the project's site plan review application.

**Conclusion:** There are no public sewer conditions for the shoreline, critical areas, and tree plan applications.

#### **14.24 Erosion Control**

**Finding:** The proposed project will require over 300,000 cubic yards of fill. The majority of the fill area is within the confines of the lagoon and erosion should be contained within the lagoon area. The main threat of erosion will be from haul trucks leaving the site and tracking sediment onto the adjacent roadways. The applicant has submitted an erosion control plan that addresses off-site tracking. It calls for a stabilized construction entrance and has provisions for a wheel wash if necessary. The applicant has demonstrated that the requirements of the ordinance can be met for the project. A final erosion control plan shall be submitted for review.

#### **14.25 Stormwater**

**Finding:** The proposed project will not include any stormwater improvements. Future development will require stormwater review when submitted.

**Conclusion:** No stormwater is required at this time.

## **VMC Title 16 Fire**

### **16.04.160 Water Supply and Fire Hydrants (IFC 508)**

**Finding:** Filling the existing lagoon will not create a demand for additional fire flow or fire hydrants. The fire flow and fire hydrants required will be re-evaluated upon such time as buildings or other facilities are developed on this location.

### **16.04.150 Fire Apparatus Access (IFC 503)**

**Finding:** The existing fire apparatus access will not be affected by filling the lagoon. Fire apparatus access will be re-evaluated upon such time as buildings or other facilities are developed on this property.

### **16.04.170 – 16.04.210 Fire Protection Systems (IFC Chapter 9)**

**Finding:** The proposed project will require fire protection systems. The need for fire protection systems will be re-evaluated upon such time as buildings or other facilities are developed on this property.

### **16.04.010 Premises Identification (IFC 505)**

Addresses and premises identification signage shall be visible and legible from the fire lanes for emergency response.

## **VMC Title 17 Building**

**Finding:** Filing of a building permit application with required fees and review material is required for a complete building code review. At this time, plans and information necessary to verify compliance with all applicable building code provisions is neither required nor provided.

**Applicable codes:** For building permit to be issued, **project must comply with building codes applicable at the time of building permit application.** Title 17 of the Vancouver Municipal Code contains rules and regulations for the technical codes as they regulate site preparation and construction, alteration, moving, demolition, repair, use and occupancy of buildings, structures and building service equipment. Information on current codes may be obtained at [www.cityofvancouver.us](http://www.cityofvancouver.us) or by contacting Building Division staff.

Building codes effective at this time include 2006 International Building Code, 2006 International Residential Code, 2006 International Mechanical Code, 2006 Uniform Plumbing Code and 2005 National Electrical Code. WAC 51-50 Barrier Free Accessibility, WAC 51-11 Washington State Energy Code, WAC 51-13 Washington State Indoor Air Quality Code, the Washington State Water Conservation Code.

No buildings are proposed for construction at this time.

## AGENCY AND PUBLIC COMMENT

Agency and public comments are listed below. The proposed project has been reviewed and recommendations made in light of these comments.

1. Letter from Southwest Clean Air Agency dated Nov. 20, 2008, indicating the regulations relating to asbestos removal and construction dust control. (Exhibit 16)

### Staff Response

None required.

2. E-mail from the Fruit Valley Neighborhood (FVNA) dated Dec. 12, 2008 (Exhibit 17). They indicated the following concerns:
  - Fill Material: The letter indicates the FVNA is concerned with the use of the material currently contained in the landfill (pulp sludge from the former Boise Cascade Vancouver Mill, composed of approximately 50 percent clay and 50 percent wood fibers). This material is known to contain some dioxins.

The specific concern is that use of the pulp sludge for fill material may be detrimental to wildlife populations in the area, could be transported during major flooding events and could hinder the groundwater clean up efforts currently underway by the Port of Vancouver and the Washington State Department of Ecology.

### Staff Response

Suitability of the sludge for use as fill material will be determined based on comments from Clark County Public Health and as conditioned.

- Traffic Plan: FVNA is opposed to any traffic associated with the development of the site having access to La Frambois Road. They state concerns that the current improvements of La Frambois would be severely impacted by industrial traffic or construction equipment. They also state their concern that allowing such traffic on La Frambois would be disruptive to the Fruit Valley Elementary School and to Fruit Valley Park.

### Staff Response

The applicant has indicated there will be no vehicular access to the site from La Frambois Road. As a condition of approval, the applicant is required to place a covenant on the land precluding access to the site from La Frambois Road.

- Site Entrance and Egress: FVNA is concerned with the proposed construction entrance to be located at the southeast corner of the subject property. The specific concern is that the use of this area for construction access will compromise the ability of the existing dike to protect the residential area to the east.

The neighborhood suggests a new entrance either 300 feet west of the base of the dike, or a new entrance at the southwest corner of the site would be preferred by the neighborhood, to protect the dike's structure.

