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VIA EMAIL

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July 24, 2024

Ethan Spoo
Community Development
210 East 4th Street
La Center, WA 98629

Re: Paradise Park Site Plan Written Narrative in Support of Variances

Dear Mr. Spoo:

We represent the applicant Luke Sasse in the site plan for the development located in the southwest corner of La Center Road and Paradise Park Road, Parcel 20970800. We are submitting this written narrative in support of several requested variances. The following variances are requested:

1. Variance to the LCMC 18.158.030(1)(4) requirement of an accessway/block every 400 feet and Figure 18.158.020-3 showing an A-street along the eastern edge of the site due to topography, wetlands and a stream corridor blocking potential accesses.
2. Variance to the roadway section for La Center Road within the JP allowing the Major Arterial Section ST-11 through the development site due to topography and for consistency with the roadway section to the east.
3. Variance to the requirement that the building façade needs to be on the RBL in LCMC 18.158.030(2)(b) and Table 18.158.040-1(d).
4. Variance to the requirement that there be a primary street space entry in LCMC 18.158.030(2)(h).
5. A variance to the requirement for a street wall in LCMC 18.158.030(3)(a) allowing for enhanced vegetation instead of a street wall that will provide a more aesthetically pleasing streetscape that is consistent with surrounding development.
6. Variance to the 18-foot maximum entryway in LCMC 18.158.030(3)(d) to allow a 28-foot wide entry for safe and efficient vehicular and truck access.
7. A variance to the 60-foot maximum height in Table 18.158.040-1(a)(i) to allow a 65-foot tall building without underground parking based on topography, wetlands, stream corridor, poor visibility down La Center Road and constraints resulting from the narrow configuration of the lot.

8. A variance to the 30-foot setback for parking in Table 18.158.040-1(e)(iii) to reduce it to 3.3 feet based on topography, wetlands, stream corridor, poor visibility down La Center Road and constraints resulting from the narrow configuration of the lot.
9. A variance to the 100-foot maximum building frontage in LCMC 18.158.060(1)(c) based on topography, wetlands, stream corridor, poor visibility down La Center Road and constraints resulting from the narrow configuration of the lot. The frontage will be broken up with architectural features and a change in building materials.
10. A variance to the requirement in LCMC 18.158.040-1(b)(i) that the ground story finished floor elevation shall be equal to, or greater than, the exterior sidewalk elevation in front of the building, to a maximum finished floor elevation of 1.5 feet above or below the sidewalk.

The approval criteria for a variance in the City of La Center are set forth in LCMC 18.260.040:

The review authority shall approve or approve with conditions an application for a variance if he or she finds the applicant has sustained the burden of proving that:

- (1) Unusual circumstances or conditions, such as size, shape or topography of a site, or the location of an existing legal development apply to the property and/or the intended use that do not generally apply to other properties in the vicinity or zone. An unusual circumstance could also include another obligation under a different municipal code section or a state or federal requirement;
- (2) The unusual circumstance cannot be a result of actions taken by the applicant;
- (3) The variance request is necessary for the preservation of a substantial property right of the applicant which is possessed by the owners of other properties in the vicinity or zone;
- (4) The variance request is the least necessary to relieve the unusual circumstances or conditions identified in subsection (1) of this section;
- (5) Any impacts resulting from the variance are mitigated to the extent practical; and
- (6) The granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the vicinity and zone in which the property is situated.

Variations may not be used to change the required residential density or to allow uses that would not otherwise be permitted in a zone. [Ord. 2021-03 § 2 (Exh. A), 2021; Ord. 2006-17 § 1, 2006.]

None of the requested variances would increase the required residential density or allow uses not otherwise allowed in the zone.

Before discussing the individual variance requests, there are general findings that apply to most or all of the requested variances, with respect to Criteria 1 through 3. It is important to note that the La Center variance criteria only require the applicant to demonstrate “unusual” conditions, not “unique” conditions. Therefore, the applicant does not need to demonstrate that the conditions affecting its property are “unique,” just unusual.

There are also topographic challenges due to the narrowness of the subject property fronting along La Center Road, with a stream corridor and wetland at the east end of the property running diagonally from La Center Road to the southwest near the middle of the property. This is an unusual condition that does not generally apply to other properties in the vicinity.

