**BEFORE THE LAND USE EXAMINER**
**FOR THE CITY OF CAMAS, WASHINGTON**

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| Regarding SEPA and substantive appeals of an administrative decision approving an application for a gas station, convenience store, and car wash in the BP zone at 20101 NE 13th Street in the City of Camas, Washington | ) ) ) ) | **F I N A L O R D E R** **APPEAL24-1001** **(13th Street Gas Station)** |

## A. SUMMARY

1. The applicant requests approval of an eight-pump gas station, a 4,100 square-foot convenience store, and a drive-thru car wash on a 0.97-acre parcel located at 20101 NE 13th Street; also known as Parcel 176148000 (the "site"). The original application approved by the director is identified as SPRV23-06 (Consolidated files: ARCH23-07, CA23-08, DR23-09, SEPA23-12).

a. The site and properties to the east and south are zoned BP (Business Park). Properties to the west are zoned R1-10 (Residential, 10,000 square foot minimum lot size). Properties to the north, across NE 13th Street, are zoned R1-20 (Residential, 20,000 square foot minimum lot size).

b. The site is currently developed with a single-family residence, an accessory structure, and a groundwater well.

c. There is an Oregon white oak tree near the center of the south boundary of the site. There are currently offsite wetlands to the west, south, and north of the site. Buffers for the wetlands to the west and south extend onto the site. However, the City previously approved a development on the property south of the site that will fill the southern wetland and eliminate the buffer. The applicant proposed fill the on-site buffer for the wetland west of the site and mitigate for that impact by purchasing credits at an off-site wetland mitigation bank. The applicant proposed to remove the oak tree and mitigate that impact by purchasing credits at the Terrace Oak Bank.

d. The applicant proposed to dedicate right-of-way and construct half-width frontage improvements on the section of NE 13th Street abutting the site, including a westbound left turn lane at the site access to NE 13th Street, an eastbound right-turn taper at the site access, a five-foot wide eastbound bicycle lane, a six-foot wide attached sidewalk, and a six -foot L2 landscape buffer.

2. On February 22, 2024, the City of Camas published a SEPA threshold determination of Non-Significance (DNS) for this project. The 14-day comment period expired on March 7, 2024. (Exhibit 35). The applicant submitted a revised SEPA Checklist and supporting documents on July 15, 2024, responding to issues raised during the comment period for the initial SEPA determination. (Exhibit 81). The City reissued the DNS to allow comments on the revised documents. The 14-day comment period expired on August 29, 2024. (Exhibit 91).

3. On September 16, 2024, the City of Camas Planning Director (the "director") issued a Type II decision approving the application subject to conditions of approval. (Exhibit 103).

4. On September 30, 2024, the City received an appeal of the Director's decision filed by Karin L Nosrati on behalf of an unnamed informal organization of 49 individuals representing 34 households listed in the appeal, including Ms. Nosrati and her husband. (Exhibit 105).

5. City of Camas Land Use Examiner Joe Turner (the "examiner") conducted duly noticed public hearings to consider the appeal. Representatives of the appellant testified in support of the appeal. City staff recommended the examiner deny the appeal and affirm the director's decision. Representatives of the applicant testified in support of the application. The principal issues in this case include the following:

a. Whether the SEPA Official actually considered all relevant environmental factors "in a manner sufficient to be a *prima facie* compliance with the procedural dictates of SEPA;

b. Whether the appellant sustained its burden of proof to demonstrate that the director's SEPA determination was "clearly erroneous", giving substantial weight to the director's determination;

c. Whether the site is located in or near a Critical Aquifer Recharge Area (CARA) and whether locating the use within an EPA mapped sole source aquifer will have a significant adverse impact on impact groundwater;

d. Whether the use is likely to have a significant adverse impact on air quality;

e. Whether the use is likely to have a significant adverse impact on wetlands or violate the City's wetland ordinance;

f. Whether the failure of the applicant's wetland analysis to review wetlands and "water features" located within 300 feet north of the site, on the north side of NE 13th Street prevented adequate review of the potential critical area impacts of the development;

g. Whether runoff from the site will increase the extend of flooding and the size of Wetland A west of the site;

h. Whether the use is likely to have a significant adverse impact on surface waters or violate the City's stormwater ordinance;

i. Whether removal of the Oregon white oak tree on the site will have a significant adverse impact on wildlife habitat, violate the City's habitat ordinance, or tree preservation and density goals;

j. Whether noise generated by the proposed use will have a significant adverse impact on the environment or violate the Code;

k. Whether the location and design of structures, lighting, including the headlights of vehicles leaving the site, and signage will have a significant adverse impact on the environment or violate the Code;

l. Whether failure of the applicant's traffic study to include all of the information and analysis listed in the City's "Transportation Impact Study Guidelines" prevented the City from fully analyzing the potential traffic impacts of the proposed use;

m. Whether the location and design of the proposed site access will create a hazard or violate the Code;

n. Whether traffic generated by the proposed use will have a significant adverse impact on the environment, create a hazard, cause significant congestion in violation of the City's Level Of Service (LOS) standards, or create a hazard;

o. Whether the director's SEPA analysis considered the proposed car wash;

n. Whether the proposed use will increase the risk of trespass, litter, vandalism, graffiti, and other illegal activities;

p. Whether the proposed use will lower the value of surrounding properties;

q. Whether placement of fill on the site will have a significant adverse impact on the environment or violate the City's grading and erosion control ordinances;

r. Whether the applicant was required to conduct perc tests on the site;

s. Whether the proposed gas station is an allowed use on the site;

t. Whether the proposed car wash can be approved as an accessory use on the site;

u. Whether the proposed development complies with the parking requirements of the Code, including the parking setback requirement of Table 1, Note 2.d of the Camas Design Standards Manual (CDSM);

w. Whether the director's decision relied on the correct CDSM table for design of the public roads abutting the site and the private roads (access drives) on the site;

x. Whether CMC 8.06, the "Neighborhood Preservation Ordinance", is an applicable approval criteria for this development;

y. Whether the purpose statements of the Code are applicable approval criteria; and

z. Whether the applicant is required to demonstrate that this development complies with the economic development goals of the comprehensive plan.

6. Based on the findings and conclusions contained herein and the testimony and evidence in the public record, the examiner denies both the SEPA and substantive appeals, affirms the director's decision, and approves the application subject to the conditions at the end of this final order.

## B. HEARING AND RECORD HIGHLIGHTS

1. The examiner received testimony at public hearings about the appeals on November 14 and December 12, 2024. All exhibits and records of testimony are filed at the City of Camas. At the beginning of the hearing, the examiner described how the hearing would be conducted and how interested persons could participate. The examiner disclaimed any *ex parte* contacts, bias or conflicts of interest.

2. The examiner accepted limited argument from the parties regarding procedural issues and substantive testimony from one witness at the initial hearing on November 14, 2024.[1] Pursuant to the applicant's request, the examiner continued the hearing until 4:30 p.m. on Thursday, December 12, 2024.

3. The following is a summary by the examiner of the testimony and evidence offered at the SEPA appeal portion of the public hearing on December 12, 2024.

a. Camas community development director Alan Peters argued that the City's CARA map (Exhibit 119 at .pdf page 2)[2] defines the location of Critical Aquifer Recharge Areas (CARAs) in the City of Camas and this application is vested to that map. There are no mapped CARAs in the vicinity of the site. However, the City can consider and address potential adverse impacts to non-mapped CARAs through the SEPA review process. In this case the applicant proposed, as a voluntary SEPA condition, to conduct a hydrogeologic groundwater analysis prior to beginning construction on the site and comply with any recommendations of that analysis.

b. City attorney Shawn MacPherson argued that this application is vested under the City's existing CARA maps. RCW 36.70A.470 prohibits variations from the existing

[1] The witness who testified at the November 14, 2024, hearing was not one of the persons listed in the appeal (Exhibit 105). Therefore, their testimony is excluded from the record as this appeal is limited to testimony from the appellant.

[2] As some exhibits contain excerpts and attachments with different page numbers, the examiner refers to the .pdf page number of the electronic exhibits provided by the City.

maps through the project review process. Any deficiencies identified during project review must be addressed through future comprehensive plan updates and amendments. The City can require mitigation of potential significant adverse environmental impacts through the SEPA process. However, the City is not required to consider remote and speculative impacts. State law does not prohibit gas stations within CARAs.

i. He noted that WAC 197-11-660(1)(d) prohibits the City from imposing mitigation measures that are not attributable to the identified adverse impacts of a proposal. However, the applicant can volunteer to provide additional mitigation beyond what the City can require.

c. City planning manager Robert Maul noted that gas stations are a permitted use in the BP zone. In making its SEPA determination, the City reviewed and relied on the applicant's narrative, plans, and technical reports prepared by licensed engineers and biologists, the applicant's SEPA checklists, and comments from agencies and the public, as well as existing local, state, and federal regulations that apply to the design, construction, and operation of the proposed use. Based on that review the City concluded that the proposed development will not result in likely significant adverse environmental impacts, as all potential impacts are already addressed through the requirements of the Code and state law.

i. He argued that the County's GIS maps do not apply to projects within the City of Camas as the County's GIS mapping is not limited to maps adopted by the City.

ii. He noted that CMC 18.21 cited by the appellant applies to development in the LI/BP zone. It does not apply to this development, which is located in the BP zone. This development is subject to design review pursuant to CMC 18.19, which is separate from the current project review application. The City will review lighting, landscaping, building design, etc. through that process.

iii. He argued that CMC 9.32.050.A(4) cited by the appellant does not apply to this use. That section is intended to regulate noise from auto repair and similar businesses and private citizens that engage in engine repair and testing.

d. Karin Nosrati, Kylene Stengel, Ken Waltos, Randy Nosrati, and Kristen Price appeared on behalf of the appellant.

i. Ms. Nosrati argued that the City's SEPA analysis failed to adequately consider the following adverse environmental impacts:

(A) A gas station and car wash constructed over a sole source aquifer. CMC 18.55.080(F) prohibits fuel and/or gas stations within CARAs. As defined by CMC 16.55.010.B, CARAS include sole source aquifers designated by the by the U.S. Environmental Protection Agency pursuant to the Federal Safe Drinking Water Act. The EPA has identified few sole source aquifers in the US. (Exhibit 145). However, the EPA maps much of Clark County, including nearly all of the City of Camas within a sole

source aquifer. (Exhibit 145). The 2024 EPA map is the Best Available Science (BAS) and should contradict the City's CARA map adopted in 2012. The City should be using the latest information in its SEPA review and the City's maps completely omit sole source aquifers. RCW 36.70A.0140 notes that uncoordinated and unplanned growth poses a threat to the environment and RCW 36.70A.172 and WAC 365-195-915 require the use of BAS in developing policies development regulations. WAC 365-190-100 sets out Washington Department of Ecology (ECY) requirements for classification and designation of CARAs. The DOH email noted by the applicant (Exhibit 136) is not determinative on the CARA mapping issue.

(1) The City's SEPA analysis did not consider or address the location of the proposed car wash within the sole source aquifer.

(B) The potential for surface and groundwater contamination, including impacts to drinking water wells, from gas and diesel fuels and carwash chemicals stored dispensed, and used on the site. The chemicals used in commercial car wash facilities are stronger, more toxic, and more caustic than those used by households. Stormwater runoff from the site may carry spilled fuel and car wash chemicals into the site's stormwater system, which discharges to downstream surface waters. Areas of thick ice often form in the winter, which may impact the drainage systems on the site, blocking drainage inlets, catch basins and sumps. Many carwash chemicals are water soluble, allowing for easy transport in surface water.

(C) The existence and location of groundwater wells on adjacent properties, including the existing groundwater well on the site that is proposed to be decommissioned. The proposed gas station will store and dispense gas and diesel fuels and the car wash will utilize chemicals, either of which may be spilled on the site and contaminate the underground aquifer that serves these wells. These fuel and chemical products are dangerous to public health.

(1) As shown in Exhibit 147, many of the one-acre lots abutting 11$^{th}$ Street are served by groundwater wells that likely tap into the same aquifer that underlines the site. There are additional wells on properties north of the site. There are shared wells serving community water systems operated by the City of Camas and a City of Vancouver well to the northwest of the site. The site is located within the mapped "special wellhead protection area" of the Vancouver well. (Exhibit 110).

(2) The decommissioned well on the site may provide a direct conduit between the surface of the site and the underlying aquifer, allowing the rapid transport of gas, diesel, and chemicals used and potentially spilled on the site into the aquifer.

(3) The Department of Health (DOH) publication titled "Sanitary Control Area Protection" requires a 100-foot radius Sanitary Control Area (SCA) around all wells and prohibits parking and storage of vehicles within the SCA. The site is located within the SCA of the existing well on the property west of the site owned by Mr. Lucier;

the well is less than 75 feet from the site boundary. The parking spaces on the western portion of the site are located with the SCA of this well.

(4) She argued that BMPs are only warranted when prevention is not possible. However, prevention is possible in this case as the proposed uses can be located elsewhere, where they do not pose a hazard to the groundwater aquifer.

(5) WAC 246-291-125(5)(e) requires a recorded a restrictive covenant protecting a minimum 100-foot SCA around new wells.

(D) The existence and location of wetlands on surrounding properties and Lacamas Creek and Lacamas Lake.

(1) CMC 16.53.030.B(2) requires that critical area reports address all wetlands, water features, and buffers within 300 feet of the site. However, the applicant's critical area report failed to address the wetland located on the Goertzen property less than 300 feet north of the site, the wetland on the property south of the site, or the "water feature", a County stormwater pond, on her property to the north of the site. Therefore, the SEPA analysis is incomplete.

(2) The proposed development will increase the amount of impervious surface area on the site, which could increase the amount of stormwater flowing into "Wetland A" located on the property west of the site, increasing flooding and the size of this wetland.

(3) Stormwater runoff from this site could impact surrounding wetlands as well as Lacamas Creek and Lacamas Lake by carrying contaminants from the site (spilled gas and diesel fuel and car wash chemicals) offsite and into these surface waters. The ditch on the south side of NE 13th Street flows west along 13th Street, then north under the street, then east on the north side of NE 13th Street, discharging into the County stormwater pond on her property. The pond then overflows east towards Goodwin Road, eventually entering Lacamas Creek and Lacamas Lake.