Staff Response

As indicated in critical areas protection section of this report, the Flood Insurance Rate Map indicates the levee along the western portion of the Fruit Valley Homes subdivision offers flood protection to the residential area during a 100-year flood event.

Based on this information, staff has determined that as a condition of approval, **the applicant shall either revise the proposed construction entrance or provide documentation substantiating use of the levee for construction equipment will not increase the risk of flooding of property east of the levee. If such study indicates the potential for impacts could compromise the function of the levee, an alternative construction access will be required.**

- Displacement of Flood Waters: The neighborhood is concerned with the loss of flood storage capacity as a result of the fill on this site and others in this area. The letter indicates the flood of 1996 (generally considered 100-year event) nearly topped the levee west of the neighborhood.

Staff Response

The applicant has provided a flood water analysis based on filling all lands within the flood plain in this area would increase the elevation of the 100-year flood event by 0.03 feet (0.36 inch). The fill associated with this specific project would increase the 100-year flood event by 0.01 feet (0.08 inches).

Wildlife Present: FVNA indicated that more wildlife is known to be in the area of the subject property than is indicated in the SEPA Checklist.

Staff Response

Staff acknowledges there may be other species associated with the site.

- Landscaping

The FVNA suggest the applicant should use native species of grasses, plants and trees. Also, the rural feel of La Frambois Road should be maintained to the greatest degree possible, while still allowing industrial development.

Staff Response

The applicant will be required to meet the standard landscaping requirements. Although not required, native species are encouraged.

Regarding La Frambois Road, Transportation Services has determined this road will remain in its current configuration. As a condition of approval, staff has required the applicant to place a covenant on the property which precludes all but emergency vehicles from accessing the site from La Frambois. Also, the applicant has indicated a 48-foot setback between any proposed buildings and La Frambois Road.

- Stormwater: FVNA suggests that all stormwater should be restricted to the site and if contaminated materials are present, on-site infiltration to groundwater should not be allowed.

Staff Response

All stormwater facilities will be required to meet the standards of VMC 14.25.

- Building Development: FVNA suggest that future development be limited to a maximum height of two stories so as not to overpower the residential area and no underground tanks be permitted as they may leak and cause harm to the environment.

Staff Response

The applicant has indicated the maximum building height is to be 45 feet, the maximum allowed by the IL zone. At the closest point, the eastern edge of the subject property is approximately 100 feet from the western boundary of the Fruit Valley Homes subdivision.

Any tank installation must be reviewed by the proper state and local authorities prior to installation.

3. Letter from Washington State Department of Transportation (WSDOT) dated Dec. 12, 2008 (Exhibit 18). They provided the following comments:
  - WSDOT requests that appropriate temporary warning signage be placed along SR 501 when material is being hauled to and from the site. These signs are to be in place only when hauling is occurring.
  - WSDOT also requests that the applicant take adequate measures to prevent tracking of materials onto SR 501.
  - Future development of the site will require WSDOT review and approval.

Staff Response

None required.

4. Letter from the State of Washington Department of Ecology dated Dec. 12, 2008 (Exhibit 19). Comments were provided by several members of the Department of Ecology staff; they are as follows:
  - Air Quality, Bernard Brady – Best management practices for minimizing track out and windblown dust should be included in any applicable permitting.
  - Hazardous Waste & Toxics Reduction – Cristiana Figueroa-Kaminsky – relating to dangerous waste rules for demolition.
  - Shorelands and Environmental Assistant, Kim Van Zwalenburg – this indicates the proposal is not specific and appears to be only for the purpose of filling the site. As such, Ecology believes the proposal is speculative fill and could not be approved by the Department of Ecology.

- ad 10 r
- Toxic Cleanup, Cris Matthews – relating to the historic use of the site as a paper production products landfill; this suggests that adequate waste characterization (to eliminate the possibility of hazardous substances) be assured before development. The comments also enumerate known contaminated sites in the general area of the subject property.
  - Water Resources, Vicki Cline – this includes information required if there are existing wells on the site, the decommissioning of any wells, and possible relinquishment of water rights.

Staff Response

None required.

5. Letter from the State of Washington Department of Ecology dated Jan. 2, 2009 (Exhibit 22). Comments were provided by several members of the Department of Ecology staff. These generally reinforced the comments made in the Dec. 12, 2008, response; however, Shorelands and Environmental Assistant, Kim Van Zwalenburg, noted she was still concerned that the applicant had not submitted a well-defined site development plan.

Staff Response

None required.

6. Letter from Southwest Clean Air Agency dated Dec. 30, 2008, indicating the regulations relating to asbestos removal and construction dust control (Exhibit 23).

Staff Response

None required.

7. Letter from Gary Bickett, Program Manager, Clark County Public Health dated Dec. 29, 2008, relating to use of the wastewater treatment clarifier solids as fill material (Exhibit 21).

