



## Notice of Decision

La Center Middle School  
Critical Areas Permit and SEPA DNS: Type II Review

**Applicant:** Ben Hill | Steve M. Shiver, NAC Architecture

### Materials:

#### Exhibit A – Application Materials

- A.1 Master Land Use Application
- A.2 Revised Wetland Delineation Report
- A.3 Updated Mitigation Plan
- A.4 East Fork Lewis-Wetland Mitigation Banking Instrument
- A.5 Final Wetland A-S Restoration Plan
- A.6 Remedial Action Work Plan
- A.7 Grading and ESC Plans
- A.8 Utility Plans
- A.9 Needs and Alternatives Analysis
- A.10 Narrative Clarification
- A.11 Cultural Resources Survey- June 19, 2018
- A.12 Cultural Resources Survey Addendum 1- October 10, 2018
- A.13 Cultural Resources Survey Addendum 2- February 25, 2019
- A.14 Cultural Resources Survey Addendum 3- July 1, 2019
- A.15 Archaeological Monitoring and Site Protection Plan for Site 45CL1373 and Inadvertent Discovery Plan
- A.16 Letter from USACE to DAHP- July 26, 2019
- A.17 Letter from DAHP to USACE- July 29, 2019

#### Exhibit B – SEPA

- B.1 SEPA Addendum
- B.2 Department of Ecology Comment Letter- December 17, 2019

#### Exhibit C – Public Hearing Notice

- C.1 Public Hearing Notice



## Notice of Decision

### La Center Middle School: Type II Critical Areas Permit

(2019-033-CAR/SEPA) January 15, 2020

<b>PROPOSAL:</b>	The Applicant seeks critical areas permit approval to permit temporary and permanent wetland impacts associated with the previously approved conditional use permit application (file no. 2018-027-CUP) for a new middle school of 77,725 square feet. Permanent impacts to wetlands associated with proposed improvements also include landscaping, roads and pedestrian access, parking, utilities, and other required infrastructure serving the new middle school. Temporary impacts will include removal of soil contaminated with Dieldren in wetland A-S on the south part of the site, placement of clean fill material, and replanting the wetland and associated buffer with native vegetation.
<b>LOCATION:</b>	2001 N.E. Lockwood Creek Road, La Center, Washington 98629. Tax Parcels: 209118000 and 209120000
<b>APPLICABLE STANDARDS</b>	<i>La Center Municipal Code; 18.30, Procedures; 18.300, Critical Areas; 18.310, Environmental Policy; 18.320, Stormwater; 18.340, Native Plant List; 18.350, Archaeological Protection; and La Center Engineering Standards</i>
<b>RECOMMENDATION:</b>	<b>APPROVAL</b> , subject to conditions

## I. CONTACT LIST

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## II. OVERVIEW

The applicant requests critical areas permit approval for permanent and temporary wetland impacts associated with the development of a new middle school site previously approved under CUP-2018-027. Because the full extent of wetlands and buffers was unknown at the time of the CUP approval and no critical areas permit was approved, the applicant is requesting approval of a critical areas permit for permanent and temporary impacts to wetlands onsite. The applicant will mitigate for permanent wetland impacts through purchase of wetland credits at the East Fork Lewis Wetland Mitigation Bank. Temporary impacts to wetland A-S from the removal of Dieldren will be mitigated through removal of contaminated soils, placement of clean fill, and replanting with native wetland species.

The project site is located at 2001 NE Lockwood Creek Road, in La Center, Washington, and is bounded to the north-northeast by NE Lockwood Creek Road and low-density residential, rural residential, and agricultural uses to the east, south, and west. The site consists of two tax lots (209118000 and 209120000) comprising approximately 17 acres of undeveloped former agricultural fields. The property has previously been subject to small scale farming, haying, and grazing, and was used for agriculture row crops from at least 1951 to 2018 with no roads or structures noted on the parcels. The northern two-thirds of the property is open grassland that is mowed periodically for hay. The adjoining southern parcel is an abandoned chicken farm that contains concrete pads and compacted gravel surfaces. The majority of this portion of the property is covered in non-native weeds.

In January of 2019, the applicant received approval for a Type III conditional use permit for the proposed construction of a new middle school (see final order file no. 2018-027 CUP). The site will be developed into a public middle school facility to accommodate approximately 550 students in grades 6 through 8 as well as 41 employees. The site will contain a new building of approximately 77,275 square feet with visitor, staff, and bus parking, as well as bus loading and unloading areas for the students. There will be two approaches to the site from NE Lockwood Creek Road in the northwest and northeast corners of the site. A physical-education field will be placed to the south of the building, along with an outdoor playfield and a 100-meter dash strip on the north side of the field. Raised garden planters will be provided in addition to the exterior buffering landscaping, interior parking area landscaping, and street tree plantings. A stormwater facility will be installed in the southeast corner of the site.