(4) She argued that the proposed development conflicts with the Section 3.4 of the comprehensive plan which provides "Goals and policies are presented for environmental stewardship, critical areas (wetlands, critical aquifer recharge areas, frequently flooded areas, geologically hazardous areas, fish and wildlife habitat conservation areas, and historic and cultural resources), shorelines, and landscape enhancement and tree preservation", as this development may impact these critical areas as discussed above.

(5) The applicant failed to address the existing wetland on the property south of the site. The buffer for that wetland extends onto the site and will be impacted by this development.

(E) Removal of the existing mature oak tree on the site conflicts with the tree preservation goals of Section 3.4.4 of the comprehensive plan and the City's fish and wildlife habitat ordinance.

(F) Increased noise impacts, citing CMC 9.32.050, the City's noise ordinance. She argued that this development will increase noise impacts on surrounding properties due to noise from the car wash operation, music from vehicles parked on the site with loud stereos, diesel trucks delivering fuel to the site, loud motorcycles, and car horns of drivers frustrated by increased congestion on area streets. Vehicle noise will violate CMC 9.32.050.A(4), which prohibits "frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-road vehicle, or internal combustion engine…" The text of this provision does not restrict it to any particular type of business. The police are tasked with enforcing the City's noise ordinance and they are already overburdened with other higher priority responsibilities. The applicant proposed to schedule fuel deliveries between 10:00 p.m. and 7:00 a.m., which will conflict with the time limitations of CMC 9.32.050.A(4).

(G) Increased light impacts.

(1) CMC 18.21.060.G provides that "Site and building lighting shall be designed to minimize glare or objectionable effects to the adjacent properties. Residential neighborhoods are of particular concern…" Light sources visible from adjacent properties must be shielded, concealed and indirect. She argued that lights from the convenience store building, car wash, and gas pump canopy and headlights from cars maneuvering on and exiting the site will shine into neighboring properties.

(2) The applicant will grade the site to direct runoff into the site. Therefore, vehicles exiting the site must travel uphill, elevating headlight beams and increase the potential for headlights shining into adjacent residences. The proposed gas station and convenience store will generate significantly more traffic, and associated headlight glare than other uses allowed in the BP zone: 1,150 vehicles exiting the site per day. Based on the Institute of Traffic Engineers (ITE) Trip Generation Manual, office uses generate 0.42 trips per unit while convenience market with gas station uses generate 49.42 trips per unit, 100 times more traffic. "Services" uses, which includes gas stations with a market, generate 88.35 trips/unit, 200 times more traffic. Most modern vehicles have their headlights on at all times, so this impact will occur during the day and night.

(3) She argued that the proposed gas station does not comply with CMC 18.21.060.H, which requires that primary uses in the BP zone "[s]hall be developed in a campus-type setting featuring landscaping, off-street parking, architectural designs tending to minimize the industrial nature of the development, buffers between other uses, and such other amenities as are consistent with a campus setting."

(H) Traffic impacts.

(1) She argued that the applicant's traffic analysis did not include accurate traffic counts for the new warehouse across the street from the site because the warehouse was not occupied at the time of the analysis, based on her conversation with the traffic engineer for the warehouse.

(2) Traffic entering and exiting the site will conflict with the existing eastbound bicycle lane on NE 13th Street.

(3) The proposed left turn lane at the site access will consume right-of-way necessary for the future construction of a bicycle lane and sidewalk on the north side of NE 13th Street. In addition, the proposed left-turn lane is inconsistent with City standards and other uses allowed in the BP zone would not require this turn lane. Reducing the access spacing by more than 50-percent, from 660 feet to 260 feet will increase the risk of accidents.

(4) Traffic from the development will create gridlock that will impact Camas residents.

(5) The sight distance analysis was based on the posted speed, which fails to account for eastbound traffic traveling downhill at higher speeds. The applicant should have conducted a speed study on NE 13th Street. The applicant's engineer did not measure sight distance, he only estimated it based on visual observation.

(6) Delivery trucks serving the site must enter the westbound left turn or through lanes in order to exit the site in an eastbound direction, creating a risk of head-on collisions with westbound traffic.

(I) She argued that the potential impacts noted in the appellant's SEPA comments are not speculative.

ii. Kylene Stengel also appeared on behalf of the appellant. She argued that approval of this gas station will impose additional costs on surrounding property owners as U.S. Housing and Urban Development (HUD) regulations require that property owners conduct well inspections prior to the sale of properties located within one quarter mile of a gas station.

iii. Ken Waltos read portions of appellant Brittany Bozarth's written testimony (Exhibit 41). Ms. Bozarth argued that increased traffic generated by the proposed development will restrict access to her property. The increased traffic, including fuel delivery trucks entering and exiting the property, will create a hazard for students walking to and waiting for the school bus on NE 13th Street. She questioned the crash history in the applicant's traffic study as not all accidents are reported. Large trucks frequently blow over her trash can and her mailbox is often struck by vehicles under existing conditions, near where her children wait for the school bus. Additional traffic from this development will exacerbate these existing problems.

iv. Randy Nosrati also appeared on behalf of the appellant and summarized the analysis of the applicant's traffic study performed by the appellant's traffic engineer (Exhibits 108 and 139). He argued that neither the City nor the applicant responded to that analysis and the concerns raised by area residents.

(A) NE 13th Street is designated a minor arterial and the City has no plans to alter that road during the next ten years.

(B) He argued that the applicant's traffic study did not follow the City's guidelines:

(1)The traffic study did not include any mitigation measures for site access or transportation improvements.

(2) The proposed site access is hundreds of feet short of the Code's minimum spacing requirement. Therefore, the proposed left turn lane at the site access will not work. Vehicle queuing in the westbound left turn lane into the site will block eastbound drivers attempting to turn left onto NE 202nd Avenue. This will create the potential for illegal U-turn movements as drivers try to find alternate routes to the gas station.

(3) City of Camas regulations require left turn lanes on all collector streets. The Clark County Arterial Atlas designates NE 13th Street a C-2cb collector street. Direct lot access to collectors is discouraged, yet the City approved a westbound left turn lane into the site from NE 13th Street.

(4) There is no eastbound left turn lane at 202nd Avenue. The "yellow trap" condition at this intersection compounds this hazard as oncoming westbound traffic has an extended green signal, which creates a significant crash risk.

(5) The applicant's traffic study did not provide any explanation or documentation for the engineering judgment used to determine the trip distribution and assignment. City TIA guidelines require that all assumptions and data sources be documented but the City failed to uphold this requirement in this case.

(6) The applicant's queuing analysis ignores westbound through traffic coming up behind queued vehicles waiting to turn left into the site on a one-lane approach.

(7) The applicant's traffic model did not consider the impacts of truck traffic generated by the new warehouse on the east side of NW Friberg-Strunk Street at NE 13th Street or traffic generated by Union High School south of the site. The intersection of NE 13th Street and NW Friberg-Strunk Street "is packed with high school drivers and school bus traffic twice a day for nine months out of the year."

(8) The applicant's intersection sight distance analysis does not provide evidence sufficient to justify the required 350 feet of sight distance. Sight distance to the east is limited to 500 feet, given the horizontal curvature of NE Goodwin Road and large trees on the sides of the road. The sight distance limitation should be documented per AASHTO standards as required by the City's TIS guidelines.

(9) The crash rate in the analysis is inadequate because it does not include important specifics such as type and pattern of crashes that are indicative of problems that could be exacerbated by additional traffic volumes and disruption of the existing traffic flow created by the site access location.

(10) The traffic analysis does not propose any mitigation to address increased safety risks created by the development and operation of the site. Many high school drivers will want to stop at the convenience store on their way to or from school, which will backup the entire intersection.

(11) The Code requires 660 feet between intersections on NE 13th Street, but the City approved a deviation to allow an access 200 feet west of the signalized intersection in order to accommodate turning movements for the fuel delivery trucks serving the site. The City failed to consider reasonable alternatives to this deviation. Fuel trucks exiting the site will be traveling head-on towards oncoming traffic within 50 feet of the intersection, creating an intolerable risk. The applicant and the City did not consider providing a second access to NW Friberg-Strunk Street and limiting both accesses to right turn only.

v. Kristen Price summarized her written testimony dated December 4, 2024 (Exhibit 137).

(A) The proposed development will create a hazard for school buses, pedestrians, including students crossing the street, and bicyclists. This development creates a driveway intersection crossing the bike lane.

(B) The lack of a second access to the site could trap customers and employees on the site in the event of a traffic or industrial emergency.

(C) The design and location of the development will encourage westbound drivers to make illegal U-turns, including using her and her neighbors' driveways to turn around to access the site. Illegal U-turns are a problem under existing conditions; a driver making a U-turn crashed into a school bus in May 2024. Other vehicles have struck her mailbox or crashed into the ditch.

vi. Shannon Connell testified that there is a two-acre wetland on her property north of the site, across NE 13th Street.

e. Attorney Patrick Mulaney, project developer Tahseen Kahn, biologist Julianne Blake, traffic engineer Frank Charbonneau, and civil engineer Jason Taylor, appeared on behalf of the applicant.

i. Mr. Mulaney addressed the applicant's legal arguments and responded to the issues raised in the appeal.

(A) He summarized the general standards for SEPA review.

(1) Speculative concerns do not provide a basis for denial or mitigation under SEPA, citing *Boehm v. City of Vancouver*, 111 Wash. App. 711, 47 P.3d 137 (2002). SEPA only requires that the City evaluate impacts that are reasonably likely to occur, citing WAC 197-11-060(4) and WAC 197-11-782. An impact is significant only when there is a reasonable likelihood of more than a moderate adverse impact on environmental quality, considering the likelihood of occurrence and the intensity of occurrence, citing WAC 197-11-794(1) and (2). Selection of environmental review process and protection is left to the sound discretion of the City and may not be overturned based on community opposition, citing *Anderson v. Pierce County*, 86 Wn.App. 290, 936 P.2d 432 (1997). An EIS is only required for projects that have a probable significant adverse environmental impact on the environment. SEPA only requires mitigation based on specific proven environmental impacts, citing *Nagatani Bros., Inc. v. Skagit County Bd. of Com'rs*, 108 Wn.2d 477, 739 P.2d 696 (1987).

(2) The City conducted a detailed SEPA review, including two rounds of public and agency comments, and determined that the proposed use will not have a probable significant adverse environmental impact on the environment. The concerns raised by the appellant and other neighbors are speculative and lack evidentiary support. Therefore the examiner should deny the SEPA appeal and uphold the City's SEPA determination.

(B) He argued that the site is not located in or near a CARA or sole source aquifer as designated by the City of Camas, based on the City of Camas' CARA map prepared by Parametrix, Inc. and dated September 12, 2012. The City may update its CARA maps in the near future through its comprehensive plan update process, however, this application is vested under the current map. The City considered a number of issues and analyses prior to adopting the current map and the City will be required consider BAS when it adopts its update. But the current map is binding and may not be amended through this project review process.

(1) Based on the City's water plan, Parametrix only designated one actual CARA, for the "Lower Washougal Wellfield", which is not anywhere close to the site, citing Figure 3 of the Appendix to the City's water map. The text of the Code should not be interpreted to completely negate the City's adopted CARA map, which is the City's adopted critical areas map.

(2) The County's online GIS maps are inaccurate, as the 1,900-foot special wellhead protection area around the City of Vancouver's groundwater well only apply within the boundaries of the City of Vancouver, citing Section 14.26.115.B(1) and (2) of the Vancouver Municipal Code (VMC). Therefore, the 1,900-foot circle shown on the County's CARA map should only be a half circle, as the special wellhead protection area does not apply outside the boundaries of the City of Vancouver.

(3) CMC 16.55.070 expressly allows underground storage tanks, automobile washers, and motor vehicle service garages within CARAs, subject in part to a level one hydrogeological assessment required by CMC 16.55.050. Therefore, there is a conflict in the Code as CMC 16.55.070 allows certain uses but CMC 16.55.080 prohibits the same or very similar uses.

(4) The GMA required the City to adopt critical areas regulations, which it did in 2012, with the adoption of the Parametrix CARA map. The adopted map remains in effect until the City adopts new maps through its comprehensive plan update process. This project is vested under the existing map. As noted in Exhibit 136, the Washington Department of Health (DOH) does not have regulatory authority over how the City's CARA ordinance is implemented.[3] The City's GMA actions are presumed valid upon adoption unless an appeal finds otherwise and the City's next periodic review/update is due next year. RCW 36.70A.470 provides that project review shall not be used as a comprehensive planning process to address deficiencies in adopted plans or regulations that may identified during project review. The legislative history for that provision provides that "It [is] unfair to penalize applicants that have submitted permitting applications that meet current requirements." The Court in *NORCO Construction Inc. v. King County*, 106 Wn.2d 290, 721 P.2d 511 (1986) held that a local government cannot defer approval of an application because it does not conform with anticipated changes to the comprehensive plan and ordinances. The same holding should apply in this case; the fact that the City may amend its CARA mapping in the future to include sole source aquifers identified on recent EPA maps should not preclude approval of this project which is vested under the City's current mapping.

(5) The applicant has engaged a geohydrologist to conduct a Level One hydrogeologic assessment as defined by CMC 16.55.050.C and work with the City to determine the scope of the study consistent with the performance standards of CMC 16.55.060 and .070. The applicant will commit to comply with all recommendations of the study as a voluntary SEPA condition.

ii. Mr. Kahn testified that he has worked in the industry for the past 30 years and has developed several similar facilities. His company chose to purchase this

[3] Ms. Nosrati objected to the examiner's consideration of this document, arguing that it was not submitted prior to the December 6, 2024, submittal deadline imposed at the end of the hearing on November 14, 2024. However, Exhibit 136 was received by the City on December 5, 2024, based on the date of the electronic document in the record. In addition, the applicant emailed the document to the City on December 5, 2024, and requested that it be added to the record for this case. (Exhibit 136). Therefore, the examiner finds that Exhibit 136 is part of the record.

site because the zoning allowed the proposed use and it met their needs for the planned use.