Staff Response

See staff response to shoreline Regulation 243.

## **RECOMMENDATION**

Staff recommends approval of the shoreline permits, grading permit and recommends the hearings examiner recommend to the Department of Ecology approval of the proposed shoreline conditional use permits.

## **CONDITIONS OF APPROVAL**

### **Shoreline-related Permit Approval**

- 1. Decommissioning of the site's current infrastructure, including the landfill and lagoon, shall be the initial phase of the project in order for the entire 43-acre property to be utilized for the mixed material as part of the fill component.**

### **Required Prior to Issuance of Grading Permit**

2. Receive Shoreline Approval from the Department of Ecology.
3. Obtain all other state, federal and local permits.
4. Submit a complete geotechnical report meeting the requirements of VMC Title 17.
5. Provide a final mitigation plan for approval by the planning official before any development, including grading and/or clearing begins.
6. The grading plan shall address the items suggested in section 3.2.3 page 8, Mitigation, of the JD White Critical Areas Report VAJDW-08-172 dated October 2008. The plan shall also address the items outlined in VMC 20.740.050.F Mitigation Plan Requirements.
7. Either revise the proposed construction entrance or provide documentation substantiating that use of the levee for construction equipment will not increase the risk of flooding of property east of the levee. If such study indicates the potential for impacts could compromise the function of the levee, an alternative construction access will be required.
8. Provide a copy of a recorded covenant precluding all but emergency vehicles from having access to La Frambois Road.
9. Demonstrate the half- and full-width dimension of the proposed access road for the transport of fill material from SR 501/Northwest Lower River Road to the on-site road and where the construction entrance will be located. This road shall be constructed with a gravel surface to ensure dirt will not be tracked onto SR 501/Northwest Lower River Road.
10. Provide documentation showing access rights to the road from SR 501/Northwest Lower River Road to the on-site road east of this project.
11. Provide additional dedication of right of way to provide a total of 35 feet half-width right of way on La Frambois Road along the project's frontage.
12. Revise and re-submit the letter requesting the certificate of concurrency survey and traffic study based on the correct number of TAZ. This project is located within TAZ 39 and Vancouver TIF district area.
13. Revise and re-submit the safety analysis based on the new proposed access road located south of the project site.

14. Provide documentation documenting who is the responsible party(ies) for constructing the new alignment of 26th Avenue.
15. Provide the necessary right of way dedication for the new alignment of 26th Avenue.
16. Indicate mitigation for the addition of construction vehicles to the highway that may create an unsafe and uncomfortable environment for bicycle and pedestrian safety, which was stated on page 3-3 of the traffic study for staff review.
17. Pay the total Transportation Impact Fee due of \$6,616.40.
18. The applicant must provide the city and the Clark County Health District with test results from the on-site test wells confirming there are no groundwater impacts stemming from the landfill. Prior to commencing any ground-disturbing activity, the city and the CCHD must find the tests to be adequate and they confirm there are no impacts to the groundwater.
19. The applicant must provide professional testing results confirming that dioxin levels are below standards for industrial zoned properties. This must be reviewed and approved by the city and CCHD prior to commencing ground-disturbing activity.
20. Prior to commencing any ground-disturbing activity, the applicant must provide assurances that the fill project will be completed in its entirety within the five year term of the shoreline permit. Such financial assurances must be acceptable to the city.
21. Prior to commencing any ground-disturbing activity, the applicant must provide the city engineering-based operation plan for review and approval. The plan shall include, as a minimum, the following:
  - Screening protocols, such as those currently instituted by the Port of Vancouver on the adjacent property, should be established to assure material coming in to the project adheres to grading permit standards.
  - The method and location where the material will be blended.
  - What the strata structure will be.
  - If a cap will be constructed, what it will look like.
  - The infrastructure (roads, utilities) that will be needed to complete the project.
  - A project time table from start to completion.
  - What the footprint will look like when completed.
  - Mixing ratios should be established taking into consideration minimal potential impact to human health or the environment. A minimum of 2-foot layers of the mixed material should be part of the plan.
22. Prior to commencing ground-disturbing activity, provide city staff with a copy of a recorded covenant indicating the site is to maintain its current zoning as light industrial.

#### **During Construction**

23. Water mains shall be constructed within paved public rights of way or public easements.
24. A right of way permit is required for all work in the public right of way. When construction is to take place within a city of Vancouver or Clark County right of way, an approved traffic control plan is required prior to the start of construction.

**General Conditions for Future Development** - These are general comments and do not include all possible comments and conditions for the future development of this site.

25. Site development is subject to shorelines and will continue to be subject to shoreline jurisdiction until such time as the site is fully developed.
26. BMPs will also be required for any future development of the site.
27. The applicant should remove pages C-8 through C-11 from the grading plan as the review for the utilities will be done with the industrial development of the parcels. For water quality and fire flow the proposed water main at the southwest corner must connect to the existing water main in Lower Rover Road.
28. The applicant shall provide payment of water System Development Charges, prior to the issuance of building permits.

