



TUMWATER CITY HALL
555 ISRAEL ROAD SW
TUMWATER, WA 98501-6558

www.ci.tumwater.wa.us
FAX: 360/754-4126

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FAX: 360/754-4166

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TUMWATER, WA 98501
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FAX: 360/943-4378

OLD TOWN CENTER
215 N. 2ND STREET SW
TUMWATER, WA 98512
360/754-4164
FAX: 360/754-2063

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January 7, 2010

Wonderland Holdings
c/o Michael Brooks
600 University Street #2820
Seattle, WA 98101

SUBJECT: Amended Formal Land Use Decision
Kaiser Heights Storm Water Pond & Public Street Extension
Black Lake Boulevard, Tumwater

Dear Mr. Brooks:

With this letter, the City of Tumwater is withdrawing the Formal Land Use Decision Letter dated January 5, 2010 approving the project and re-issuing our decision which **DENIES** the project for cause.

The cause of denial is based upon the fact that Wonderland Holdings has failed to submit conceptual storm water plans that meet the requirements for wetland buffers and storm drainage sizing. In addition, the conceptual street improvement plan for Black Lake Boulevard fails to address the street dedication and frontage improvements required by the City of Tumwater's Transportation Plan and Development Guide.

The latest set of conceptual storm water plans and accompanying drainage report submitted to the City for the project is based upon the assumption that a 120-foot wetland buffer applies to the proposal. As outlined in item number 4 under the **PLANNING** section below, a minimum 180-foot wetland buffer is required to meet the City of Tumwater's wetland protection regulations. The 180-foot buffer requirement is based on a report prepared by Pacific Rim Soil & Water dated July 14, 2009 adopted by City of Tumwater.

As a result of the 180-foot buffer requirement for the wetland system, the sizing of storm water treatment and storage facility shown on the conceptual storm water plan and described in the accompanying drainage report cannot be approved.

The City of Tumwater could recommend approval of the project if revised conceptual plans and a revised drainage report are submitted that meet

the requirements outlined in **PLANNING** item 1, **ENGINEERING/STORM** item 1 and **ENGINEERING/STREET** items 1-3 below.

Any subsequent recommendation of approval of the project by the City of Tumwater will be subject to following comments, conditions, and development standards.

GENERAL

All requirements of the Tumwater Municipal Code (TMC) and Development Guide pertaining to zoning, critical areas, building, and engineering shall be met.

PLANNING

1. **Use:** The proposed project is located within the Light Industrial (LI) zone district and Aquifer Protection (AQP) Overlay zone district.

Staff Analysis: The storm water pond and public street are considered support facilities as defined by TMC 18.04.595 and are allowed uses in the LI zone district. The uses are not prohibited in the AQP Overlay zone district.

2. **Yards/Setbacks:** The required yard areas/setbacks in the LI zone district are as follows:

Front yard: The setback in the front yard adjacent to Black Lake Blvd. is 20 feet, however, pursuant to TMC 18.42.040.A.9 the storm water pond may be located within the required setback as long as it remains a minimum of 5 feet from the property/right-of-way line.

Side yards: The setback on the north and south property lines is 10 feet, however, the presence of wetlands and their required buffer dictate the buildable footprint for the storm pond.

Rear yard: The rear yard setback on the east property line is 10 feet, however the presence of wetlands and their required buffer dictate the buildable footprint for the storm pond.

Staff Analysis: The storm water pond shall meet the setback requirements outlined as specified in TMC 18.42.040.A.9 as well as wetland buffer requirements listed in TMC 16.28.170 and item 4 below.

3. **Land Clearing:** A land clearing permit will be required to be issued for the project. The code states that developing projects are required to retain twenty percent of the trees on the site or twelve trees per acre, whichever is greater. Where the standard is modified, the applicant shall plant not less than three trees for each tree cleared in excess of the standard. Replacement trees shall be not less than two inches in diameter at six inches above the base.

A tree survey, forester's report, and tree protection plan has been submitted. The forester report addresses how the developing project will comply with the standards for land clearing outlined in TMC 16.08.070.

Staff Analysis: According to the forester's report that was submitted with the project application, the project complies with the City of Tumwater tree retention requirements.

A land clearing permit application shall be submitted with the grading permit application. The land clearing permit application shall be supplemented with all applicable information required by TMC 16.08.050.

The land clearing permit will not be issued until the grading permit and the civil engineering plans have been approved.

4. Wetlands: The site contains a portion of a large Category I wetland complex associated with the Black Lake Drainage Ditch.

Staff Analysis: Tumwater staff adopts the findings, conclusions, and recommendations of the attached wetland report prepared by Pacific Rim Soils and Water dated July 14, 2009. This report concludes that, the wetland scores 28 points for habitat function. TMC 16.28.170 (Table 1) requires a 180-foot buffer for moderate intensity land uses adjacent to Category 1 wetlands that score 28 points for habitat function.