(A) He noted that fuel stations are highly regulated by City, state and federal regulations. His contractor has been in business for 30 years and in the contractor's experience there have not been any leaks from modern fuel stations. Although leaking fuel tanks created significant environmental impacts in the past, regulatory and technological changes have greatly reduced the risk of such impacts. Fuel storage tanks, pumps, venting equipment, and pipes are all installed by specialized contractors. Steel storage tanks that can rust out have been replaced by fiberglass tanks. The applicant must obtain approvals from the Southwest Air Pollution Control Authority (SWAPCC), the Fire Marshall, and the Washington Department of Ecology (ECY).

(B) The applicant is required to utilize double wall storage tanks and install 24/7electronic leak detection monitors that monitor pressure and the presence of liquid between the walls of the tank. The pipes that carry fuel from the tanks to the dispenser pumps are also double walled. The operator also tracks the volume of fuel in the tanks to detect any loss or leaks. Third party contractors conduct periodic leak testing of all fuel lines and provide their test results to the state.

(C) The fuel dispensing and tank filling areas of the site drain to separate catch basins with closed sumps to collect runoff from these areas, including any fuel that leaks onto the surface of the site. Operators are required to monitor the sumps and regularly collect and properly dispose of any liquid that accumulates in the sump.

(D) The fuel dispenser pumps and fuel delivery trucks are both equipped with vapor recovery systems that limit the escape of fuel vapor into the atmosphere. The dispenser hoses are equipped with breakaways that ensure no fuel is spilled when drivers forget to remove the hose from their vehicle before driving away.

iii. Ms. Blake testified that she is the lead biologist for this project and she authored the critical area reports.

(A) She noted that there is a Category 2 wetland on the property west of the site. The 80-foot wetland buffer extends onto the site. A very small section of the wetland is functionally isolated by the existing mobile home on the site, so that portion of the site does not function as a buffer. The proposed development will indirectly impact the offsite wetland by eliminating the onsite portion of the wetland buffer. The applicant will mitigate for those impacts by purchasing credits at an offsite wetland mitigation bank. Mitigation banks have a higher success rate than on-site mitigation. There is another wetland south of the site that will be filled by a previously approved development, SPRV20-02 (Lacamas Tech Center) and that developer was required to mitigate for that wetland impact. Therefore, the applicant was not required to address the wetland to the south of the site as it will no longer exist.

(1) The applicant did not review the wetland on the Goertzen property north of the site, across NE 13th Street, as they did not have permission to access that private property and the wetland is not visible from the air or the abutting road. Therefore, the applicant was unable to confirm the existence of a wetland on that parcel.

(2) The County stormwater pond on the Nosrati property is a manmade facility. Therefore, it is expressly exempt from critical area requirements. In addition, the pond is completely functionally isolated from the site by 13th Street. The stormwater pond was not included in the report because it does not affect the analysis. The Washington Department of Natural Resources (DNR) online maps do not indicate that stormwater runoff from this site flows into the County stormwater pond.

(3) Runoff from this site will eventually flow into Lacamas Creek and Lacamas Lake, provided there are no intervening barriers to that flow.

(B) The applicant will mitigate for removal of the Oregon white oak tree on the site by purchasing credits at an oak mitigation site. Mitigation must occur within the same watershed as the site.

iv. Mr. Charbonneau summarized the transportation analysis of the proposed development.

(A) The applicant's site plan includes a separate westbound left-turn lane at the site access. As proposed, the turn lane has more than enough storage capacity to accommodate the projected westbound left turn vehicle queues. Occasional short term gridlock conditions may occur at the site access, but the Synchro model demonstrates that the resulting westbound left turn queue will not generate extensive vehicle queues. Therefore, the westbound left turn queue will not interfere with eastbound left turns onto NE 202nd Avenue. His firm conducted a queuing analysis over the two hour a.m. peak and another two hours during the p.m. peak. The analysis registered 120 readings and there were only three times when the eastbound vehicle queue would have blocked the proposed site access. During these periods westbound vehicles waiting to turn into the site can wait in the westbound left turn lane for the traffic to clear and vehicles waiting to exit can wait on the site. This will not create a hazard, as all vehicles will queue on the site or in the westbound left turn lane. The site access is projected to operate at a Level Of Service (LOS) D.

(1) The site is projected to generate 140 vehicle trips during the a.m. peak hour (70 inbound and 70 outbound trips), which equates to one vehicle entering and one vehicle exiting the site every 52 seconds. During the p.m. peak hour 164 vehicles will enter or leave the site, which equates to one vehicle entering and one vehicle exiting the site every 44 seconds.

(B) The applicant's traffic counts included all existing traffic on area roads, including trucks, buses, and school related traffic during the a.m. peak. School traffic does not affect the p.m. peak because school ends before the p.m. peak begins.

Traffic volumes when school ends are much lower than what occurs during the a.m. and p.m. peak hours. The future traffic projections included trucks delivering fuel to the site.

(C) All of the reported crashes involved single vehicle crashes: two where a driver hit a sign and one where a driver hit a stump. All of the crashes involved drivers colliding with objects were located outside of the travel lanes. The crash analysis reviewed data from 2018 to 2022, which was the data available when the analysis was performed in 2023.

(D) The site access crossing the sidewalk and bike lane is a standard design which cyclists and pedestrians experience throughout the region. The sidewalk will provide a safe location for children to walk past the site; currently there is no sidewalk on the site and no bicycle lane on NE 13th Street west of the site.

(E) The proposed development will provide traffic mitigation measures including" a bicycle lane and sidewalk along the frontage of the site, a westbound left turn lane at the site access, requiring that fuel trucks turn right into the site from eastbound NE 13th Street and then turn right again to depart onto NE 13th Street, and requiring that fuel deliveries occur between 7:00 p.m. and 7:00 a.m., to avoid impacting peak hour traffic. The applicant will also pay traffic impact fees.

(F) The gas station will generate an average of two delivery truck trips per week and there will never be more than one delivery truck on the site at a time. The proposed 40-foot wide access driveway is adequate to allow trucks to turn into and out of the site without infringing on the adjacent travel lanes, based on the applicant's wheel path diagrams. Fuel deliveries can be completed in 30 minutes or less.

(G) AASHTO standards require 390 feet of intersection sight distance in each direction at the site access, based on the posted 35 mph speed limit on NE 13th Street. More than 500 feet of sight distance is available to the east of the site. Therefore, there was no need to conduct a speed study on NE 13th Street, as more than adequate sight distance is available. Some vegetation clearing is needed to meet sight distance requirements west of the site. Northbound vehicles turning left onto NE 13th Street will be traveling at roughly 15 mph. 225 feet of sight distance is required for a speed of 20 mph. Southbound vehicles turning right onto NE 13th Street will be traveling at less than 15 mph, so less than 170 feet is required. The site access is located more than 225 west of the intersection of NE 13th and NW Friberg-Strunk Streets. Therefore, sight distance standards are met at the site access. It is not feasible to move the access further east without impacting the ability of fuel trucks to access the site.

(H) The site access will operate safely given the projected LOS, vehicle queue lengths, westbound turn lane, and right-in/right-out restriction for infrequent fuel delivery trucks.

(I) The traffic study did not include traffic generated by the Harmony Sports Complex because the City of Vancouver determined that the Sports

Complex will not generate traffic in this area. Any existing traffic from the Sports Complex was included in the background traffic counts that were used in the traffic analysis.

(J) Mr. Haines, the appellant's traffic engineer's, review of the traffic study (Exhibits 108 and 139) did not include any technical analysis, only questions and comments. Mr. Haines did not provide any support for his assumptions and opinions.

v. Mr. Taylor summarized the stormwater facilities proposed on the site. The applicant proposed to collect stormwater runoff from all impervious areas of the site.

(A) The applicant will design and grade the site to direct runoff from areas beneath the fueling canopy, including the fuel delivery area, to dead-end closed sumps that are separate from the stormwater system. The canopy roof will limit the amount of stormwater falling on these areas. The applicant will monitor the sumps and collect and properly dispose of any liquid that accumulates on a regular basis. In the alternative, the applicant will install an oil/water separator and stormwater filters and discharge the treated water to the storm sewer system.

(B) Runoff from the carwash will be directed to the City's sanitary sewer system for treatment at the City sewer treatment plant.

(C) The applicant will collect stormwater runoff from the remainder the impervious areas on the site - roofs, walkways, and vehicle parking and maneuvering areas - and direct it to an underground detention facility. The applicant will treat runoff from the parking lot and vehicle maneuvering areas prior to directing it to the detention facility in the northern portion of the site. The applicant will release treated stormwater to the existing storm sewer system in NE 13$^{th}$ Street at less than predevelopment rates. No runoff from this site will enter the ditch on NE 13$^{th}$ Street. No catch basins are proposed near the decommissioned well and the applicant will grade the site to drain away from the well.

4. The following is a summary by the examiner of the testimony and evidence offered at the substantive appeal portion of the public hearing on December 12, 2024. The examiner incorporates by reference all of the testimony raised during the SEPA appeal portion of the hearing into the substantive appeal portion, so that the parties did not need to repeat their prior testimony.

a. Ms. Nosrati argued that the proposed development is inconsistent with the purposes of the BP zone, which provides "The Business Park (BP) district is intended to provide for employment growth in the city by protecting industrial areas for future employment. Design of business park facilities in this district will be "campus-style," with landscaped buffers, and architectural features compatible with, and not offensive to, surrounding uses." CMC 18.37.010. The proposed gas station, car wash, and convenience store is not "campus-style" development and the development will be "[o]ffensive to,

surrounding uses." The use will not "[p]rovide for employment growth …" is it will only require five employees.

i. The development is inconsistent with comprehensive plan policy LU-2.5, as the development is not compatible with the adjacent residential neighborhood. Landscaping will not make the fuel canopy compatible and it will be offensive to the neighborhood.

ii. In addition, the site is located in the Grass Valley economic development area per section 6.4.3 of the City's comprehensive plan. Economic Development Goal ED 3 states "Promote a cooperative industrial business park in which businesses and the City share resources efficiently to achieve sustainable development, with the intention of increasing economic gains and improving environmental quality." ED-3.2 provides "Subarea planning should capitalize on existing facilities and infrastructure and include a mix of uses that are trail- and transit-oriented and designed with high-quality streetscape appeal." The applicant's development plan does not meet these goals.

iii. The development does not comply with the 50-foot parking setback required by Table 1, Note 2.d of the Camas Design Standards Manual (CDSM).

iv. The director's decision utilized the wrong table from the CDSM in determining the roadway geometry. The director should have used Table 2, public roadways, rather than Table 1, private roadways.

v. Car washes are not a permitted use in the BP zone. CMC 18.07.030 Table 1 lists all of the uses allowed in the BP zone. Car washes are not included in the table and therefore are prohibited in the BP zone. She argued that a car wash is most similar to a dry cleaning use, which is prohibited in the BP zone, due to the types of chemicals used in a car wash. There is only one existing car wash in the City of Camas and it is located in the CC zone and outside of the sole source aquifer.

vi. Car washes are not allowed as an accessory use. Uses that are accessory to gas stations are water/air supply and propane fill. Car washes are not a typical use at gas stations. It is a separate use that is not listed in CMC 18.07.030 Table 1. This use would be listed if the City Council had intended to allow it.

vii. She argued that the wetland on the Goertzen property is not functionally isolated from the site, as the ditch on the south side of NE 13$^{th}$ Street is connected to that wetland.

viii. The sole source aquifer identified in the EPA map must be respected.

ix. Table 1, Note 2.d of the CDSM requires a 50-foot setback from the back of the sidewalk.

b. Mr. Mulaney argued that the development will meet comprehensive plan policy LU-2.5 as the development is subject to compliance with the City's landscape and design review standards. Gas stations are a permitted use in the BP zone and there is no basis for denial of the application based on aesthetics.

i. The car wash is allowed as an accessory use to the permitted gas station. Nothing in the text of the code prohibits typical ancillary uses that are commonly provided with gas stations.

c. Mr. Peters argued that car wash facilities are common and customarily accessory to modern gas station uses. The location of the sole source aquifer is irrelevant to whether the car wash may be allowed on the site. CMC 18.07.020 gives the director discretion to determine if uses that are not included in the table may be allowed in a particular zone. The entire development will be subject to design review.

i. CMC 16.55.030.B notes that the City's CARA maps "[m]ay be continuously updated as new critical areas are identified." The City has not updated its CARA map since 2012. Therefore, it is the current CARA map.

ii. He noted that the site is functionally isolated from any wetland on the Goertzen property north of the site. Therefore, any wetland buffer would not extend onto the site.

d. Mr. Maul noted that the site is zoned BP and the proposed use is listed a permitted use in that zone. Therefore, the City Council deemed the use compatible with other uses allowed in the BP zone. The development is subject to compliance with the City's light, noise, landscape, and design review requirements, which will ensure that the use is compatible with surrounding residential uses. The site has been zoned BP for several years and this type of use can be expected.

e. City engineer James Carothers testified that the 50-foot parking setback required by Table 1, Note 2.d of the CDSM applies to parking spaces that are directly accessible from the access driveway, to ensure that vehicles backing out of parking spaces will not impact vehicles entering the site from a collector or arterial roadway.

f. City Engineering Project Manager Anita Ashton noted that Table 1 of the CDSM applies to the access drives on the site, which are private roads. Table 2 applies to NE 13th Street abutting the site, which is a public road.

## C. SEPA APPEAL DISCUSSION

1. The issue in the SEPA appeal is whether the DNS --- which is the City's threshold determination --- complies procedurally with CMC 16, the City's SEPA ordinance.[4] The

[4] "Threshold determination" means the decision by the responsible official of the lead agency whether or not an EIS is required for a proposal that is not categorically exempt. *WAC 197-11-797*

DNS complies procedurally if the SEPA Official considered the information in the environmental checklist and supporting documents, timely comments received in response to the DNS, and other information to determine whether the proposed development is likely to have a probable significant adverse environmental impact.[5], [6]

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"Determination of nonsignificance" (DNS) means the written decision by the responsible official of the lead agency that a proposal is not likely to have a significant adverse environmental impact, and therefore an EIS is not required. *WAC 197-11-734*

*See also*, WAC 197-11-766, which provides:

> "Mitigated DNS" means a DNS that includes mitigation measures and is issued as a result of the process specified in WAC 197-11-350."