In addition to the narrowness of the subject property, the subject property has a significant grade change of about 50 feet from one end to the other. When this grade change is viewed in conjunction with the narrowness of the site with the wetland and stream corridor cutting to the southwest at the eastern end of the property, it becomes apparent how unusual the topographical constraints are. Many of the standards for the Junction Plan were adopted without analyzing how these standards could be applied to lands with significant grades, and many of these standards simply cannot be met on a property with the steep slopes present on the subject property.

Finally, LCMC 18.260.040 defines “unusual conditions” to “include another obligation under a different municipal code section or a state or federal requirement.” In this case the lack of a development agreements similar to those affecting surrounding properties constitute “unusual conditions” because obligations under the Junction Plan (a municipal code section) do not apply to surrounding properties per the development agreements, which subject those properties to regulation under a “different municipal code section.”

Based on the exhibits provided by PLS Engineering, it appears there are only four properties within the Junction Plan that are actually required to comply with the Junction Plan. The rest are either already fully developed prior to the Junction Plan, or obtained approvals prior to application of the Junction Plan, or are subject to development agreements vesting them to the prior code such as the Minit Management development (2020-009-CUP/SPR/SPL/SEPA) that was approved in May 19, 2020, or are owned by the Cowlitz Tribe and will be placed in trust, exempting these lands from City of La Center zoning and land use authority. Based on the exhibits provided by PLS Engineering, only four properties are subject to the Junction Plan, and being one of those four properties is in itself an unusual circumstance.

Thus, the subject property meets Criterion 1 both because of the unusual topography of the site and because of the unusual way the Junction Plan was adopted and implemented to apply only to four properties within the rather large areas subject to the Junction Plan.

Neither the topography nor the status of the property as only one of four properties that will end up being subject to the Junction Plan are the result of actions taken by the applicant, so Criterion 2 is met.

Under Criterion 3, relief from specific standards of the Junction Plan is necessary for the preservation of substantial property rights of the applicant that are possessed by the other properties within the Junction Plan area, particularly the vast majority of them that are not subject to the Junction Plan, either because they are already fully developed or have development permits or agreements vesting to prior versions of the code or because they are held in trust and exempt from the Junction Plan entirely.

The six criteria for each of the requested variances are discussed separately and in detail below for each variance, but rather than repeating the above for each of the 11 requested variances, the above discussion of Criteria 1 through 3 is incorporated by reference into the findings under each of the specific requested variances below.

1. Variance to the LCMC 18.158.030(1)(4) requirement of an accessway/block every 400 feet and Figure 18.158.020-3 showing an A-street along the eastern edge of the site due to topography, wetlands and a stream corridor blocking potential accesses.

The unusual circumstances justifying this variance include the topography of the property, which is a long narrow lot fronting along La Center Road, with a stream corridor and wetland at the east end of the property running diagonally from La Center Road to the southwest near the middle of the property.

The site plan shows the proposed access to the property at a minimum safe distance from the La Center Road/Paradise Park Road intersection. If the applicant installed a second access 400 feet or more to the east of the proposed access, there would be no way for that access to connect to surrounding properties because of the stream corridor and wetland, which block access in a southerly and easterly direction. There is also a storm pond blocking access to the south. Therefore Criterion 1 is met.

Neither the long and narrow configuration of the property nor the existing wetland and stream corridor or storm pond were created by the applicant, so Criterion 2 is met.

The requested variance will allow the property to be developed, so it is needed for the applicant to enjoy the same substantial rights as other properties in the area, so Criterion 3 is met.

The applicant is providing an access to NW Paradise Park Road at the southwest corner of the property. This access connects with the private accessway running east/west on the adjoining property. This satisfies Criteria 4, 5 and 6. The private accessway on the adjoining property to the south provides a connection to the east.

2. Variance to the roadway section for La Center Road within the JP allowing the Major Arterial Section ST-11 through the development site due to topography and for consistency with the roadway section to the east.

Although the roadway section called for in the Junction Plan is narrower than the Major Arterial Section ST-11, the applicant proposes meeting the full Major Arterial Section ST-11 in lieu of the roadway section set forth in the Junction Plan for consistency with surrounding properties.