## EXHIBITS

1. Vicinity map
2. Shoreline management substantial development and shoreline conditional use permit application prepared by BERGER/ABAM dated Sept. 3, 2008
3. Grading/stockpiling permit application dated Sept. 8, 2008
4. Tree plan/tree removal permit application prepared by BERGER/ABAM dated Sept. 3, 2008
5. Narrative
6. Reduced plans
7. Critical areas permit application dated Sept. 8, 2008
8. Critical areas report prepared by BERGER/ABAM dated October 2008
9. Level V tree plan prepared by BERGER/ABAM dated September 2008
10. Request for certificate of concurrency prepared by Parametrix, Inc. dated Sept. 30, 2008
11. Construction traffic analysis prepared by Parametrix Inc. dated September 2008
12. Certificate of concurrency dated Dec. 31, 2008
13. E-mail dated Aug. 13, 2008, from Gary Bickett of Clark County Public Health
14. Geotechnical report prepared by GeoDesign, Inc. dated Oct. 8, 2008
15. Notice of application and optional determination of nonsignificance including SEPA checklist dated Nov. 12, 2008
16. Letter from Southwest Clean Air Agency dated Nov. 20, 2008
17. E-mail from Fruit Valley Neighborhood Association dated Dec. 12, 2008
18. Letter from Washington State Department of Transportation dated Dec. 12, 2008
19. Letter from State of Washington Department of Ecology dated Dec. 12, 2008
20. Revised notice of application and optional determination of nonsignificance including SEPA checklist dated Dec. 19, 2008
21. Letter from Gary Bickett, program manager, Clark County Public Health dated Dec. 29, 2008
22. Letter from the State of Washington Department of Ecology dated Jan. 2, 2009
23. Letter from Southwest Clean Air Agency dated Dec. 30, 2008



Required or Existing Permits at the Facility Site					
Type of permit (check box)	Consider for deferral	Need to Obtain	Existing Permit		
			Regulating Authority	Permit #	Expiration Date
<input checked="" type="checkbox"/> NPDES permit		X			
<input type="checkbox"/> Biosolids permit					
<input type="checkbox"/> State waste discharge permit					
<input type="checkbox"/> Conditional use permit					
<input checked="" type="checkbox"/> Stormwater permit		X			
<input type="checkbox"/> Hydraulic permit					
<input type="checkbox"/> DNR Surface mining permit					
<input type="checkbox"/> Flood control permit					
<input type="checkbox"/> Fire permit					
<input type="checkbox"/> Wetlands permit					
<input type="checkbox"/> Air operating permit					
<input type="checkbox"/> DNR Forest Practices					
<input checked="" type="checkbox"/> Other Shoreline Conditional Use Permit		X			
<input checked="" type="checkbox"/> Other Grading Permit		X			

Addition Information Required	
<input type="checkbox"/>	Attach a demonstration that identifies each applicable requirement of chapter 173-350 WAC and a detailed description of how the other environmental permits will provide an equivalent or superior level of environmental protection.
<input type="checkbox"/>	Attach evidence that the facility is in conformance with the approved comprehensive solid waste management plan and/or the approved hazardous waste management plan.
<input type="checkbox"/>	Attach evidence of compliance with chapter 197-11 WAC, SEPA rules (SEPA checklist and Determination of Non-Significance)
<input type="checkbox"/>	Attach other information that the jurisdictional health department or the Department of Ecology has required in accordance with WAC 173-350-710 (8)(d)(vi).

**Signature and Verification of Applicant** (Refer to WAC 173-350.715(3) for appropriate evidence of authority)

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this application and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Paul E. Christensen Manager  
(Applicant's Signature / printed) (Title)

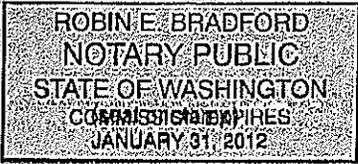
[Signature] Jan 5, 2009  
(Applicant's Signature) (Date)

**Notary Public Verification**

State of Washington

County of Clallam

Signed or attested before me on \_\_\_\_\_ by \_\_\_\_\_



Robin E. Bradford  
(Signature)

My appointment expires:  
Jan. 31, 2012  
(Date)

**SOLID WASTE PERMIT DEFERRAL  
RUFENER LANDFILL**

**December 2008**

*Applicant:*  
**Portside Lagoon & Landfill LLC  
1111 Main Street, Suite 700  
Vancouver, Washington 98660  
(360) 694-6000**

  
**BERGER/ABAM**  
ENGINEERS INC.

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Solid Waste Permit Deferral  
Rufener Landfill

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## 1.0 INTRODUCTION/SUMMARY

The Rufener landfill was established in 1989 by the Boise Cascade Paper Group to dispose of clarifier solids generated by its paper mill located on the Vancouver waterfront, and was permitted as a limited-purpose landfill to accept primary clarifier fiber solids. Boise Cascade ceased generating waste in April 1996 when the manufacturing facility closed. The property has since been transferred to La Frambois Properties, LLC. A management agreement has been established that gives Portside Lagoon and Landfill LLC (PLL) complete management authority over the property until 2011.