[5] CMC 16.01.010 incorporates by reference State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA Rules, WAC 197-11-904. The following WAC provisions are relevant to the threshold determination.

> Agencies shall use the environmental checklist substantially in the form found in WAC 197-11-960 to assist in making threshold determinations for proposals... *WAC 197-11-315*
>
> In making a threshold determination, the responsible official shall:
> (a) Review the environmental checklist, if used:
>  (i) Independently evaluating the responses of any applicant and indicating the result of its evaluation in the DS, in the DNS, or on the checklist; and
>  (ii) Conducting its initial review of the environmental checklist and any supporting documents without requiring additional information from the applicant.
> (b) Determine if the proposal is likely to have a probable significant adverse environmental impact, based on the proposed action, the information in the checklist (WAC 197-11-960), and any additional information furnished under WAC 197-11-335 and 197-11-350; and
> (c) Consider mitigation measures which an agency or the applicant will implement as part of the proposal, including any mitigation measures required by development regulations, comprehensive plans, or other existing environmental rules or laws. *WAC 197-11-330(1)*
>
> The lead agency shall make its threshold determination based upon information reasonably sufficient to evaluate the environmental impact of a proposal. The lead agency may take one or more of the following actions if, after reviewing the checklist, the agency concludes that there is insufficient information to make its threshold determination:
> (1) Require an applicant to submit more information on subjects in the checklist;
> (2) Make its own further study, including physical investigations on a proposed site;
> (3) Consult with other agencies, requesting information on the proposal's potential impacts which lie within the other agencies' jurisdiction or expertise (agencies shall respond in accordance with WAC 197-11-550); or
> (4) Decide that all or part of the action or its impacts are not sufficiently definite to allow environmental analysis and commit to timely, subsequent environmental analysis, consistent with WAC 197-11-055 through 197-11-070. *WAC 197-11-335*
>
> If the responsible official determines there will be no probable significant adverse environmental impacts from a proposal, the lead agency shall prepare and issue a determination of nonsignificance (DNS) substantially in the form provided in WAC 197-11-970. *WAC 197-11-340(1).*

[6] WAC 197-11 also provides the following relevant definitions:

2. In considering the SEPA appeal, the appellant must bear the burden to establish a violation of SEPA. The examiner must consider the appeals based on the "clearly erroneous" standard of review. *Norway Hill Pres. & Prot. Ass'n v. King County Council,* 87 WN.2d 267, 275, 552 P.2d 674 (1976). The examiner is required to give substantial weight to the threshold determination by the City's Responsible SEPA Official.[7] The examiner may only reverse the SEPA Official's decision if he is, "[l]eft with the definite and firm conviction that a mistake has been committed." *Wenatchee Sportsmen Ass'n v. Chelan County,* 141 Wash.2d 169, 4 P.3d 123, 126 (2000).

3. The SEPA official is required to demonstrate that he or she actually considered relevant environmental factors "in a manner sufficient to be a *prima facie* compliance with the procedural dictates of SEPA" before issuing a SEPA determination. *Boehm v. City of Vancouver,*111 Wn. App. 711, 718, 47 P.3d 137 (2002). *Prima facie* compliance requires a showing "that there is evidence of sufficient circumstances which would lead to a logical and reasonable inference of the facts sought to be proved." *State v. Vangerpen,* 71 Wn. App. 94, 98, 856 P.2d 1106 (1993). There is no obligation to examine every remote and speculative impact. *Cheney v. Mountlake Terrace*, 87 Wn.2d 338, 344-45, 552 P.2d 184 (1976).

4. The examiner finds that the SEPA Official met his burden of demonstrating that he actually considered all relevant environmental factors "in a manner sufficient to be a *prima facie* compliance with the procedural dictates of SEPA" before issuing the SEPA determination.

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(1) "Significant" as used in SEPA means a reasonable likelihood of more than a moderate adverse impact on environmental quality.

(2) Significance involves context and intensity (WAC 197-11-330) and does not lend itself to a formula or quantifiable test. The context may vary with the physical setting. Intensity depends on the magnitude and duration of an impact.

The severity of an impact should be weighed along with the likelihood of its occurrence. An impact may be significant if its chance of occurrence is not great, but the resulting environmental impact would be severe if it occurred.

(3) WAC 197-11-330 specifies a process, including criteria and procedures, for determining whether a proposal is likely to have a significant adverse environmental impact. *WAC 197-11-794.*

"Probable" means likely or reasonably likely to occur, as in "a reasonable probability of more than a moderate effect on the quality of the environment" (see WAC 197-11-794 ). Probable is used to distinguish likely impacts from those that merely have a possibility of occurring, but are remote or speculative. This is not meant as a strict statistical probability test. *WAC 197-11-782*

"Impacts" are the effects or consequences of actions. Environmental impacts are effects upon the elements of the environment listed in WAC 197-11-444. *WAC 197-11-752*

[7] On this point, WMC 15.04.225.A(5) provides, "Any procedural determination by the city's responsible official shall be given substantial weight in any appeal proceeding."

a. In making its SEPA determination, the City reviewed and relied on the applicant's project narrative (Exhibits 5 and 80), preliminary plans (Exhibits 16-28, 32), technical reports prepared by licensed engineers and biologists including: a geotechnical report (Exhibit 8), a stormwater technical information report (Exhibits 9, 31, and 33), traffic analyses (Exhibits 10, 11, 30, 85, 86, 87, 90, 134), critical area reports (Exhibits 12, 13, 82, 83, 84), the applicant's SEPA checklists (Exhibits 7 and 81), analyses of those reports prepared by and 3rd party reviewers, and comments from agencies and the public.

b. The design, construction, and operation of this project is subject to compliance with the City's existing regulations, including Code provisions regulating: stormwater, wetlands, wildlife habitat, traffic, design, grading, erosion control, noise, nuisances, etc.

c. The design, construction, and operation of this project is also subject to extensive review by a number of local, state and federal agencies with jurisdiction over various aspects of the project and the director is entitled to consider those regulations in his SEPA review.

5. Once the SEPA Official meet this burden of demonstrating *prima facie* compliance, the burden of proof shifts to the appellant to demonstrate that the director's SEPA determination was "clearly erroneous". The examiner finds, giving substantial weight to the director's determination, that the appellant failed to sustain its burden of proof that the director's decision was clearly erroneous based on the following findings:

CARA Map

6. The examiner finds that this application is vested under the City's adopted CARA map (Exhibit 119 at .pdf page 2) and based on that map the site is not located in or near a CARA.

a. CMC 16.55.030.A provides "The approximate location and extent of critical aquifer recharge areas are shown on the adopted critical area maps. CMC 16.55.030.B provides that the maps "[m]ay be continuously updated as new critical areas are identified." However, the City has chosen not to update this map since it was adopted in 2012 and this application is vested under that map.

i. CMC 16. 55.010 lists areas that may be designated as CARAs, including sole source aquifers designated by the U.S. EPA. (CMC 16.55.010.B). However, CMC 16.55.020 establishes categories of CARA, rating aquifer recharge areas as high, moderate, or low susceptibility based criteria listed in that section. It appears that the City Council chose to limit the adopted CARA map to the specific locations shown in the CARA map, presumably based on the ratings schedule in CMC 16.55.020. This is consistent with WAC 365-190-100(3), which sets out physical characteristics to consider when designating CARAs.

b. This is consistent with the City's prior interpretation of the Code, as the City has previously approved at least one gas station and car wash, CUP22-02 (Camas Station), at the intersection of NW 16th Avenue and NW Brady Road, within the sole source aquifer shown on the EPA map (Exhibit 145 at .pdf page 1). The examiner is required to give considerable deference to the staff's construction of an ordinance they are the officials charged with its enforcement. *Citizens For A Safe Neighborhood v. City of Seattle*, 67 Wn.App. 436, 440, 836 P.2d 235 (1992).

c. The EPA sole source aquifer map may constitute BAS as defined by WAC 365-195-905. However, BAS only applies to the adoption of plans, policies, and regulations. WAC 365-195-915. Project review may not be used for planning decisions. If a deficiency in existing plans or regulations is identified during project review, the local government must docket the deficiency for possible future plan or development regulation amendments and continue the project review. RCW 36.70A.470. The City cannot delay or deny this application based on potential future changes to the CARA map. *NORCO Construction Inc. v. King County*, 106 Wn.2d 290, 721 P.2d 511 (1986).

7. The site, and the majority of the City of Camas as well of much of Clark County, is located over an EPA mapped sole source aquifer. (Exhibit 145 at .pdf page 1). However, there is no evidence in the record that a gas station in this location poses a significant risk to the environment. As discussed below, the design, construction, operation, and monitoring of the gas station use will be subject to numerous regulations that are intended to limit the potential for fuel leaking or spilling on the site and to prevent any fuel that does leak or spill from infiltrating into the ground and reaching the aquifer.

8. The applicant volunteered pursuant to WAC 197-11-660(1)(d) conduct a level one hydrogeological hydrogeologic assessment and comply with all recommendations of that assessment. The examiner finds that this assessment is not necessary to comply with SEPA, as the site is not located within a mapped CARA, but it can be required as a condition of approval because the applicant volunteered to conduct this analysis.

Groundwater Wells

9. The examiner finds that the appellant failed to sustain their burden of proof that the proposed development poses a risk of significant adverse impacts to groundwater wells serving nearby properties.

a. As discussed at the hearing, the design, construction, and operation of fuel stations is highly regulated by local, state, and federal agencies that are intended to limit the potential for fuel leaks and spills entering the environment. These regulations require the use of double wall corrosion resistant storage tanks and pipes, leak detection monitoring and testing, breakaway hoses with automatic shutoff features, etc. In addition, the applicant is required to design the site to collect any fuel that does spill on the site and direct it to catch basins that are separate from the stormwater collection system serving the remainder of the site. Runoff from the tank filling and fuel dispensing areas will be directed to closed sumps that collect runoff from these areas for proper treatment and

disposal or to treatment facilities that include oil/water separators to treat the runoff and remove contaminants prior to discharge of the treated runoff water into the storm system. In addition, the roof canopy over the fueling area is intended to limit the volume of stormwater runoff from this area.

b. The car wash area is also subject to a separate collection system, with wash chemicals and rinse water discharged to the public sanitary sewer for treatment. The entire car wash system is enclosed to contain the wash runoff and prevent the entry of stormwater.

c. The applicant will collect, treat, and detain stormwater runoff from the remainder of the site consistent with applicable regulations. The applicant will discharge treated stormwater into the existing public storm sewer system in NE 13th Street at less than predevelopment rates. The storm sewer system, like all storm sewer systems in the City eventually discharges to surface waters. However, treatment of the stormwater from this site will remove the majority of potential pollutants prior to discharge.

i. It is possible that ice may occasionally block drainage and allow some stormwater runoff to flow offsite untreated, but such events are relatively rare and pose a minimal risk of contamination. The roof over the fuel dispensing area will limit the potential for significant ice accumulation in the portion of the site that poses the highest potential for contamination.

d. Any runoff that may reach pervious areas on the site or adjacent properties will have little opportunity to infiltrate into the soil and reach the groundwater aquifer. Aquifer recharge occurs where water infiltrates into the ground and adds to the underground water that can supply a well. (Ex 140 at .pdf page 1). In this case "[t]he very stiff to hard soil conditions…" on the site limit infiltration rates to 0.1 to 0.25 inches per hour. (Exhibit 8 at .pdf page 10). Therefore, if any runoff leaves it is likely to continue as surface flow rather than infiltrating into the soil in the immediate area of the site.

e. Opponents argued that "Even with all the safety features of the underground storage tanks and the monitoring equipment, the system could fail due to:

- Faulty installation or basic materials failure.
- A malfunction of the monitoring equipment's, electronics, or electro-mechanical systems
- Being compromised due to an accident, fire, or an earthquake." (Exhibit 110).

However, these risks exist at all gas stations in the region and there is no evidence in the record that such failures actually occurred or that this project poses a higher risk of such failures or a higher than usual risk of impact if such failures occurred. Therefore, these are speculative concerns that the director is not required to consider or address.

f. The existing well on the site does not pose a risk of groundwater contamination. The applicant will decommission and seal this well consistent with applicable regulations

that are intended to prevent surface water entering the well and reaching the groundwater aquifer.

g. Based on Exhibit 147, there are no properties with recorded wells within 100 feet of the site. Therefore, no Sanitary Control Areas (SCAs) extend onto the site. Even if there are non-recorded wells within 100 feet of the site, such as the well noted by the appellant on Mr. Lucier's property west of the site, the owners of adjacent properties have no right to control offsite development within the SCA. As noted in Exhibit 142, well owners must either own the area within their SCA or "[h]ave an enduring legal agreement in place that limits land uses and activities in that area."

i. WAC 246-291-125(5)(e), cited by the appellant, only applies to public water systems, not individual private wells. "Public water system" as defined by WAC 246-290-010(1) expressly excludes water systems "[s]erving only one single-family residence."

h. In addition, pavement and roofs on the majority of the site will prevent stormwater from infiltrating into the soil. As noted above, the applicant will collect and treat stormwater runoff from all impervious areas. Infiltration into the soil may only occur within the landscaped areas that are separate from the paved areas on the site.

i. Opponents noted that HUD Regs may require that the owners of surrounding properties that are served by wells conduct well inspections prior to the sale of their properties, which would impose an additional cost on these property owners when they sell their properties. This issue was clearly raised in a number of public comments and the director determined that this does not constitute a significant impact. Giving substantial weight to the director's determination, the examiner must find that the appellant failed to meet its burden of proof that this is a significant adverse environmental impact.

Air Quality

10. As noted above, the design, construction, and operation of fuel stations is highly regulated by local, state, and federal agencies, including regulations to limit the discharge of fumes, gases, and other airborne pollutants. As discussed at the hearing, the storage tanks and fuel dispensers will be equipped with vapor recovery systems that limit the escape of fuel vapor into the atmosphere and ensure compliance with applicable emissions limits. All fuel stations in the region pose similar risks and are subject to the same regulations. There is no evidence that this project poses a higher risk of air pollution impacts than any other gas station.