The unusual conditions stemming from the stream corridor and wetlands extend offsite to the east and prevent the roadway from being redeveloped to the east. The roadway to the east will be developed at the wider ST-11 standard per the City's transportation plan, and the properties to the east are separated from the roadway by a treed critical area corridor. Even if those properties eventually develop, the roadway section won't change.

As noted above, the La Center variance criteria only require the applicant to demonstrate "unusual" conditions, not "unique" conditions. Therefore, the applicant does not need to demonstrate that the conditions affecting its property are "unique," just unusual. In this case, there are unusual conditions stemming from the fully developed roadway section to the east and the critical areas to the east separating the roadway from any redevelopment on the south side of La Center Road to the east.

Here, the offsite stream corridor and wetlands and the fact that La Center Road is already fully developed to the east all constitute unusual conditions because they restrict the ability of La Center Road from being redeveloped to the east. Even if the applicant were to provide the full road section outlined in the Junction Plan, the result would be a confusing inconsistency in the road configuration since the road section to the east would never match the road section between the proposed future roundabout at the La Center Road/Paradise Park Road intersection. No purpose is served by having a different (narrower) road section only along the applicant's property.

Having a consistent roadway section along applicant's frontage meets Criteria 3 because other properties in the area enjoy a consistent roadway section. It would be confusing to motorists if the roadway suddenly narrowed right at applicant's frontage.

Finally, the Major Arterial Section ST-11 standard meets Criterion 4, 5 and 6 because that standard will adequately serve the transportation needs of the City and will provide a consistent roadway section that would be less confusing to motorists than having a different roadway section along applicant's frontage.

3. Applicant requests a variance to the requirement that the building façade needs to be on the RBL in LCMC 18.158.030(2) and Table 18.158.040-1(d).

Per LCMC 18.158.020(8)(a) "the required building line (RBL) [are shown] on Figure 18.158.020-2." That figure shows that the RBL for this property is set back from the right-of-way on the Paradise Park Frontage and the area along La Cener Road where the coffee shop and restaurant are proposed.

This indicates a legislative intent not to require compliance with the RBL requirement for the Paradise Park Road frontage, which makes sense because there is an intervening ownership along the full frontage of Paradise Park Road (APN 209703000 owned by Interchange Development Group, LLC, an entity owned by the Cowlitz Tribe) that prevents buildings from being placed on the Paradise Park frontage right-of-way.

Additionally, Table 18.158.040-1(d)(ii) requires buildings to be located on the RBL within 30 of the corner, but instead, the applicant is proposing to create a pedestrian area with a covered patio to create a pedestrian space in the corner, since grade differentials preclude putting the buildings on the RBL at this location.

Since Figure 18.158.020-2 shows the buildings set back from the right-of-way both on the corner and in the area of the coffee shop and restaurant, applicant believes the proposal satisfies the RBL requirements.

However, to the extent a variance is needed, applicant requests one based on topography and the other general findings under Criteria 1, 2 and 3 above. The intervening strip of land separating applicant's ownership from the Paradise Park right-of-way is an unusual topographical condition. There are also unusual topographical conditions along the La Center Road frontage stemming from the long, narrow property with wetlands and stream corridor along the southeast and with the sloped grade that varies by 50 feet from east to west.

The restaurant and coffee shop require an accessway around the back of the building to serve the drive through, so there is no way to put 80% of the building at the right-of-way line. Placing the drive-through lane away from the parking area also provides a safer pedestrian environment from the parking lot to the storefronts.

Additionally, the commercial pad would need to be sunk into the ground if we moved the buildings closer to La Center Road. If we don't wrap the drive thru around the buildings, only the roof of the commercial building would be seen from the road and not the façade.

The requested variance would be the minimum needed to enjoy the same substantial benefits of other properties in the vicinity. Landscaping between the drive-through lane and the adjacent street right-of-way is proposed to mitigate the view of the drive-through lane from cars passing by and covered pedestrian patios are proposed on both sides of the building, further mitigating any adverse impacts of a drive through. Having the drive through lanes separated from the parking lot is a safer location for the drive through lanes and one of the pedestrian plazas fronts the parking lot, creating an inviting pedestrian experience. The other pedestrian plaza is on the street side of the building, where the grade difference between the street and the building further mitigates any adverse impacts of a drive through lane on the street side. Thus, Criteria 4, 5 and 6 are met.