The hearing examiner's final order noted the presence of five wetlands on the site and that direct impacts to these wetlands will require review and approval from the Washington State Department of Ecology and United States Army Corps of Engineers. Additionally, direct and indirect permanent impacts to the wetlands will require compliance with the *La Center Municipal Code Chapter 18.300, Critical Lands*. No critical areas permit was issued at the time for impacts to these wetlands. Subsequent site investigations indicated three additional wetlands located on site. These wetlands were not addressed in the submitted application documents, critical areas report, State Environmental Policy Act (SEPA) checklist, or enhancement and mitigation plan contained in the October 2018 submittal, but the presence of the three additional wetlands was noted in the January 2019 hearing examiner's final order.

Because the full scope of wetland and buffer impacts was unknown at the time of issuance of a decision for CUP 2018-027, the City conditioned the applicant to update the wetland delineation report and mitigation plan and secure concurrence from the U.S. Army Corp of Engineers and Washington Department of Ecology. The wetland mitigation plan needs to be consistent with the requirements of *La Center Municipal Code 18.300.100 through 18.300.120*. Since that time, the applicant has updated the

wetland delineation report and mitigation plan to delineate and discuss impacts and mitigations for the entirety of the site. Additionally, one of the previously identified wetlands (referred to as Wetland A-S), was found to be contaminated with Dieldrin, a commercial pesticide. The applicant prepared an additional wetland Remediation/Restoration plan for Wetland A-S as a SEPA addendum. Restoration of Wetland A-S will require temporary impacts to remove contaminated soil and replace with new soil, and work to completely restore the wetland including replanting.