Wetlands and Surface Waters

11. The examiner finds that the director determined that the proposed use, as delimited by existing regulations, will not result in probable significant adverse

environmental impacts to wetlands and surface waters and the appellant failed to prove that the director's determination was incorrect.

a. The applicant's critical areas reports (Exhibits 12 and 82) adequately considered all wetlands, water features, and buffers on and within 300 feet of the site as required by CMC 16.53.030.B(2).

i. There was a wetland on the property south of the site. However, a previously approved development proposed to fill this wetland. Therefore, the wetland and any buffer that currently extends onto the site will cease to exist. Therefore, the applicant was not required to consider this wetland in their analysis.

ii. The applicant considered the existing wetland on the property west of the site (Wetland A). Wetland A's 80-foot buffer extends onto the western portion of the site. (Exhibit 82 at .pdf page 16, Figure 2). The proposed development will eliminate the on-site portion of this buffer, resulting in indirect impacts to Wetland A. The applicant will mitigate those impacts by purchasing credits at an offsite wetland mitigation bank located in the same watershed as the site as allowed by CMC 16.53.050.D(2)(b), ensuring that this development results in no net loss of wetland functions and values.

(A) There is no evidence in the record to support the appellant's assertion that runoff from the site will flow into and increase the size of Wetland A and/or the extent of surface ponding and flooding on the property west of the site. As discussed above, the applicant will collect all stormwater runoff from impervious areas of the site and direct it to the proposed underground stormwater detention facility prior to release into the existing City storm sewer at less than predevelopment rates. The proposed development will not increase the rate or volume of surface runoff flowing off of the site onto adjacent properties.

iii. There are mapped wetlands within 300 feet north of the site, on the Goertzen and Connell properties across NE 13th Street from the site. (Exhibit 82 at .pdf page 19, Figure 5). The applicant's critical areas analyses did not address these wetlands as required by CMC 16.53.030.B(2), as they are located on private property which the applicant has no authority to enter. However, these wetlands are separated and functionally isolated from the site as defined by CMC 16.53.040.B(4)(b); the site is separated from these wetlands by NE 13th Street. Therefore, the buffer for these wetlands does not extend onto the site and development on the site will not physically impact these wetlands or buffers.

(A) Contrary to the appellant's assertion, stormwater from this site will not impact the wetlands north of the site. The applicant will collect stormwater runoff from all impervious areas on the site, treat runoff from pollution generating areas, and discharge it to the existing storm sewer system in NE 13th Street. This development will not discharge stormwater into the existing ditch system on NE 13th Street which the appellant asserts connects to these wetlands and the stormwater detention pond on the Nosratis' property.

iv. The examiner finds that the applicant's critical areas analysis was not required to address the County stormwater pond on the Nosratis' property north of the site. CMC 16.53.030.B(2) requires that critical areas reports address "All shoreline areas, water features, floodplains, and other critical areas, and related buffers within three hundred feet of the project area…" The Code does not define the term "water feature." However, this Code section includes the limitation "other critical areas" which restricts the types of things that could qualify as a "water feature." A manmade stormwater pond is not a "critical area" as defined by RCW 36.70A.030(11). Therefore, the applicant was not required to include the pond in its critical areas analysis.

v. The applicant's initial wetland analysis was conducted during the dry season, on August 29, 2023. (Exhibit 12 at .pdf page 4). However, the applicant's consultants conducted an additional site visit during the growing season on April 2, 2024, and issued a revised Critical Areas Report. (Exhibit 82).

vi. Neighbors noted that Bradshaw's lomatium was recently removed from the endangered species list and "[i]s in very close proximity." Exhibits 107 and 132. However, the SEPA checklist notes that this and other threatened and endangered species listed in the checklist "[a]re not known to be present on the site and were deemed to be unlikely to occur within the project site due to the lack of preferred or suitable habitat for these species." (Exhibit 23 at .pdf page 14). There is no evidence in the record to the contrary. Exhibit 76 includes an excerpt from a DNR report about the existence of Bradshaw's lomatium on a particular property, but the excerpt does not indicate the location of the property that was the subject of the report nor any evidence that it is near the site.

12. The proposed development does not pose a signific risk of surface water contamination. As noted above, the applicant will collect and treat all stormwater runoff from the site prior to releasing it to the existing storm sewer system in NE 13th Street at less than predevelopment rates. This development will not discharge stormwater into the existing ditch system on NE 13th Street. The public storm sewer system eventually discharges to surface waters downstream from the site. However, this is true for all roads and development in the City that do not infiltrate stormwater runoff. Runoff from this site will likely discharge to Lacamas Creek and Lacamas Lake, but the treated runoff will not impact these waters.

a. As discussed above, water from the car wash will not impact surface waters. The applicant will collect and discharge wash water and associated cleaning products from the car wash into the public sanitary sewer system where it will receive a higher level of treatment at the City's sewage treatment plant. Runoff from fueling areas will discharge to a separate collection system that is either closed off from the storm sewer system or receives a higher level of treatment to remove fuels and oil products from the water prior to discharge to the storm sewer.

Tree Removal

13. The proposed development will remove the existing Oregon white oak tree on the site that is large enough to qualify as a "fish and wildlife habitat conservation area" as defined by CMC 16.61.010.A(3)(a)(i). The applicant will mitigate for that impact by purchasing credits at an offsite oak mitigation bank as allowed by CMC 16.61.030.A(3)(a), ensuring that the development results in no net loss of habitat functions and values. The applicant will be required to comply with the mitigation ratios suggested by WDFW, see Condition 22.f of the director's decision. (Exhibit 103 at .pdf page 24).

a. The examiner finds that removal of this oak tree is consistent with the tree preservation goals of Section 3.4 of the comprehensive plan, specifically Section NE-4.4, which requires that the City "Develop a program to compensate for the loss of tree canopy coverage, when retention of mature trees within development sites is impractical." In this case removal of the mature oak tree is necessary to develop the site as proposed. The proposed mitigation and proposed on-site landscaping will compensate for remove of the tree and the loss of tree canopy coverage.

b. The tree density and preservation requirements of CMC 18.13 are addressed in the Substantive Findings section below.

Noise

14. The examiner finds that it is feasible for the proposed use to comply with the City's noise regulations and the maximum permissible environmental noise levels of WAC 173-60.040, which will ensure that the use does not result in significant adverse noise impacts. This development will increase the amount of traffic and activity in the vicinity of the site, which will likely result in additional noise, but there is no evidence that the uses proposed with this application will generate substantially greater noise impacts than other uses allowed in the BP zone. This is merely one of the results of living in an urban area where plans call for the type of development being proposed.

a. The equipment used in the car wash facility will be located within an enclosed building to limit offsite noise impacts. The applicant can design and construct this structure to minimize noise and ensure compliance with applicable noise standards. No vacuums are proposed on the site.

b. The applicant proposed to schedule fuel deliveries to the site between 10:00 p.m. and 7:00 a.m., when maximum noise levels permitted by WAC 173-60.040 are 10 dB lower. WAC 173-60.040(2)(b). However, there is no evidence that deliveries will generate excessive noise and deliveries will occur infrequently; twice per week on average. Operation of the fuel delivery vehicles will not generate higher noise levels than existing traffic, including trucks that currently operate on NE 13$^{th}$ Street. Garbage trucks are likely to generate significantly more noise than fuel deliveries as the vehicles are picking up, emptying, and replacing waste containers and they are operating in closer proximity to homes than fuel delivery vehicles on the site.

c. There is a dispute regarding the applicability of CMC 9.32.050.A(4), which prohibits "The creation of frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-road vehicle, or internal combustion engine so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of neighboring or nearby real property…" However, there is no need to resolve this dispute in this proceeding, as it is feasible to comply with this regulation. There is no proposal to repair, rebuild, or test motor vehicles or internal combustion engine on the site. Almost any use allowed on this site will involve the starting and operation of motor vehicles. However, there is no evidence that vehicles related to this site will generate excessive noise that unreasonably disturbs or interferes with peace, comfort and repose. Any violations that occur may be addressed through the City's enforcement process.

Visual Impacts

15. The examiner finds that the design and location of the proposed structures, lighting, and signage will not have a significant adverse impact on surrounding properties. Development on this site is subject to compliance with the City's design review code, CMC 18.19, and design review manual, adopted pursuant to CMC 18.19.030. The design review process is "[i]ntended to produce a meaningful integration of building, landscaping and natural environment. This will protect the general health, safety, and welfare of the community by making efficient use of the land, which is consistent with the visual character and heritage of the community." (CMC 18.19.010). The design review criteria and manual implement this purpose through specific requirements for architectural, landscaping, and lighting design. The City's Design Review Committee (DRC) will review the design of the development through a separate public process and make a recommendation to the director who is responsible for the final design review decision.

a. Development on this site is subject to regulations controlling the architectural design of structures. (CMC 18.37.030, 18.19.050, and 18.19.060). Compliance with these architectural design standards will reduce the visual impact of the proposed structures, requiring designs that mitigate size and scale differences, with walls broken up to avoid a blank look and to provide a sense of scale. In addition, the applicant will be required to integrate the design of the separate uses in a manner to achieve a seamless appearance or create a cohesive development. (CMC 18.19.050.B(2)).

i. The appellant argued that views of the fuel area canopy "[w]ill be offensive to the neighborhood", citing CMC 18.37.010. (Ms. Nosrati testimony). However, the appellant failed to provide any support for this subjective assertion. The canopy will be visible from offsite, but there is no evidence that the design, scale, and mass of this structure is significantly different from other existing and permitted structures in the BP zone, including the large warehouse structure under construction east of the site. CMC 18.19.010 provides "The design review process is not intended to determine the appropriateness of a given use on a given parcel." Therefore, the examiner cannot deny

this permitted use based on the existence of the fuel canopy. Fuel stations are a permitted use in the BP zone and the majority of fuel stations utilize similar structures. The examiner must assume that the City Council considered this issue when it determined that fuel stations should be allowed in this zone. The applicant, the DRC, and the director will review this issue through the design review process and consider ways to minimize the visual impact of this and other structures on the site through the use of architectural design, lighting, landscaping, and other features.

b. Development on this site is subject to regulations controlling the location, design, and shielding of light sources on the site to ensure that they do not generate significant offsite light or glare. (See CMC 18.37.030.J, 18.19.050.B(2)(g), and the "Camas Design Review Manual" adopted pursuant to CMC18.19.030). Required landscaping will further screen and buffer views of the onsite lighting. Compliance with applicable regulations combined with required design review will ensure that building lighting will not have a significant adverse impact. The lighting regulations in CMC 18.21.060.G, cited by the appellant, are not applicable to this development. These regulations only apply to development in the BP/LI zone.

i. Headlights of vehicles exiting the site will shine onto residential properties north of the site, across NE 13th Street. However, based on the aerial photos in the record, there is wide area of dense vegetation abutting the north boundary of NE 13th Street, which will shield these properties and limit the impact of headlights from vehicles leaving the site. (See Exhibit 12 at .pdf page 13, Figure 2). In addition, any use on this site will generate similar impacts as the City will only allow access to the site from NE 13th Street. (Exhibit 3 at .pdf page 7, #11). The uses proposed on this site will generate higher traffic volumes, and therefore more frequent headlight impacts, compared to some uses permitted in the BP zone. But many other uses are allowed in the BP that also generate relatively high traffic volumes, e.g., coffee shops and fast food restaurants. The examiner finds that such impacts are an inevitable consequence of concentrating new development in the urban area and will not result in significant adverse impacts.

c. Landscaping required by CMC 18.13 and 18.37.040 will buffer and screen views of the site, reducing its visual impact.

d. Signage on the site will be subject to further review through the City's sign permit review process, CMC 18.15. The examiner finds that compliance with those regulations will limit the impact of the signs and ensure that signage does not have a significant adverse impact on the environment.

Traffic

16. The examiner finds that the applicants transportation analyses (Exhibits 10, 86, and 134) contained sufficient information to allow the director to consider the potential traffic impacts of the proposed development. Although the reports may have failed to include certain items listed in the City's "Transportation Impact Study Guidelines" (the Guidelines), those omissions did not alter the accuracy of the analysis. The director

determined that the traffic analysis contained sufficient information to properly analyze the traffic impacts of the proposed development and accepted the application as complete, even though it did not contain all of the information and analysis listed in the Guidelines. The applicant also addressed issues noted by 3rd party reviewers for the City (Exhibit 85) and the appellant (Exhibits 108 and 139).

a. As discussed in Exhibit 134, Mr. Charbonneau distributed the projected vehicle trips generated by the proposed use based on recently collected traffic data and surrounding land use patterns.

b. Traffic generated by existing uses, including the Harmony Sports Complex and Union High School, was included in the background traffic counts that were used in the traffic analysis. These uses were operating and generating traffic on area roads at the time the applicant conducted the traffic counts used in the analysis. Union High School was not in session when the initial traffic counts were recorded. Therefore, the applicant modeled school traffic based on student enrollment and ITE trip generation rates for public high schools. (Exhibit 10 at .pdf page 6). The applicant conducted additional traffic counts May 2024 when Union High School was in session, which confirmed the model results; actual counts of school related traffic were within one percent of the modeled data. (Exhibit 86).

c. The traffic analysis also included projected traffic from previously approved but uncompleted developments in the area, including the battery warehouse across the street from the site. (See Exhibit 10 at .pdf page 61).

d. The projected trip generation counts used in the traffic analysis included trips by fuel delivery vehicles. (Charbonneau testimony).

e. Although not specifically called out as such in the applicant's traffic report, the applicant did propose a variety of traffic mitigation measures including a westbound left turn lane, dedication of additional right-of-way and construction of frontage improvements, scheduling fuel deliveries outside of peak traffic hours, and payment of Traffic Impact Fees. (Charbonneau testimony).

f. The traffic study did not include a 24-hour traffic count as required by the Guidelines. The study included traffic counts during the two-hour am and pm peaks, which address the highest traffic volume periods on area roads. There is no evidence that additional counts of non-peak hour traffic would alter the traffic analysis.

g. The traffic report did not include a speed study. Mr. Charbonneau testified that 390 feet of intersection sight distance is required based on the posted 35 mph speed limit on NE 13th Street and more than 500 feet of sight distance is available. Therefore, a speed study was not warranted, because there is adequate sight distance available to accommodate significantly higher travel speeds and there is no evidence that actual speeds are high enough to exceed the available sight distance. The examiner finds that Mr. Charbonneau's estimate of 500 feet of sight distance is sufficiently accurate given his

experience as a professional traffic engineer and the significant difference between the required and available sight distances.

h. Mr. Haines argued that "The analysis assumed only one vehicle in the peak hours entering and exiting the gas station." (Exhibit 108 at .pdf page 1). However, Mr. Charbonneau noted that Mr. Haines' comment is based on the applicant's queuing analysis for existing and background traffic, not the total traffic scenarios that included the development's site trips. (Exhibit 134 at .pdf page 8). The examiner finds that the traffic study includes an accurate estimate of vehicle trips to and from the site.

i. Mr. Haines argued that the applicant's left turn analysis used the WSDOT design manual instead of AASHTO. (Exhibit 108 at .pdf page 1). However, the applicant agreed to provide a westbound left turn lane on NE 13th Street at the site access, eliminating the need for this analysis.

j. Mr. Haines noted that the crash data analysis in the applicant's traffic study did not include information about the types of crashes or potential mitigation. However, as Mr. Charbonneau testified, there were only three reported crashes in the area during the five-year period for which data was available at the time of the analysis, all of which involved a single vehicle going off the road and crashing into a fixed object. (Charbonneau testimony and Exhibit 134 at .pdf page 8, #17). There is no evidence of any crash trends requiring mitigation.