PLL intends to develop the landfill and the adjacent lagoon and farmland as industrial property. In order to develop the property, PLL is proposing to mix material from the landfill with incoming soil and use the mixture as fill throughout the site. To use the materials as intended, PLL is requesting the approval of an Application for Deferral of Solid Waste Permit according to WAC 173-350-710(8).

This narrative is intended meet the requirements of WAC 173-350-710(8) and to supplement the land use application package submitted to the City of Vancouver (City), which included applications for the following permits:

- Shoreline Conditional Use Permit (SCUP)
- Shoreline Substantial Development Permit (SSDP)
- SEPA Review
- Critical Areas Permit
- Frequently Flooded Areas
- Geologic Hazard Areas
- Level 5 Tree Plan
- Archaeological Review
- Grading Permit

The existing landfill received an SSDP/SCUP (File CC-200-88) from Clark County in November 1988. The shoreline permit authorized the filling of the entire site (except for the lagoon) in 10-acre phases to a height of approximately 40 feet msl, approximately 13 feet above the 100-year flood elevation, and reclamation of the site to agricultural use.

## 2.0 PROJECT LOCATION

The site is located at 2600 and 3210 NW Lower River Road just northwest of the intersection of NW Lower River Road and W 26th Avenue. The site is located within the City's corporate limits. The landfill is located on tax parcel 151957-002 and the project also includes tax parcels 151959-000, 151963-000, 151969-000, and 152372-004. The site is located in the NW and SW Quarters of Section 21, the NE Quarter of Section 20, and the SW Quarter of Section 16, in Township 2, Range 1 East of the Willamette Meridian.

### 3.0 LANDFILL DESCRIPTION

The landfill was created solely to dispose of clarifier solids created as a byproduct of the paper manufacturing process. The project was approved in three cells. Only the first cell was constructed and received materials. The material in the landfill is homogeneous pulp sludge waste (approximately half clay and half wood fibers) and includes kaolinite clay, calcium carbonate, and cellulose fibers. There is an estimated 78,000 cubic yards (CY) of material within the landfill. Earthen berms contain the landfill, which includes a 2-foot thick bentonite and high-density polyethylene (HDPE) liner system and a leachate collection system.

The materials in the landfill contain low levels of dioxins as result of the paper bleaching process. The levels within the samples are within the range authorized by the Washington Department of Ecology for industrial activity of 875 parts per trillion (ppt). As indicated in the SEPA checklist, the dioxin levels range from 20.54 to 11.90 ppt with an average of 12.5ppt, less than 1.5% of the acceptable level.

### 4.0 OPERATIONS PLAN

The landfill will be closed by removing the clarifier solids, mixing them with imported fill, and using the mixture throughout the north portion of the project site. The operations plan covers the following:

1. Preparing the site to receive fill material from the existing landfill and imported structural fill material.
2. Placement of the clarifier solids contained in the landfill.
3. Placement of the imported structural fill.
4. Demolition of the existing landfill
5. Demolition of the existing lagoon and structures

The closure will proceed in two phases described as follows:

#### Phase 1

1. Clear and grub, strip and prepare the fill area as recommended by the GeoDesign, Inc. (GDI) geotechnical report.
2. Excavate landfill solids and spread over fill area. Aerate solids to dry within 3% of optimum moisture content.
3. Mitigate expansive properties of solids based on field observations and testing as recommended by the GDI report. Based on their effectiveness, these measures can include:
  - a. Blending onsite soils with solids at various ratios by methods approved by GDI.
  - b. Treating solids with calcium chloride at 2% by weight, or as approved by GDI.
4. Remove landfill liners, remove piping or crush and abandon in place, and remove structures per drawing G-5. Dispose offsite in approved landfill.
5. Excavate landfill berms and bentonite liner to use as blending material for solids prior to compacting as embankment.

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Phase 2

1. Excavate blended, treated solids and embankment from fill area in 11-acre former landfill area.
2. Place blended solids in 9- to 12-inch lifts to a depth of 18 inches.
3. All embankment work to be monitored by GDI. Follow GDI recommendations during embankment operations to mitigate potential expansive soils concerns with blended solids.
4. Imported structural fill can be placed on either the landfill area or the fill area per GDI recommendations.

Following completion of the work, no long-term maintenance or monitoring will be necessary beyond confirming compaction and settlement of the fill.