In accordance with TMC 16.28.170.B, the recommended buffer width is based on the assumption that the buffer is vegetated with a native plant community appropriate for the region or performs similar functions. If the existing buffer is not vegetated, sparsely vegetated, or vegetated with species that are not native that do perform needed functions, the buffer should either be planted with appropriate species or widened to ensure proper functioning of the buffer.

Because the buffer associated with the wetland at the project location can be described as not vegetated, sparsely vegetated and vegetated with species that are not native, the buffer shall either be increased or a wetland buffer mitigation plan shall be submitted for the project.

Prior to issuance of development permits, the applicant shall either submit a report from a qualified wetland professional recommending an increased buffer width to ensure proper functioning of the buffer or submit a wetland mitigation plan showing how the buffer will be re-vegetated with a native plant community to ensure proper functioning of the buffer.

If the mitigation plan option is chosen, the plan shall be prepared in accordance with TMC 16.28.230. If widening of the buffer is chosen, the report shall explain the rationale used to determine the extent of the increased buffer area.

BUILDING AND FIRE

IMPORTANT NOTE: At this point in the process, no comprehensive review of construction drawings for the proposed structure(s) has been undertaken. When that review does occur, additional requirements may be added to this list of conditions in order to ensure that the project conforms with all required building and fire codes.

GENERAL

1. A site development/grading permit will be required for this site. The permit application shall be accompanied by three sets of plans and specifications prepared and stamped by an engineer licensed to practice in the State of Washington. The application shall also include supporting data consisting of a soils engineering report and engineering geology report prepared and signed by a licensed civil engineer. Maximum size plans accepted are 24 x 36 inches.

Grading work for this site shall be considered “engineered grading.” Inspection of the grading shall be provided by the civil engineer or special inspectors approved by the Building Official. All special inspections including compaction reports are to be performed by WABO registered labs and inspectors. The engineer is responsible for providing a final inspection report and/or as-built drawings when the work is complete and ready for final inspection. IBC Appendix J

All special inspections are to be performed by WABO registered inspectors at the expense of the owner. IBC Section 1704.1

2. Blasting permits will be required if blasting is necessary to excavate the storm pond or to construct the roadway on the west side of Black Lake Boulevard.

If blast areas are within 300 feet of any structures, the permit applicant is required to notify the affected property owners a minimum of two weeks in advance of any blast. If the affected property owners request a pre-blast inspection of their structure, one shall be performed by a licensed structural engineer, at the developers cost. The permit application in addition to the requirements for the permit shall include the surrounding property owner's information and copies of the letters notifying them of their option and copies of any pre-blast inspections that were performed. Blasting permits are not issued "over the counter" so sufficient time needs to be incorporated in the schedule to receive the permit.

All blasting shall be conducted in accordance with City of Tumwater Administrative Policy #01-02 (attached).

3. Separate building permits are required for retaining walls or rockeries over four feet in height, measured from the bottom of the footing to the top of the wall or walls supporting a surcharge. A licensed structural engineer shall design the rockeries or retaining walls. In addition to the engineers design,

full time inspection by a WABO Special Inspector is required. Proposed rockeries shall be shown on the engineering and grading plans.

The applicant is responsible for costs associated with the WABO Special Inspector.

4. Demolition permits are required prior to removal of any existing structures. A separate permit is required for each structure. All demolition work shall be done in accordance with TMC chapter 15.50.
5. Grading, blasting, retaining/rockery, demolition and land clearing permits will not be issued until the civil plans (roads and utilities) have been approved.

MISCELLANEOUS

1. The address for the storm pond site will be assigned when the grading permit is submitted.

ENGINEERING GENERAL

1. The applicant shall be responsible for providing the City with all costs associated with the installation of street and storm drainage systems that are dedicated to the City of Tumwater.
2. All designs/construction will need to be as according to the City of Tumwater's development guide and WSDOT standards.
3. The civil engineering site plan shall show all existing and proposed utilities and easements including street lights, street trees, water, sewer, storm, gas, cable, power, telephone, signage and striping. Street sections showing dimensions of existing and proposed improvements. Include the line sizes on the water and sewer mains and services. All rockeries proposed shall also be shown on the site plan.
4. All street construction and storm drainage work requires engineered plans certified by a professional engineer.
5. The applicant is responsible for all plan check and inspection fees.
6. Any private or public utility relocation is the responsibility of the applicant.
7. The applicant shall be responsible for the maintenance and timely repair of all public improvements dedicated to the City of Tumwater for a period of 30 months following final certification by the City and shall submit a surety for maintenance equal in value to fifteen (15) percent of the total value of the required public improvements certified by the Public Works Director. Please refer to Chapter 3 of the Development Guide for further clarification.

8. All necessary easements and bills-of-sale documents shall be submitted with the engineered plans.
9. All legal descriptions must be accompanied with an appropriate drawing that the city surveyor can use to verify the legal description. All engineering drawings will be on 24" x 36" mylar sheets.
10. The owner or owner's representative is also responsible for furnishing the City with electronic files on CD ROM, compatible with release 2000 or newer Auto-CAD format. Drawings shall be in TCHPN (Thurston County High Precision Network) horizontal datum. Provide individual drawings independent of x-refs. Include all non-standard font files and plot files. Also, please furnish mylar reproducible record drawings (certified by the professional engineer responsible for design of the drawings), storm water maintenance agreement, utility maintenance agreement, easements and bills-of-sale.
11. Please note on the plans that the PLS responsible for the surveying of the project must obtain a permit from DNR before any monuments are disturbed.