17. The examiner finds that the location and design of the proposed site access to will not create a hazard.

a. The site has roughly 328 feet of frontage on NE 13th Street and the City will not allow access to the site from NW Friberg-Strunk Street (Exhibit 3 at .pdf page 7, #11), which makes it impossible to provide access to the site in compliance with the 660-foot spacing requirement of CDSM Table 3. Therefore, the city engineer recommended approval of a deviation to this standard pursuant to CMC 17.19.040.B(1)(b)(4) and the director approved the deviation, provided the applicant include a westbound left turn lane at the site entrance to NE 13th Street. Given the site's limited frontage, any development on this site would require a similar deviation.

b. Engineers for the applicant and the City determined that this intersection will operate safely and consistent with the City's minimum LOS requirements. Eastbound vehicle queues may occasionally block access to the site, preventing drivers from entering or exiting the site for short periods of time. However, the proposed left-turn lane will provide sufficient vehicle storage capacity to accommodate the maximum projected vehicle queues without extending into the westbound through lane or interfering with eastbound left turns from NE 13th Street onto NE 202nd Avenue. There is sufficient area on the site to accommodate vehicles waiting to exit the site during these infrequent and short delays. There is no evidence to the contrary. Neighbors' unsupported concerns are not sufficient to overcome the expert testimony of the engineers for the applicant and the City.

c. The proposed access driveway will not create a significant hazard for cyclists or pedestrians. Vehicles maneuvering in and out of the site will cross the eastbound bicycle lane and the crosswalk on the south side of NE 13th Street. However, this type of interaction occurs throughout the City wherever driveways are located on streets with sidewalks or bike lanes. There is no evidence that the driveway proposed in this case poses a significantly greater hazard than other existing driveways.

d. Construction of a westbound left turn lane will not preclude the future construction of a westbound bicycle lane on the north side of NE 13th Street. The proposed turn lane will consume some of the existing right-of-way on this street. However, condition 28 of the director's decision requires the applicant to dedicate additional right-of-way to accommodate all required road improvements, including the left turn lane.

i. The applicant cannot be required to provide a westbound bicycle lane on the north side of NE 13th Street. Applicants are not required to remedy all perceived and existing deficiencies in the vicinity of a development. The Code only requires applicants to mitigate impacts that a development causes or to which it contributes significantly. The need for bicycle lanes and other improvements is one that exists generally along streets in the area and is a need to which all adjoining properties contribute, not just the development proposed in this case. The City cannot require this applicant to bear the cost of such additional improvements, because the costs would exceed the roughly proportional impact of the proposed development and it is a need to which all of the properties in the area contribute. Future development on properties abutting the north side of NE 13th Street will be required to dedicate right-of-way and construct half-width improvements on the north side of this road, consistent with the City's standards for minor arterial roadway, including a westbound bicycle lane, sidewalk, and other improvements.

e. There is no evidence that the design of the site, with a single access to NE 13th Street, will create a hazard or significantly limit emergency access. The Fire Marshall attended the pre-application (Exhibit 3) and received copies of the SEPA distribution packets (Exhibits 35 and 91) and did not raise any concerns with the single access proposed for this site.

18. Increased traffic generated by this development will not create a significant hazard.

a. Traffic from this and other developments will increase congestion and delays compared to existing conditions. However, the applicant's traffic study determined, based on an analysis of existing traffic, traffic generated by previously approved developments, and projected traffic from the proposed use, that all affected intersections are expected to operate at LOS D or better when the development is completed. (Exhibit 10 at .pdf page 8, Table 2). Neighbors' unsupported assertions to the contrary are not sufficient to overcome the expert testimony and data from the applicant's engineers.

i. Mr. Charbonneau testified that gridlock conditions may occasionally occur at the site access driveway, but only for short periods that will not affect the overall LOS at this intersection. As discussed above, there is adequate storage capacity in the westbound left turn lane and on the site to accommodate the resulting traffic queues without impacting the flow of through traffic. (Charbonneau testimony). This is consistent with Mr. Haines' analysis, which notes that the 95th percentile eastbound vehicle queue will extend past the site entrance. (Exhibit 139 at .pdf page 2). The 95th percentile queue is only projected to occur for five-percent of the peak hour.

b. Fuel delivery trucks can enter and exit the site without entering the opposing travel lanes. (Exhibit 90). Trucks exiting the site must enter the eastbound through lane before returning to the eastbound right turn lane in order to turn onto southbound NW Friberg-Strunk Street. (*Id.*). However, the applicant proposed to schedule fuel deliveries during non-peak hours when lower traffic volumes will allow drivers to complete this turning movement without interfering with through traffic on NE 13th Street.

i. Mr. Charbonneau testified that delivery trucks will be required to access the site via right-in/right-out turn movements; delivery trucks will not be allowed to turn left into the site from westbound NE 13th Street. This is required by condition of approval 30.b of the director's decision.

c. Neighbors argued that student drivers traveling to and from Union High School south of the site create a greater risk of illegal traffic maneuvers and crashes and the proposed convenience store use will attract a disproportionate number of student drivers. However, student drivers are operating on roads in the area under existing conditions and there is no evidence that these roads have a higher than normal crash rate.

i. As noted in the traffic study, an intersection is typically considered safe when its accident rate is less than 1.0 crashes per Million Entering Vehicles (MEV). This action rate of 1.0/MEV is based on reported crashes. As noted at the hearing, not all crashes are reported. However, there is no substantial evidence that this location experiences an unusually high number of unreported crashes. The examiner finds that the reported crash history is the best evidence available regarding the crash history for this area.

d. The appellant argued that the "yellow trap" condition at intersection of NE 13th and NW Friberg-Strunk Streets creates a hazard. However, that assertion is not supported by the crash data, as the "yellow trap" condition is an existing situation and there is no evidence of crashes resulting from this condition.

e. There is no evidence that this development will encourage illegal U-turns. The proposed left-turn lane will allow westbound drivers to move out of the westbound through lane while they wait to turn into the site, allowing for a safer maneuver than making an illegal U-turn further west on NE 13th Street in order to return to the east and turn right into the site. Reasonably prudent drivers will observe applicable traffic

regulations. Unfortunately, not all drivers are prudent. However, there is no evidence that the development proposed in this application will attract a disproportionate share of imprudent drivers. The applicant is not required to address existing traffic issues with high school students making U-turns or other illegal maneuvers.

f. Neighbors noted that there are no existing sidewalks on many roads in the area, requiring that children waiting for the school bus stand beside the roadway. However, this is an existing issue that the applicant cannot be required to remedy. Similar to the bicycle lane issue discussed above, the need for sidewalks is one that exists generally along streets in the area, and is a need to which all adjoining properties contribute, not just the development proposed in this case. Sidewalks in the area will interconnect over time as other properties in the area develop, but the applicant is not required to make such connections at this time. In addition, the proposed development will generate traffic impact fees that the City can use to construct road improvements in the area. Any development on this site and in the surrounding area will increase the volume of traffic on area roads. But there is no evidence that the increased traffic will result in a disproportionate increase in the hazard for children waiting for school buses.

19. The examiner finds that the director considered the carwash in the SEPA analysis. The checklist and DNS do not expressly call out the car wash but it is clearly part of the proposed use and included in the plans.

20. The proposed development will attract additional people to the immediate area, which may increase the amount of trespass, litter, vandalism, graffiti, and other illegal activities. However, the examiner finds that there is no substantial evidence in the record that the future patrons or employees of this development are any more or less likely to engage in nuisance or illegal activities than other people.

a. The appellant argued that customers will purchase alcohol from the proposed convenience store and trespass onto adjacent residential properties in order to consume it. However, there is no evidence in the record that this occurs at other convenience stores located throughout the region. This is a speculative concern which the director was not required to address.

21. Any development may affect the value of other property in the surrounding area, potentially reducing values by altering existing views, increasing traffic, noise, and other impacts. However, development may also increase the value of surrounding properties by extending public utilities and providing needed services to surrounding residents and businesses. There is no evidence that the particular development proposed in this case will have a significant adverse impact on the value of surrounding properties. This site has been zoned BP for several years and reasonable buyers will account for potential development consistent with that zoning when determining reasonable property values.

22. As shown in Exhibit 19, the applicant proposed to place fill on the site. The appellant noted the need for fill in Exhibit 123 at .pdf page 6. However, they failed to

raise any issues regarding the need for fill. The applicant will be required to comply with applicable regulations regarding placement and compaction of the fill, installation and maintenance of erosion control measures to prevent stormwater and vehicles from carrying sediment offsite, grading and stormwater facilities to direct runoff away from adjacent properties, and other measures to limit the impact of the fill. The examiner finds that compliance with these regulations will ensure that the proposed fill will not result in significant adverse impacts. Given the site's elevation below NE 113th Street, any development on this site would likely require the same volume of fill.

23. The applicant will extend public sanitary sewer lines to the site and connect the development to that sewer. No on-site septic systems are proposed or needed. Therefore, contrary to the appellant's assertions, the applicant was not required to conduct a perc test on the site. (Exhibit 125).

## D. SUBSTANTIVE ISSUES

1. The director determined that the applicant sustained its burden of proving by a preponderance of the evidence that the application can comply with the applicable approval criteria for the proposed use and approved the application subject to conditions necessary to ensure that future development fully complies with those criteria. In this appeal of the director's decision the appellant bears the burden of proving by a preponderance of the evidence that the director's decision was incorrect and the application does not comply with the approval criteria. The examiner finds that the appellant failed to carry that burden, based on the following findings.

2. The proposed gas/fuel station with mini market is a permitted use in the BP zone. CMC 18.07.030 Table 1. As discussed in the SEPA findings above, the site is not located in a CARA identified in the City's CARA map. Therefore, CMC 16.55.080.F does not prohibit the gas station use.

3. The examiner finds that the proposed car wash is permitted as an accessory use to the gas station.

a. CMC 18.03.040 provides "'Accessory structure or accessory use' means a structure or use incidental and subordinate to the principal use or structure and located on the same lot or tract."

b. CMC 18.07.020.F provides "Uses accessory to a use permitted or conditionally permitted in any zone may be authorized subject only to those criteria and/or processes deemed applicable by the head of the planning department."

c. Car washes are not listed as a permitted, conditional, accessory, or prohibited use in any zone.[8] Although car washes can occur as a separate, free-standing primary use, in this case the car wash is proposed as an accessory use to the proposed fuel station.

[8] The only mention of "car wash" in the Code is in the Off-Street Parking Standards of CMC 18.11.130, Table 18.11-1.

Therefore, CMC 18.07.020.F empowered the director to approve the car wash as an accessory use. The appellant failed to prove that the use is not permitted as an accessory use.

i. The appellant argued that "A car wash uses chemicals that are similar to those used in commercial dry cleaning business to remove grime from tires. A commercial dry cleaning business is not allowed in the BP zone due to the toxicity of the chemicals." (Exhibit 116 at .pdf page 1). However, the appellant's assertion is incorrect. CMC 18.07.030, Table 1 lists "Laundry/dry cleaning (industrial)" as a prohibited use in the BP zone. However, the same table lists "Laundry/dry cleaning (retail)" as a permitted use. There is no evidence in the record that the chemicals uses in a car wash more hazardous than those used in a retail dry cleaning establishment.

4. The Code does not regulate groundwater wells, beyond requiring proper abandonment in accordance with state and county guidelines (CMC 17.19.020), prohibiting wells in frequently flooded areas (CMC 16.57.020.B), requiring groundwater wells be located outside of the floodplain (CMC 16.57.060.C(4)), and requiring that surveys include the location of existing wells on a development site (CMC 17.01.050.A(2)). The site survey included the location of the existing well and condition 7 of the director's decision requires proper abandonment of the existing well on the site. The site is not located in a floodplain or frequently flooded area and no new wells are proposed. Therefore, the appellant's concerns with impacts to existing groundwater wells are not relevant to the approval criteria for this use.

5. Air quality issues are regulated by SWCAA and ECY, not the City Code. Condition 22 of the director's decision requires compliance with SWCAA and ECY regulations. Therefore, the appellant's air quality concerns are not relevant to the approval criteria for this use.

6. As discussed in the SEPA findings above, this use is subject to compliance with the City's wetland regulations. The director determined that it is feasible to comply with those regulations and the appellant failed to provide any evidence to the contrary.

7. As discussed in the SEPA findings above, this use is subject to compliance with the City's stormwater regulations that protect surface waters. The applicant will be required to design and install storm sewer facilities in compliance with CMC Title 13 Division IV the Stormwater Design Standards in Section II of the CDSM. The director determined that it is feasible to comply with those regulations and the appellant failed to provide any evidence to the contrary.