4. Variance to the requirement that there be a primary street space entry in LCMC 18.158.030(2)(h).

The applicant is requesting a variance to the requirement for a primary street space entry based on topography and the other general findings under Criteria 1, 2 and 3 above. A main entrance is physically impossible for the QSR/commercial pad as meeting ADA access from the street frontage to the building cannot be accommodated based on grade differences from the road to the commercial pad. Additionally, there is a wall that starts on the west side of the hotel and grows to be 6' tall on the east side of the hotel making a primary entrance physically impossible. The

applicant is proposing a walkway from La Center road to both the hotel and commercial pad and entrances will be on the south side of both buildings. Thus, Criteria 4, 5 and 6 are met.

5. A variance to the requirement for a street wall in LCMC 18.158.030(3)(a) allowing for enhanced vegetative instead of a street wall that will provide a more aesthetically pleasing streetscape that is consistent with surrounding development.

LCMC 18.158.030(3)(a) requires street walls, but a vegetative buffer would be more aesthetically pleasing and would provide the same benefit as a street wall. The applicant requests a variance to this provision allowing a vegetative buffer in lieu of a street wall in places, and a wall that ranges from 0-6' tall along the RBL and parking area for the hotel based on topography and the other general findings under Criteria 1, 2 and 3 above.

There is also an unusual condition based on topography with elevation changes along the frontage that is of particular relevance to the street wall standard. A 3' wall along the RBL that fronts the QSR/Commercial building is not feasible as this building is already 8' below the road grade which makes the viability of this commercial building difficult. Further blocking the view with a wall will eliminate curb appeal and would be in direct conflict with the intent of the Town Center district of the JP zone, where streetscapes define the environment. A wall that ranges from 0-6' tall along the RBL and parking area for the hotel is proposed.

The applicant did not have a hand in any of these development agreements or the grades, so Criterion 2 is met. Criterion 3 is met because some variance to LCMC 18.158.030(3)(a) is needed to give the applicant the same benefits as other properties in the vicinity. If the applicant is the only property with a street wall, applicant's development will look out of place with the neighborhood.

An enhanced vegetation and applicant's proposed 0-6 foot wall will fill the same need as the Junction Plan's 3' street wall standard, so Criterion 4, 5 and 6 are met.

6. Variance to the 18-foot maximum entryway in LCMC 18.158.030(3)(d) to allow a 28-foot wide entry for safe and efficient vehicular and truck access.

The applicant requests a variance to allow a 28-foot wide entry for safety and efficient vehicular and truck access based on topography and the other general findings under Criteria 1, 2 and 3 above.

Other properties in the vicinity are not limited to an 18-foot-wide entryway, which would be unsafe. In order to provide the applicant the same substantial benefits of a safe and efficient entryway as other properties in the vicinity, a variance allowing a 28-foot wide entryway is needed.

The requested 28-foot-wide entryway is the minimum needed for a safe and efficient entryway and will not be a detriment to other properties, so Criterion 4, 5 and 6 are met.

- 7. A variance to the 60-foot maximum height in Table 18.158.040-1(a)(i) to allow a 65-foot-tall building without underground parking based on topography, wetlands, stream corridor, poor visibility down La Center Road and constraints resulting from the narrow configuration of the lot.**

Note 3 of Table 18.158.040-1(a)(i) would allow a 65-foot-high building with underground parking but underground parking is not needed to fully meet the parking requirements of the development and 65 feet is only an 8% height increase over the maximum allowed without underground parking. As discussed in the general findings, there are unusual circumstances relating to topography based on the long narrow configuration of the lot, the wetlands and stream corridor and the poor visibility down La Center Road justifying a very small increase in the building height.

In addition, Table 18.158.040-1(b)(ii) requires a 12-foot ground ceiling height and Table 18.158.040-1(c)(ii) requires a 10-foot ceiling height for other floors. As discussed in the general findings, only four properties within the Junction Plan that are actually required to comply with the Junction Plan, so most properties in the Junction Plan area do not have to deal with these ceiling height requirements. Ceiling heights of 12 feet on the ground floor and 10 feet on the other floors are not really needed for this type of development but they will make the building higher than it would need to be with slightly smaller ceiling heights. Compliance with these ceiling heights increases the need and justification for a small variance to the overall height of the building.