STREET

1. The new public street (25th Avenue SW) serving the subdivision from Black Lake Boulevard is within the City of Tumwater and must comply with Tumwater design standards.

Based on the projected volume of traffic on 25th Avenue identified in the project Transportation Impact Analysis (TIA) prepared by Heath & Associates dated June 2007, the project will generate over 500 average daily trips (ADT) along the new corridor. Tumwater Development Guide, Chapter 4 – Table 1, requires new roadways that generate between 500 and 7,000 ADT be designed as an Urban Collector.

The 25th Avenue right-of-way shall be designed to the Urban Collector standard as specified in Chapter 4 – Table 1 of the Tumwater Development Guide.

2. The lane configuration and channelization of 25th Avenue at Black Lake Boulevard shall be designed in accordance with the approved TIA and WSDOT standards.
3. Although the storm drainage pond is located within the City of Tumwater, it is both physically and functionally related to the subdivision within the City of Olympia. As such, dedication of 6 feet of right-of-way is required along Black Lake Boulevard along the full frontage of the property where the storm pond is being proposed. In addition, construction of street improvements described below is required.

Black Lake Boulevard is considered a minor arterial by the Tumwater Development Guide and Tumwater Comprehensive Transportation Plan. The

improvements associated with the Black Lake Boulevard street cross section shall be in accordance with the Tumwater Development Guide Chapter 4 – Table 1. The Transportation Plan calls for 3 lanes on Black Lake Boulevard.

In accordance with Exhibit 3-2 (City of Tumwater Recommended System of Bicycle Routes) of the 2025 Tumwater Transportation Plan, Black Lake Boulevard is identified as a bicycle route distribution link. Because the Transportation Plan identifies the Black Lake Boulevard corridor as a bicycle distribution link, bike lanes shall be a part of the street frontage improvement cross section.

The nexus for the street right-of-way dedication and frontage improvement requirement can be found in the adopted Thurston County County-Wide Planning Policies, Tumwater Transportation Plan, Tumwater Development Guide, and RCW 58.17. These policy and implementing regulations contemplate a modernized network of streets, sidewalks, and bicycle routes. The Growth Management Act (RCW 36.70A) and RCW 58.17.110 require that the Hearing Examiner inquire into the public use and interest proposed to be served by the establishment of the subdivision. The Hearing Examiner must prepare findings of fact and conclusions of law that state appropriate provisions are made for infrastructure and services to meet the needs of the new development. The infrastructure needed to support this development based on proportional impacts outlined in the TIA prepared by Heath & Associates dated June 2007 and the applicant's SEPA checklist include public streets, sidewalks, and bicycle lanes (See the attached street dedication and frontage improvement worksheet for further justification for dedication and improvements).

In summary, the Black Lake Boulevard street section shall be three 12-foot lanes, five-foot bike lanes on each side, six inch curbs on each side, six-foot landscape strips on each side and five-foot sidewalks on each side.

The applicant is responsible for the three lane street section plus the bike lane, curb, landscape strip and sidewalk along the full Black Lake Boulevard street frontage of the property where the storm drainage pond is being constructed.

STORM

1. A drainage design and erosion control plan will be required according to The Thurston Region Drainage Design and Erosion Control Manual. The minimum standards in Appendix 1 of the DOE manual must be met.
2. Maintenance of the on-site storm water system will be the responsibility of the property owner/homeowner's association and a maintenance agreement will be recorded against the property.
3. This project will be paying a monthly storm water utility fee based on the amount of impervious surface per Tumwater Municipal Code 13.12.060.

Pursuant to TMC 14.06.040, this administrative decision may be appealed within 14 days of the date of the decision. Any appeal of this decision shall be filed with the Development Services Department on or before 5:00 p.m., January 21, 2010. All appeals shall be accompanied with a \$100.00 filing fee. An appeal shall be in writing, be signed by the appellant, and set forth the specific basis of the appeal, errors alleged, and relief requested. As required by RCW 43.21.C.075 if this administrative decision is appealed, it will be heard in conjunction with any SEPA appeal that has been filed.

If you have any questions regarding the Planning issues please contact me, for questions on Building/Fire contact John Darnall, and for Engineering questions please contact Matt Webb. All of us can be reached at 754-4180.

Sincerely,



Chris Carlson, AICP
Planning Manager

c: City of Olympia, Attn: Kraig Chalem, P.O. Box 1967, Olympia, WA 98507-1967
VSI Law Group PLLC, Attn: Loren Combs, 3600 Port of Tacoma Road, Suite 311, Tacoma, WA 98424
Matt Webb, Development Services Engineer
John Darnall, Assistant Director of Development Services
Roger Gellenbeck, Development Services Director
File: DRC #06-0029