8. As discussed in the SEPA findings above, the applicant proposed to mitigate for removal of the existing Oregon white oak tree on the site by purchasing credits at an offsite oak mitigation bank, as allowed by CMC 16.61.030.A(3)(a). The director determined that it is feasible to comply with those regulations and the appellant failed to provide any evidence to the contrary.

a. The examiner finds that the proposed development can meet the minimum tree density requirements of CMC 18.13.051 and .052. As noted in the director's decision, CMC 18.13.051(A) Table 1 requires a minimum 19 tree units on this 0.97-acre site (20 tree units per acre x 0.97-acres = 19 tree units). The applicant proposed to provide 33 tree units, which exceeds the tree density requirement. The applicant must remove the existing oak tree to accommodate the proposed development and the applicant is not relying on that tree to meet the tree density requirement.

b. None of the remaining trees on the site provide significant wildlife habitat or are located in critical area buffers that will be preserved.

9. The noise standards of CMC 9.32.050 are not approval criteria. Any use on this site will be subject to compliance with City and state noise regulations and violations can be addressed through the City's enforcement process.

10. As noted in the SEPA findings above, this development will be subject to a separate design review process by the City's Design Review Committee (DRC) that will review the architectural design of the site, including lighting, landscaping, and structure design. This is required by condition 23 of the director's decision. Compliance with the City's design review standards will ensure that the design of the use is compatible with the surrounding built and natural environments and adjacent neighborhoods as required by Policies LU-1.3 and LU-2.5 of the comprehensive plan.

a. This development is not subject to CMC 18.21 cited by the appellant. This Code section only applies to development in the LI/BP zone. It does not apply to this development, which is located in the BP zone.

11. As discussed in the director's decision (Exhibit 103 at .pdf page 6), the applicant did not provide detailed construction plans for proposed signage on the site. Therefore, the applicant must obtain a sign permit and demonstrate that the proposed signs comply with the approval criteria in CMC 18.15. A condition of approval is warranted to that effect.

12. The examiner finds that the proposed development complies with the parking requirements of the Code.

a. For a gas station with mini-market, CMC 18.11.130, Table 18.11-1 requires one parking space per fuel dispensing nozzle and one parking space per 250 square feet of gross floor area. The applicant proposed fuel nozzles and a 4,100 square-foot convenience store. Therefore, the applicant is required to, and has proposed to, provide 17 parking spaces for the convenience store and eight spaces at the gas pumps, meeting the requirements of the Code.

b. The appellant asserts that the use does not provide "[e]nough parking spaces for employees, if all spaces are built without favors to the applicant…" and the proposed parking is [i]ncompatible with [the] number of gasoline pumps. (Exhibit 126 at .pdf page

2). However, the appellant failed to explain this assertion. The City did not extend any "favors" to the applicant. The proposed parking meets the requirements of the Code without variances or exceptions. The Code does not require parking spaces for vehicles purchasing fuel in excess of the spaces at the fuel pumps.

13. The examiner finds that the proposed parking areas comply with the 50-foot setback requirement of Table 1, Note 2.d of the CDSM, which states "Ingress aisles setback from back of sidewalk: … Arterials 50 feet."

a. Neither the Code nor the CDSM define the term "ingress aisles." Therefore, the examiner must rely on the dictionary definition of the words. "To determine the plain meaning of an undefined term, we may look to the dictionary." *Homestreet, Inc. v. State, Dep't of Revenue*, 166 Wash. 2d 444, 451, 210 P.3d 297, 300 (2009). Webster's Dictionary provides the following definitions:

i. Webster's Dictionary defines "ingress" as "1 **:** the act of entering… 2 **:** the power or liberty of entrance or access…"

ii. Webster's Dictionary defines "aisle" as "1 : a (1) a passage (as in a theater or railroad passenger car) separating sections of seats … b : a passage (as in a store or warehouse) for inside traffic.

b. Based on these definitions, the examiner finds that the term "ingress aisles" as used in Table 1, Note 2.d of the CDSM refers to the drive aisle providing entrance to the site, in this case the driveway access to NE 13th Street. This interpretation is consistent with Mr. Carothers understanding of this provision, that it applies to parking spaces which are directly accessible from the access driveway (ingress aisle), to ensure that vehicles backing out of parking spaces will not impact vehicles entering the site. In this case, all of the proposed parking spaces are located more than 50 feet from the drive aisle that provides access to NE 13th Street. Based on the preliminary site plan (Exhibit 17) the parking spaces on the west end of the site are located 60 feet or more from the back of the sidewalk on NE 13th Street. The parking spaces on the east side of the site, in front of the convenience store, are roughly 70 feet from the east boundary of the driveway, away from the "ingress aisle". The parking spaces on the south of the site are located substantially more than 50 feet from the sidewalk.

14. The examiner finds that the director's road width analysis on page 7 of the decision cited to the correct CDSM tables. CDSM Table 1 sets out the geometry guidelines for private roads and Table 2 sets out the geometry guidelines for public roadways. The director's decision cited to Table 2 in the analysis of public roads and Table 1 in the analysis of private roads, the drive aisles within the site. (Exhibit 103 at .pdf page 7).

15. The examiner finds that the applicant's traffic study contained sufficient information to demonstrate the traffic impacts of the proposed development and the applicant's failure to include all of the information listed in the City's "Transportation

Impact Study Guidelines" does not provide a basis for denial of this application. The listed parameters for traffic reports are expressly guidelines, not requirements and the language used in most of the Guidelines is permissive (should) rather than mandatory (shall). As discussed above, the City accepted the traffic analysis as complete, finding that it contained sufficient data and analysis to adequately review the transportation impacts of the development. The applicant addressed the concerns raised by the City's 3rd party reviewer (Exhibit 85) and the appellant's traffic engineer (Exhibits 108 and 139) in Mr. Charboneau's response memos (Exhibits 86 and 134) and Mr. Charboneau's testimony at the hearing. There is no evidence that any omissions from the traffic study limited the director's ability to analyze the traffic impacts of this development.

16. The examiner finds that the proposed driveway access to NE 13th Street complies with the Code. As discussed in the SEPA findings above, CDSM Table 3 requires a minimum access spacing of 660 feet on NE 13th Street, an arterial road. However, the site has roughly 328 feet of frontage on NE 13th Street, which makes it impossible to provide access to the site in compliance with the 660-foot spacing requirement. Therefore, the city engineer recommended approval of a deviation to this standard pursuant to CMC 17.19.040.B(1)(b)(4) and the director approved the deviation, provided the applicant include a westbound left turn lane at the site entrance to NE 13th Street. Given the site's limited frontage, any development on this site would require a similar deviation.

a. Engineers for the applicant and the City determined that this intersection will operate safely and consistent with the minimum LOS requirements and the appellant failed to provide any evidence to the contrary. This intersection is projected to operate at LOS D, which equates to delays between 25 and 35 seconds. (Exhibit 10 at .pdf page 8). As discussed, the eastbound vehicle queue on NE 13th Street may occasionally back up past and block the site access drive for short periods of time. However, such backups are projected by be infrequent and short term. Adequate vehicle queuing is available in the westbound left turn lane and on the site to accommodate vehicles waiting to enter or exit the site during these short periods without impacting the through traffic lanes or creating a hazard.

b. The applicant's revised circulation plan demonstrates that fuel delivery trucks can enter and exit the site without entering the opposing travel lanes. (Exhibit 90).

c. There is no evidence that student drivers will create a significant hazard. As discussed above, student drivers are operating on roads in the area under existing conditions and there is no evidence that these roads have a higher than normal crash rate.

d. There is no evidence that the existing "yellow trap" condition for eastbound left turn movements from NE 13th Street onto NE 202nd Avenue is hazardous, as there is no evidence of crashes resulting from this condition.

e. The applicant will extend the existing bike lane and construct sidewalks and other improvements along the site's NE 13th Street frontage, which will connect with the existing sidewalk on NW Friberg-Strunk Street. The applicant is not required to construct

offsite road improvements as the cost of such improvements could exceed the roughly proportional impact of this development. All of the development in the area contributes to the need for such improvements.

17. Concerns about increased potential for trespass, litter, vandalism, and other illegal activities are not relevant to the applicable approval criteria for this development. In addition, as noted above, there is no substantial evidence in the record that the future patrons or employees of this development are any more or less likely to engage in nuisance or illegal activities than other people.

18. Even if the proposed use will have an adverse impact on property values --- and there is no substantial evidence to that effect in the record --- protection of property values and consistency with adjoining development are not relevant to the applicable State or City standards. The examiner must base the decision on the laws of the City of Camas and Washington State. If adjacent property owners believe that the value of their property has been reduced, they may request that the county assessor modify the assessed value of their property.

a. CMC 18.01.020 is a purpose statement that is implemented through compliance with the applicable approval criteria, including the lists of uses permitted in a particular zone. It is not an applicable approval standard. As noted in the SEPA discussion above, development may have both positive and negative impacts on property values. There is no evidence that the particular development proposed in this case will have a significant negative impact on the value of surrounding properties.

19. CMC 8.06, the "Neighborhood Preservation Ordinance" is not an approval criteria. Based on the text of the Code, the "Neighborhood Preservation Ordinance" applies to the maintenance of buildings, structures, and land within the City. It does not regulate or prohibit particular uses. CMC 8.06.020 provides, in relevant part:

> A. The purpose of this chapter is to promote the health, safety and welfare of the citizens of Camas…by establishing minimum standards for the maintenance of all residential and nonresidential buildings and structures, and vacant and improved land.
> B. This chapter shall apply to all buildings, structures and lands within the city regardless of the use, the date of construction, improvement or alteration.
> C. This chapter shall be fairly, sensibly and reasonably applied to promote the maintenance of all existing buildings and land in the city. The intent is to ensure that individuals and families do not suffer undue hardship. (Emphasis added).

CMC 8.06, cited by the appellant at Exhibit 123, .pdf page does not prohibit particular uses. The definition of "public nuisance" in CMC 8.06.030 includes the "use of property…" However, gas stations are not one of the "public nuisances" listed in CMC 8.06.040 nor is a gas station similar to any of the listed nuisances. As noted above, gas

stations are a permitted use in the BP zone. Therefore, the examiner cannot find that a gas station is a public nuisance subject to this section.

a. The future operation of the uses on this site could conceivably result in a public nuisance if the applicant or future owners fail to maintain the site, allowing the buildings to become deteriorated or damaged, failing to remove graffiti, allowing the accumulation of litter, or allowing any of the other conditions listed in CMC 8.06.040 to exist on the site. If such conditions occur, the City can address those violations through its code enforcement process.

v. CMC 9.02.030 prohibits the public consumption of liquor in public places within the city. The City can address this issue through its code enforcement process and it is in the applicant's best interest to enforce compliance as on-site liquor consumption could result in revocation of the applicant's license to sell alcohol.

20. Clearing and grading on the site, including the placement of fill, is subject to CMC 15.50. The applicant will be required to obtain City review and approval pursuant to CMC 15.50.040 prior to undertaking these activities. In addition, the applicant will be required to install erosion control measures consistent with a City approved erosion control plan as required by CMC 14.06. The director determined that it is feasible to comply with these regulations and there is no evidence to the contrary.

21. The applicant will be required to install sanitary sewer systems serving the site consistent with CMC Title 13 Division II and the engineering details in Section V of the CDSM. The director determined that it is feasible to comply with these regulations and there is no evidence to the contrary.

22. CMC 18.05.050.H is a purpose statement, not an applicable approval standard. Purpose statements are implemented through compliance with the applicable approval criteria. Purpose statements are relevant when the implementing regulations that follow are ambiguous, in which case resort to the purpose statements and definitions is necessary to determine the context and meaning of ambiguous provisions of the Code. However, the appellant did not cite to any allegedly ambiguous provisions that may be resolved by reference to this provision.

23. Individual developments are not required to demonstrate compliance with the economic development goals of the comprehensive plan. The Code does not require a minimum number of employees per unit of area. These goals are intended to be achieved by all of the uses allowed in a particular zone. The proposed gas station with mini market is a permitted use in the BP zone. Therefore, it is presumed to be consistent with those goals. The uses on this site will support other higher employment uses in the zone by provided needed services.

a. Economic development goals ED 3.1, 3.2, and 3.3 relate to subarea planning conducted by the City. These goals require action by the City and do not apply to individual developments.

## E. CONCLUSIONS

Based on the findings adopted and incorporated herein, the examiner concludes that the appellant failed to sustain the burden of proof that the director's SEPA determination was clearly erroneous. In addition, the examiner concludes that the applicant sustained its burden of proof that the proposed development does or can comply with the applicable standards of the Camas Municipal Code and the Revised Code of the State of Washington. Therefore, the SEPA and substantive appeals should be denied.

## F. DECISION

In recognition of the findings and conclusions contained and incorporated herein, the examiner hereby denies the SEPA and substantive appeals, affirms the director's decision, and approves File SPRV23-06 (13th Street Gas Station), subject to the following conditions of approval:

## CONDITIONS OF APPROVAL

**Standard Conditions:**

1. Engineering site improvement plans shall be prepared in accordance with the City of Camas Design Standards Manual (CDSM) and CMC 17.19.040.
2. Per CMC 17.19.040.C.1 and 1.a: All utilities designed to serve the development shall be placed underground. Those utilities to be located beneath paved surfaces, including all service connections, shall be installed prior to application of any surface materials.
3. Installation of public improvements shall be in accordance with CMC 17.21 Procedures for Public Improvements.
4. The engineering site plans shall be prepared by a licensed civil engineer in Washington State and submitted to the City's Community Development Engineering Department for review and approval.
5. After the land-use decision is issued, the applicant is to submit the Civil construction plans via the online portal at www.cityofcamas.us/Permits/Civil Construction Application.
6. Community Development (CDEV) Engineering shall collect a total 3% plan review and construction inspection (PR&CI) fee for the proposed development.
    a. Payment of the 1% plan review (PR) fee shall be due prior to the start of the plan review process. Staff will provide the 1% fee amount.
    b. Payment of the 2% construction inspection (CI) fee shall be due prior to engineering plan approval and release of approved plans to the applicant's consultant. Staff will provide the 2% fee amount.
    c. Under no circumstances will the applicant be allowed to begin land-disturbing activities prior to engineering plan approval.