5.0 ADDITIONAL INFORMATION

5.1 Compliance with WAC

The landfill deferral application requires the applicant to identify each applicable requirement of WAC 173-350. As a limited purpose landfill, the operations are governed by the overall performance standards of WAC 173-350-040 and the specific standards of WAC 173-350-400.

5.1.1 WAC 173-350-040

WAC 173-350-040 requires the operators of solid waste facilities to:

- (1) Design, construct, operate, and close all facilities in a manner that does not pose a threat to human health or the environment;
- (2) Comply with chapter 90.48 RCW, Water pollution control and implementing regulations, including chapter 173-200 WAC, Water quality standards for ground waters of the state of Washington;
- (3) Conform to the approved local comprehensive solid waste management plan prepared in accordance with chapter 70.95 RCW, Solid waste management -- Reduction and recycling, and/or the local hazardous waste management plan prepared in accordance with chapter 70.105 RCW, Hazardous waste management;
- (4) Not cause any violation of emission standards or ambient air quality standards at the property boundary of any facility and comply with chapter 70.94 RCW, Washington Clean Air Act; and
- (5) Comply with all other applicable local, state, and federal laws and regulations.

Field Code Changed

The proposed method of closure is consistent with these standards as indicated below.

- (1) The nature of the landfill materials and the method of disposal will not pose a threat to human health or the environment. As indicated above, the landfill material consists primarily of kaolinite clay, calcium carbonate, and cellulose fibers, which pose no health hazards. Dioxin levels present in the materials are below the established limit for industrial use and will be covered by 4 to 8 feet of fill material.
- (2) The landfill materials will not be placed in areas of existing surface or groundwater and will not be directly exposed to precipitation events. There is some potential that

Solid Waste Permit Deferral  
Rufener Landfill

the landfill materials will be exposed to water resulting from precipitation events moving through the soil matrix to the level of the former landfill materials. Dioxin is only slightly water-soluble, would not be picked up by any migrating groundwater, and would not pose a pollution hazard.

- (3) The current Clark County Solid Waste Management Plan specifically discusses paper mill wastes and notes that they are handled outside the public waste stream. The plan indicates that the County should continue to support private sector handling and encourage efforts to minimize landfilling and increase composting and recycling efforts.<sup>1</sup> The efforts of PLL to close the landfill, reuse the materials on site, and redevelop the site with beneficial uses is consistent with the plan.
- (4) The project will create no emissions with the exception of those associated with the fossil fuel powered equipment necessary to conduct the work and the potential for dust. Appropriate BMPs will be employed to keep dust generation to a minimum.
- (5) The permitting process at the local level will ensure compliance with applicable standards.

5.1.2 WAC 173-350-400

In addition to the general requirements listed above, WAC 173-350-400 (6) contains detailed standards for the closure of limited purpose landfills. Because this project is not a typical closure process, many of the specific standards do not apply to this project. The sections that do apply are listed below.

- (6)(a) The facility, or any portion thereof, shall close in a manner that:
  - (i) Minimizes the need for further maintenance;
  - (ii) Controls, minimizes, or eliminates threats to human health and the environment from post-closure escape of solid waste constituents, leachate, landfill gases, contaminated runoff, or waste decomposition products to the ground, ground water, surface water, and the atmosphere; and
- (d) The owner or operator shall develop, keep, and abide by a closure plan approved by the jurisdictional health department as part of the permitting process. At a minimum, the closure plan shall include the following information:
  - (i) A description of the final closure cover, designed in accordance with ~~subsection (3)(e) of this section, the methods and procedures to be used to~~ install the closure cover, sources of borrow materials for the closure cover, and a schedule or description of the time required for completing closure activities;
  - (e) The owner or operator shall submit final engineering closure plans, in accordance with the approved closure plan and all approved amendments, for review, comment, and approval by the jurisdictional health department.

The planned method of closure meets the intent of these specific standards as follows:

<sup>1</sup> Clark County Solid Waste Management Plan 2000, p. 7.

Solid Waste Permit Deferral  
Rufener Landfill

- 6(a)(i) The planned method of closure would eliminate any long-term maintenance needs by integrating the landfill materials with earthen fill throughout the project site.
- 6(a)(ii) The nature of the landfill materials and the method of closure eliminate the potential for decomposition and the negative impacts resulting from it. The bulk of the landfill material is inorganic and will not decompose.
- 6(d)(i) The method of closure does not include a typical cover. As indicated above, the existing materials in the landfill will be used as an initial fill layer on the industrial site. It will be mixed or treated and then covered with between 4 and 8 feet of earthen fill. The initial fill work will be completed over a period of two to three months after project approval.
- 6(e) Engineering plans are attached and signed by a licensed engineer.