This small increase will not be detrimental to other properties and is the least necessary being less than a 10% increase over the 60 foot standard that can be developed without structured parking, and since the property is adequately parked, there are no unmitigated detrimental impacts. Thus, Criteria 4, 5 and 6 are met.

- 8. A variance to the 30-foot setback for parking in Table 18.158.040-1(e)(iii) to reduce it to 3.3 feet based on topography, wetlands, stream corridor, poor visibility down La Center Road and constraints resulting from the narrow configuration of the lot.**

The applicant requests a variance to reduce the minimum parking setback from the RBL from 30 feet to 3.3 feet in the northeast corner of the property based on the following unusual conditions: topography, wetlands, stream corridor, poor visibility down La Center Road and constraints resulting from the narrow configuration of the lot and the other general findings under Criteria 1, 2 and 3 above.

The lot gets narrower toward the east due to the wetland and stream buffers, which cut diagonally through the east end of the property. This narrow triangular portion of the property is not well suited for buildings due to its size and triangular configuration, but it is well suited to parking. There is also a change in grade from the west end of the site to the east end of the site of approximately 50'. This section of parking will be approximately 6 feet higher than the roadway which will not be visible from La Center Road. The applicant proposes decorative fall protection fencing and enhanced landscaping to provide an enhanced streetscape.

Although the triangular area proposed for parking is along La Center Road, it is at the back end of the property behind the hotel building and it adjoins a wetland and stream buffer, so there will never be any buildings adjoining La Center Road on the property to the east.

These unusual conditions are sufficient to justify a variance to allow the applicant to enjoy the same benefits as other properties in the area.

The applicant is providing mitigation, including covered pedestrian plazas on the parking lot side of the quick service restaurant building and other pedestrian spaces along the parking lot side of all buildings, as well as a covered pedestrian plaza at the corner and along the street side of the hotel. The applicant will propose decorative fall protection fencing and enhanced landscaping to provide an enhanced streetscape. This section of parking will be approximately 6 feet higher than the roadway which will not be visible from La Center Road. Reducing this setback will not have any unmitigated effects on properties. Thus, Criteria 4, 5 and 6 are met.

9. A variance to the 100-foot maximum building frontage in LCMC 18.158.060(1)(c) based on topography, wetlands, stream corridor, poor visibility down La Center Road and constraints resulting from the narrow configuration of the lot. The frontage will be broken up with architectural features and a change in building materials.

The applicant requests a variance to the 100-foot maximum building frontage in LCMC 18.158.060(1)(c) based on topography, wetlands, stream corridor, poor visibility down La Center Road and constraints resulting from the narrow configuration of the lot and the other general findings under Criteria 1, 2 and 3 above. The building frontage will be broken up with architectural features and a change in building materials as would be allowed in any other zone in the Junction Plan.

Due to the way the wetland and stream buffer cut diagonally through the property at the east end, the eastern portion of the property is not suitable for buildings. Consequently, a longer building is needed in areas of the property that are suitable for locating buildings. Additionally, a longer building is needed to develop a hotel.

Criterion 3 is met because the variance would allow the applicant to construct longer buildings just as any other property owner who is exempt from the Junction Plan would be allowed to do.

Criteria 4, 5 and 6 are met because the variance is the minimum needed to address the issue and the architectural features and change in building materials will adequately implement the purpose of the requirement.

10. A variance to the requirement in LCMC 18.158.040-1(b)(i) that the ground story finished floor elevation shall be equal to, or greater than, the exterior sidewalk

Re: **Written Narrative for Variance Applications**

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elevation in front of the building, to a maximum finished floor elevation of 1.5 feet above or below the sidewalk.

As previously mentioned, based on the requirement to meet ADA guidelines and the grades on the site this requirement will be impossible to meet and a variance is requested to deviate from this requirement based on topography and the other general findings under Criteria 1, 2 and 3 above. As mentioned, the commercial pad will sit eight feet below the roadway grade and the hotel starts out nearly flush with the road grade on the west side of the building and will be six feet above the road grade on the east side of the building.

The proposed ground story elevations are the minimum departure from the 1.5 foot standard needed for development of the property, and there are not any unmitigated effects on properties. Thus, Criteria 4, 5 and 6 are met.

Sincerely,

LANDERHOLM, P.S.

STEVE C. MORASCH
Attorney at Law

SCM/jsr

cc: Client

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