7. If applicable, existing wells, septic tank, and septic drain fields shall be decommissioned in accordance with state and county guidelines, per CMC 17.19.020.
8. Prior to any land-disturbing activities of an acre or more, the applicant shall submit a copy of the *NPDES General Construction Stormwater Permit* (GCSWP), which is issued by the Washington State Dept. of Ecology, and the *Stormwater Pollution Prevention Plan* (SWPPP), which is required as a component of the NPDES GCSWP permit.
9. Prior to commencing any land-disturbing activities of an acre or more, the applicant shall submit an Erosion Control Bond in the amount of 200% of the cost for erosion control measures, per CMC 14.06.200.
10. If any item of archaeological interest is uncovered during a permitted land-disturbing action or activity, all ground disturbing activities shall immediately cease, and the applicant shall notify the City and the Department of Archaeology and Historic Preservation (DAHP).
11. Fire permit(s) and inspections are required by the Fire Marshal's Office for this project.
    a. Plans, specifications, and other information as may be necessary to determine compliance with fire and life safety code and standards shall be submitted with permit.
    b. Contact the Fire Marshal's office at 360-834-6191 for submittal information.
12. Fire permit forms and submittal instructions are available online or can be picked up at the Fire Marshal's office at 605 NE 3rd Avenue.
13. A building permit shall be required prior to commencement of construction of a building structure. At the time of building permit issuance, the applicant shall pay the appropriate impact fees in accordance with the provisions of CMC 3.88.
14. Prior to final acceptance, the applicant shall remove all temporary erosion prevention and sediment control measures from the site at completion of all site improvements, which includes stabilization of all disturbed soil, prior to issuance of Final Acceptance from CDEV Engineering.
15. As a component for final acceptance, final as-built construction drawing submittals shall meet the requirements of the Camas Design Standards Manual (CDSM).
    a. The as-built cover sheet is to be the originally approved cover sheet signed by the City Engineer.
    b. As-builts are to be submitted as PDFs.
    c. As-builts are to be submitted in either AutoCad or Carlson formats.
16. Per CMC 17.21.050.B.2 and prior to final acceptance a 2-year warranty maintenance bond is to be submitted for all public improvements.
    a. Per CMC 17.21.070.A Upon final acceptance of the development improvements the two-year (2) warranty bond commences.
17. Per CMC 17.21.070.E A letter of final acceptance will be issued once all items listed in 17.21.070.B-C have been completed, submitted, reviewed, and approved by the city.

18. Per CMC 18.18.070.B, prior to issuance of final occupancy permits, all public and private improvements shall be completed in accordance with CMC 17.21.070 Final Acceptance.
19. The applicant will be responsible for maintenance of all on-site private improvements, including but not limited to the private water and fire line system, the private sanitary sewer system, the on-site stormwater facilities, the parking areas, pedestrian pathways, lighting, and landscaping.
20. Unless construction of this site commences within two (2) years of issuance of this decision, this permit will expire.

**Special Conditions:**
**Prior to Engineering Plan Approval:**

Planning:

21. The applicant shall comply with the following SEPA conditions, including Department of Ecology, Southwest Clean Air Agency, and Washington Department of Fish and Wildlife:
    - Department of Ecology
        a. Review "Dangerous Waste Rules for Demolition, Construction and Renovation Wastes" posted on Ecology's website.
        b. Perform one or more site visits that coincide with the normal wet portion of the growing season to ensure absence of wetland indicators.
    - Southwest Clean Air Agency
        c. Prior to demolition, a thorough asbestos inspection must be conducted by an AHERA-certified inspector in order to determine the presence of asbestos containing materials. A copy of the asbestos inspection report must be posted for viewing at the project site.
        d. Comply with Construction Dust General Regulations for Air Pollution Sources.
        e. Comply with Registration, Notification, and Permitting of Air Pollution Sources. The proposed project will likely require an ADP from Southwest Clean Air Agency. Contact Agency permitting engineer at 360-574-3058 to discuss project, equipment requirements, and need to obtain ADP before dispensing gasoline.
    - Washington Department of Fish & Wildlife
        f. Comply with WDFW's "Washington's Priority Habitats: Best Management Practices for Mitigating Impacts to Oregon White Oak Priority Habitat" with an updated mitigation plan that aligns with adopted guidance document.
    - Applicant's voluntary mitigation
        g. Conduct a Level One hydrogeologic assessment as defined by CMC 16.55.050.C, the scope of which shall be determined in consultation with City and the performance standards of CMC 16.55.060 and .070. The applicant shall comply with all recommendations of the study.

22. Prior to Engineering Plan approval, the project is required to go through Design Review Committee for review and input.
23. Prior to Engineering Plan approval, a final landscape, tree, and vegetation plan consistent with the landscaping standards in CMC 18.13 shall be submitted to the city for review and approval to include the following but not limited to:
    a. Lawns, if proposed, shall consist of drought-tolerant grasses per CMC 18.37.040.G.
    b. The planting legend shall identify the 15-gallon container size for the deciduous trees consistent with CMC 18.13.050.C.2.
    c. Parking lot planter islands shall comply with the minimum 8'x 8' planter area requirement.
    d. Wheel stops shall be installed adjacent to planter areas per CMC 18.13.060.F, including installation of wheel stops adjacent to sidewalks to allow for a clear pedestrian pathway and to protect pedestrians from car overhangs.
    e. The final landscape plan shall provide a minimum of 19 total tree units for the proposed project and in compliance with CMC 18.13.051(A) Table 1.
    f. Street trees within the right of way shall not be removed without City review and approval and mitigation may be required at the discretion of the City.
    g. The planting specifications and landscape notes in the Camas Design Manual shall be included on the final landscape plan.
24. The applicant shall take appropriate measures to ensure landscaping success for a minimum of three years after issuance of Certificate of Occupancy. If plantings fail to survive, the property owner shall promptly replace them.
25. Trash receptacles and service areas shall be screened from the public right-of-way including adjacent properties and shown on the final engineering plans.

Engineering:

[Roads]

26. The applicant is to submit site plans with the following revisions:
    a. Maintain, at a minimum, the existing westbound thru-lane width.
    b. Provide a dedicated left turn lane onto the site.
    c. Maintain the eastbound thru-lane and eastbound bike lane.
    d. Maintain the dedicated right-turn lane onto NW Friberg-Strunk Street.
    e. The future sidewalk along the frontage is to be a detached sidewalk with planter strip and curb & gutter from the end of the existing curb return and extended the full length of the future frontage to the west end of Parcel no. 176148000.
    f. The drive access width is to be reduced to a maximum width of 40-feet for personal motorist access, with mountable curb and a concrete island on either side of the drive access to allow for truck accessibility. ADA access must be maintained across the entire driveway opening.
    g. A full-depth road section is required from the northside of the left-turn lane to the face of curb along the frontage improvements.

28. The applicant is to dedicate sufficient right-of-way to construct the following improvements:
    a. The dedicated left-turn lane, the eastbound thru-lane, the eastbound bike lane, the dedicated right-turn lane onto NW Friberg-Strunk Street, curb & gutter, minimum 6-foot-wide planter strip, and 6-foot-wide detached sidewalk.

29. The site plans for the proposed development are to be revised and resubmitted with the dedicated left-turn lane into the site as a requirement for support of the deviation request from the minimum access spacing standards on an arterial from the city engineer.

[Transportation]

30. The applicant is to add the following notes to the site plans:
    a. Fueling trucks and delivery trucks are restricted to the hours between 7:00 PM and 7:00 AM.
    b. Fueling trucks are restricted to right-in/right-out movements from and onto NE 13th Street when exiting the site.

31. The applicant is to submit a signing and striping plan for onsite, including the driveway ingress and egress lanes; and offsite, including for the dedicated left-turn lane into the site, the dedicated right-turn only lane onto NW Friberg-Strunk, the eastbound through lane, and the dedicated through bike lane.

[Sanitary Sewage]

32. The applicant is to submit to the City for review and approval, the design, specifications, and sizing calculations for the proposed STEP tank and oil/water separator. The design for the oil/water separator is to include H-25 traffic-rated lids.

33. A note is to be added to the engineering plans stating that all components of the onsite private sanitary sewer system, including but not limited to the STEP tank, the sanitary catch basins, and the oil/water separator shall be privately owned and maintained by the property owners, with a right-of-entry granted to the city for inspection purposes.

[Stormwater]

34. The applicant is to revise the preliminary stormwater report in accordance with the *2024 Stormwater Maintenance Manual for Western Washington (SWMMWW*) and submit as a final stormwater report (TIR) for review and approval.

35. The applicant is to submit a complete set of stormwater plans for review and approval in accordance with CMC 14.02, CDSM, and Ecology's *2024 SWMMWW,* per MR #1.

36. A note is to be added to the stormwater plans stating that "all components of the onsite stormwater system are to be owned and maintained by the property owner, with right-of-entry granted to the city for inspection purposes.

37. The applicant is to submit a revised stormwater report (TIR) that addresses both the onsite and the offsite treatment measures for stormwater runoff from all the new and existing pollution generating surfaces, per MR #6.

38. Staff recommends a condition of approval that prior to engineering plan approval, the applicant is to submit revised stormwater plans that provide for treatment of both the onsite and the offsite stormwater runoff, per MR #6.

39. The applicant is to revise and resubmit the preliminary stormwater report addressing the new plus replaced hard surface areas constructed with the frontage improvements on NE 13th Street, per MR #7

40. The applicant is required to provide a location on the engineering plans as a designated concrete washout area during construction of the building.

[Water]

41. The applicant is to revise the water utility plans to include an above-ground reduced pressure valve assembly (RPBA) that is to be installed behind the water meter and is to be accessible for testing and inspections.

42. The applicant is to verify that the existing water service referenced as an existing irrigation meter and backflow prevention device is a service stub only for the benefit of the proposed development and not the irrigation service, meter, and backflow prevention device for the landscape improvements along NW Friberg-Strunk Street.

43. The applicant is to submit revised onsite water plans for review and approval with the following revisions:
    a. The irrigation meter and backflow prevention device are to be located adjacent to the public right-of-way.
    b. The water utility and the landscape plans are to include the locations and sizes of both the domestic water meter and the irrigation meter with backflow prevention devices.

44. The applicant is to submit revised onsite water plans that include the proposed location of the fire line, fire hydrant, and the location of the Fire Department Connection (FDC) as the FDC is to be located within 75-ft of a fire hydrant, per fire code.

45. Fire permit(s) and inspections are required by the Fire Marshal's Office for this project.
    a. Plans, specifications, and other information as may be necessary to determine compliance with fire and life safety code and standards shall be submitted with permit.
    b. The NFPA24 Fire Main Underground Permit is required for fire line installation beyond the right-of-way.
    c. Contact the Fire Marshal's office at 360-834-6191 for submittal information.
    d. Fire permit forms and submittal instructions are available online or can be picked up at the Fire Marshal's office at 605 NE 3rd Avenue.

46. A note is to be added to the engineering plans, which states 'All private fire hydrants are to be ordered from the factory and painted powder coated red.'

47. A note is to be added to the engineering plans, which states that the onsite private water system, including the domestic water line; the fire line, including private fire hydrant; and the irrigation system are to be owned and maintained by the property owner.

[Erosion Control]

48. The applicant is to submit with the *Civil Construction Application* permit, a set of Erosion Sediment Control (ESC) plans for review and approval.

[Public Utilities]

49. The applicant is to submit for review and approval street lighting plans in accordance with the Camas Design Standards Manual (CDSM), Section III Design Standards for Street Lighting along the NE 13th Street frontage improvements.

[Private Utilities]:

50. A note will be added to the stormwater plans stating that the applicant will be responsible for the operation and maintenance of the on-site private stormwater treatment and conveyance system with a right-of-entry granted to the city for inspection purposes.

51. Notes will be added to the utility and landscape plans stating that the applicant will be responsible for the maintenance of all other on-site private improvements, including but not limited to, the private water and fire line system, the private irrigation system, the private sanitary sewer system, the parking areas, lighting, and landscaping.

Prior to Any Land-disturbing Activities:

Engineering:

52. The applicant is to revise and submit an updated SWPPP, that includes the contact information for the Contractor, CESCL, or the plans for erosion and sediment control, per MR #2.

53. The applicant is to provide copies of Ecology's NPDES General Construction Stormwater Permit (GCSWP) and the Erosion and Sedimentation Control (ESC) bond, prior to any land-disturbing activities.

54. The applicant is to provide an Erosion Control Bond in the amount of 200% of the cost for erosion control measures.

Prior to Final Acceptance:

Planning:

55. Landscaping and irrigation shall be installed or bonded prior to final acceptance.

Engineering:

56. Prior to final acceptance, the applicant is to verify that the vision clearance / site distance triangle requirements have been met.

57. Prior to final acceptance, final as-built construction drawing submittals shall meet the requirements of the Camas Design Standards Manual (CDSM).
    a. As-builts are to be submitted in PDF format.
    b. As-builts are to be submitted in either AutoCad or Carlson formats.
    c. The originally approved and signed cover sheet is to be included with the as-builts.

58. Prior to final acceptance the 2-year warranty maintenance bond is to be submitted in accordance with CMC 17.21.070.A.

Prior to Building Permit Approval:

Planning:

59. Prior to building permit approval, all window glazing shall be low-reflective and noted on the architectural elevations.
60. Any proposed mechanical equipment greater than 16-inches diameter shall be screened from view and less than 16-inches in diameter shall be painted or treated to blend with the structure.
61. Prior to Building Permit approval, lighting specifications shall be provided for city review and approval. Landscape, parking lot and/or building lighting shall be directed, hooded, or shielded away from surrounding properties.
62. Building materials shall be in conformance with the design review approval. Building colors shall be reviewed and approved by the City prior to building permit approval.
63. Obtain a City approved sign permit prior to issuance of a building other permits for any non-exempt signs on the site.

Engineering:

64. Prior to Building Permit approval, the applicant is to pay the applicable City of Camas Transportation Impact Fee (TIF) amount during the year the building permit is submitted * 81 PM Peak Hour Trips.
65. Prior to Building Permit approval, the applicant is to provide the City of Camas Building Dept. verification of payment of the proportionate share fees, in the amount of $153,050.00, to the City of Vancouver.
66. Per CMC 18.18.080, This decision will expire 2-years from date of issuance if construction on the project has not commenced.

DATED this 30th day of December 2024

Joe Turner, Esq., AICP
City of Camas Land Use Examiner