WAC 173-350-100 (7) contains detailed post closure requirements for limited purpose landfills. Because this project does not entail a typical closure, most of the specific standards do not apply to this project. The majority of the requirements establish long-term monitoring and maintenance programs. Because the landfill materials and method of closure eliminate the hazards posed by the landfill, a long-term monitoring program is not needed.

**5.2 Clark County Solid Waste Management Plan**

See section 5.1 above for a discussion of how the project is consistent with the current Clark County solid waste management plan.

**5.3 SEPA Compliance**

As lead agency under SEPA, the City issued an Optional SEPA Determination of Nonsignificance for the project on November 12, 2008. Under the optional SEPA process used by the City, the SEPA determination will be finalized with the land use approval process consistent with VMC 20.790.230.

**6.0 CONCLUSION**

The Rufener landfill was permitted as a limited purpose landfill and accepted only a limited waste stream from Boise Cascade. The proposed method of closure is appropriate to the type and nature of the landfill material and protects the public health, safety, and welfare while allowing reuse of the property as a permitted industrial use.



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CLARK COUNTY  
WASHINGTON

PUBLIC HEALTH  
Environmental Public Health

12-29-08

Mr. Jon Wagner, Senior Planner  
Development Review Services  
City of Vancouver  
PO Box 1995  
Vancouver, WA 98668

Re: Portside Lagoon & Landfill Project

Mr. Wagner:

The following comments are in regards to the Shorelines/Grading Permit application by La Frambois Properties, LLC for a 43 acre parcel located northwest of the Intersection of 26<sup>th</sup> Avenue and NW Lower River road. This proposed project will also include decommissioning of the Rufener landfill as well as an adjacent wastewater lagoon which receives leachate generated by the landfill.

This inactive landfill contains only wastewater treatment clarifier solids generated by Boise Cascade Corporation from 1989 through 1996. The landfill has not met the closure requirements of Chapter 173-350 WAC. One option for regulatory compliance is through Permit Deferral. The proponent is in the process of applying to Clark County Public Health (CCPH) deferral of the Solid Waste Permit to the Shorelines Permit, if so approved.

Clark County Public Health does not believe incorporating approved imported fill with the material currently within the landfill for grading purposes would be a significant risk to human health or the environment if protective criteria and conditions are established within any approved Shorelines permit. Clark County Public Health also has the following comments:

- The landfill currently has five monitoring wells, four of which have been routinely monitored until almost three years ago. Prior to permit deferral approval and decommissioning of the landfill, testing of these wells is required for those indicator parameters listed in Chapter 173-350-500 WAC. Testing must confirm that there are no groundwater impacts stemming from the landfill.
- While CCPH is comfortable with the characterization of the material conducted so far by Boise Cascade Corporation in 2001, Entrix in 2007, and CCPH leachate testing in 2008, final assurance that dioxin levels are below standards for industrial zoned properties will be a pre-condition of any permit deferral approval.
- An approved Shorelines Permit should include assurances that the fill project will be completed in its entirety and within established time lines such as the period in which the permit is valid. The applicant should also provide a method of assurance there will be follow through with project completion as described in the application.
- An approved Shorelines Permit should include an engineered based operation plan that, at a minimum, includes the following:
  - Screening protocols, such as those currently instituted by the Port of Vancouver on the adjacent property, should be established to assure material coming in to the project adheres to grading permit standards.

- A method and location where the material will be blended, what the strata structure will be and, if a cap will be constructed, what it will look like. Also, the infrastructure (roads, utilities) that will be needed to complete the project.
- A project time table from start to completion and what the footprint will look like when completed.
- Mixing ratios should be established taking into consideration minimal potential impact to human health or the environment. A minimum of 2' layers of the mixed material should be part of the plan.
- Decommissioning of the site's current infrastructure, including the landfill and lagoon, should be the initial phase of the project in order for the entire 43 acre property to be utilized for the mixed material as part of the fill component.
- There should be some assurance that current zoning, light industrial, is long term through a covenant or some other means.

While previous characterization of the material within the landfill was adequate and results of the tests for all constituents analyzed were found at no detection or below action levels, it does not guarantee approval for permit deferral. However, if these and other assurance components are included in the Shorelines Permit process, it could very well provide a good example and basis for Permit Deferral to be approved.

If you have any questions or if need further information regarding the compliance status of the landfill, please contact me at your convenience. Thank you for the opportunity to comment.



**Gary Bickett**  
Clark County Public Health

C: Solid Waste Advisory Commission  
City of Vancouver Public Works  
Clark County Public Works  
Clark County Prosecuting Attorney  
Boise Cascade, LLC  
Portside Lagoon & Landfill

P.O. Box 1995  
Vancouver, WA 98668-1995



[www.cityofvancouver.us](http://www.cityofvancouver.us)

December 19, 2008

**REVISED**

**Notice of Application, Public Hearing, and  
SEPA Determination of Nonsignificance  
Portside Lagoon and Landfill**

**PRJ2008-01104/CAP2008-00043/SEP2008-00053/SHL2008-00007/  
TRE2008-00126/ARC2008-00039/ENG2008-00130/GRD2008-00115**

On November 12, 2008, the city of Vancouver issued an Optional Determination of Nonsignificance for this proposal. It was noted that the checklist did not address the entire development proposal but rather focused on the grading/filling of the site. The impacts of the completed development were not specifically addressed.

Based on the responses, the applicant has prepared a revised checklist to address the ultimate completion of the site. The city's determination that a Determination of Nonsignificance is appropriate is retained.

Attached to this notice is the revised checklist.

**Request** The applicant is requesting approval of the necessary permits to establish a light industrial complex. Specifically, Portside Lagoon & Landfill, LLC, proposes to fill and grade the approximately 43.5-acre site for future light industrial uses. The project would raise the site to an elevation at least 1 foot above the 100-year floodplain.

The project includes the demolition of all structures on the site, including the two existing single-family residences. Once cleared, the site would be filled to an elevation of a minimum of 1 foot above the established 100-year floodplain elevation. The applicant estimates the required imported fill to range between approximately 353,000 and 445,500 cubic yards.

The preliminary site development plan indicates five manufacturing/warehousing buildings are proposed. Building areas range from 85,200 square feet to 302,400 square feet. A total of 720 parking stalls are indicated. Access to the site is proposed from Northwest Lower River Road at the existing intersection with 26th Avenue.

The application was submitted Oct. 9, 2008, and deemed fully complete Oct. 30, 2008.

**Location** Northwest of the intersection of 26th Avenue and Northwest Lower River Road. Tax Lots 151957-002, 151959-000, 151963-000, 151969-000, 151957-000 and 152372-004 located in the NW quarter of S21, T2N, R1E; SW quarter of S21, T2N, R1E; NE quarter of S20, T2N, R1E; and SW quarter of S16, T2N, R1E of the Willamette Meridian.

**Contact** Brian Carrico  
BERGER/ABAM Engineering, Inc.  
1111 Main St., Ste. 300  
Vancouver, WA 98660  
360-823-6122

**Applicant** Portside Lagoon & Landfill, LLC  
1111 Main St., Ste. 700  
Vancouver, WA 98660

**Property Owner** La Frambois Properties, LLC  
1111 Main St., Ste. 700  
Vancouver, WA 98660

**Neighborhood Association** Fruit Valley

**Public Hearing Scheduled** Land Use Hearing conducted by the Hearings Examiner  
**Tuesday, Jan. 20, 2009, 7 p.m.**  
Council Chambers, First Floor of City Hall  
210 E. 13th St., Vancouver, WA

This DNS is issued under WAC 197-11-340. The city/lead agency will not act on this proposal until after 14 days from the date of issuance. Comments on the project will be received until 5 p.m., Friday, Jan. 2, 2009.

This notice is intended to inform potentially interested parties about the threshold determination and the public hearing, and to invite them to appear before the hearings examiner, to offer oral testimony, or to submit written statements for the record. A decision by the hearings examiner may be appealed to City Council by the applicant or any aggrieved person. Such an appeal must be in writing and be filed with Development Review Services within 14 calendar days after the hearings examiner's decision is mailed. In the absence of such appeal, the examiner's decision shall be final and conclusive.

Procedural appeals to the SEPA determination shall be filed in writing within 14 calendar days following the last day of the comment period. **The deadline for filing a SEPA procedural appeal is 5 p.m., Friday, Jan. 16, 2009.** The hearings examiner decision of the SEPA procedural appeal shall be final and not subject to further administrative appeal.

Substantive SEPA appeals shall be filed in writing within 14 calendar days of the issuance of the decision approving, conditioning, or denying the project.

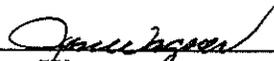
A copy of the final determination may be obtained upon written request. Please include any one of the project numbers listed.

Information regarding this application may be examined at Development Review Services, 4400 N.E. 77th Ave., Ste. 300, Vancouver, WA, between the hours of 8 a.m. and 5 p.m., Monday through Friday except Wednesday between 9 a.m. and 5 p.m.

**Case Manager** Jon Wagner, Senior Planner, 360-487-7885

**E-mail** [jon.wagner@ci.vancouver.wa.us](mailto:jon.wagner@ci.vancouver.wa.us)

**Mailing Address** Development Review Services, P.O. Box 1995, Vancouver, WA 98668

  
Jon Wagner

12-19-08

Date

Coverage of this hearing is being cablecast live on Clark/Vancouver Television Channel 23 Comcast Cable Television System. For replay dates and times, please check newspaper listings or call 360-696-8233.

C-TRAN routes 2, 3, 4, 25, 30, 32, 37, 47 and 105 serve City Hall; for schedule information call 360-695-0123.