Figure 1 – Project Location

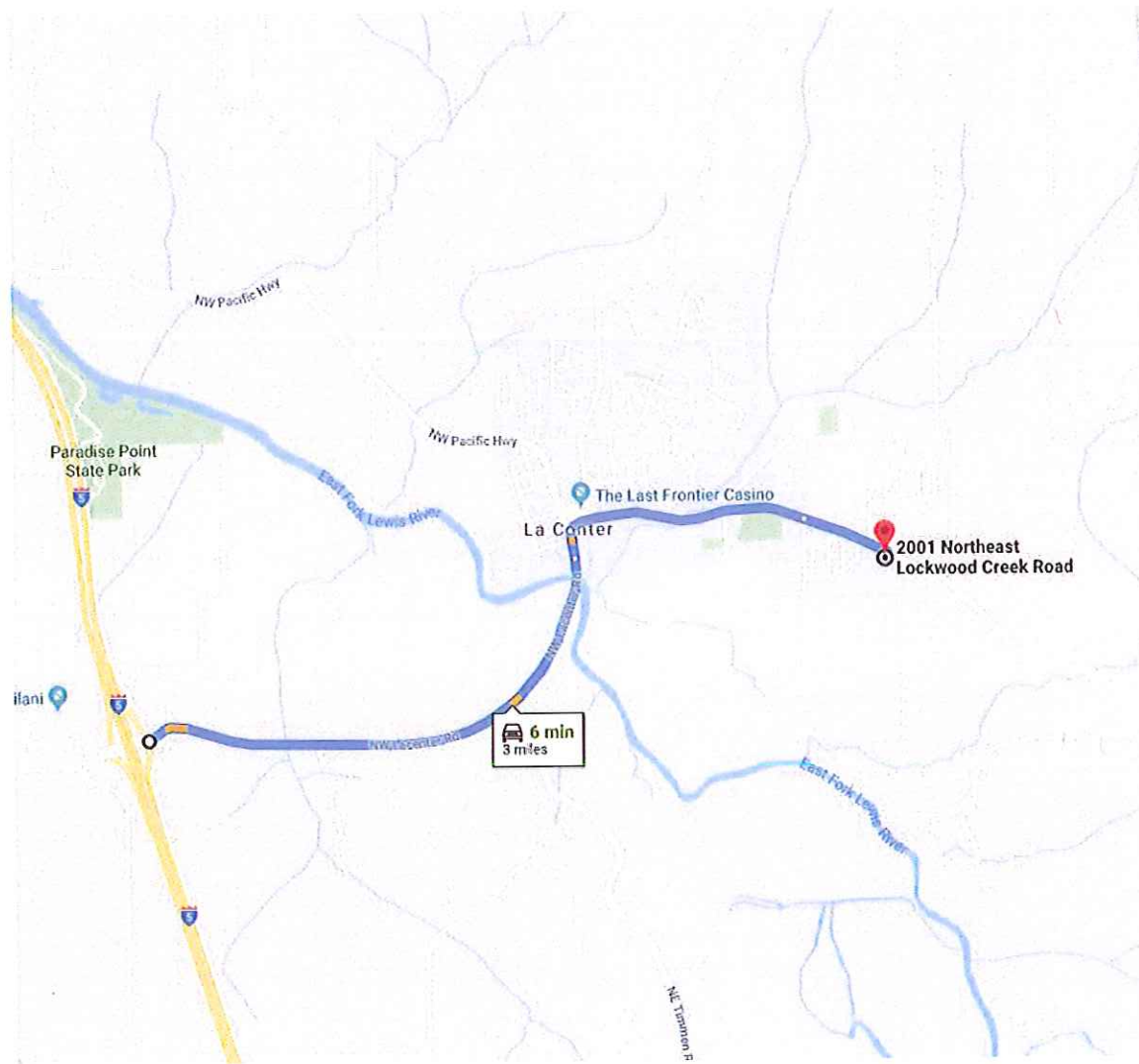
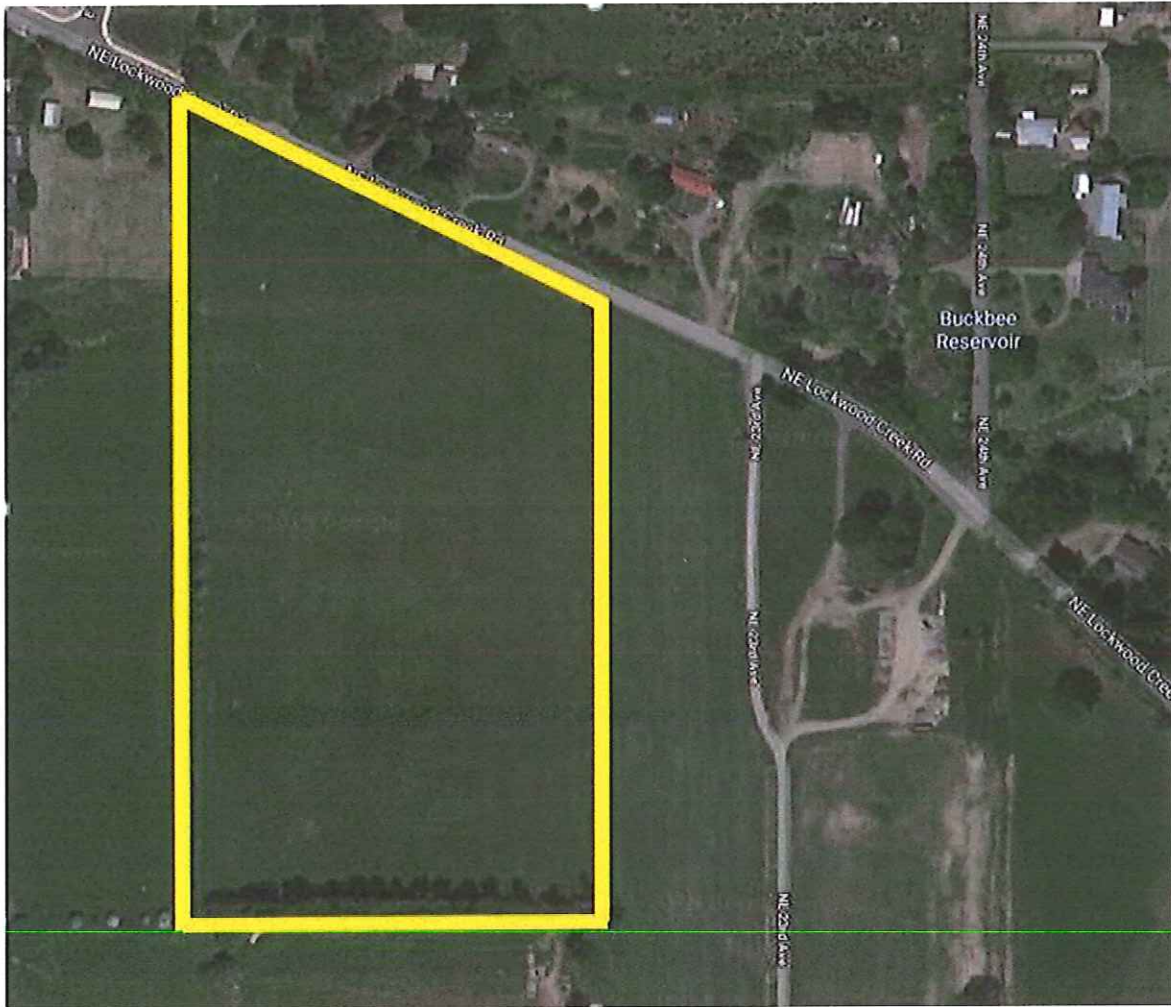




Figure 2 Subject Site



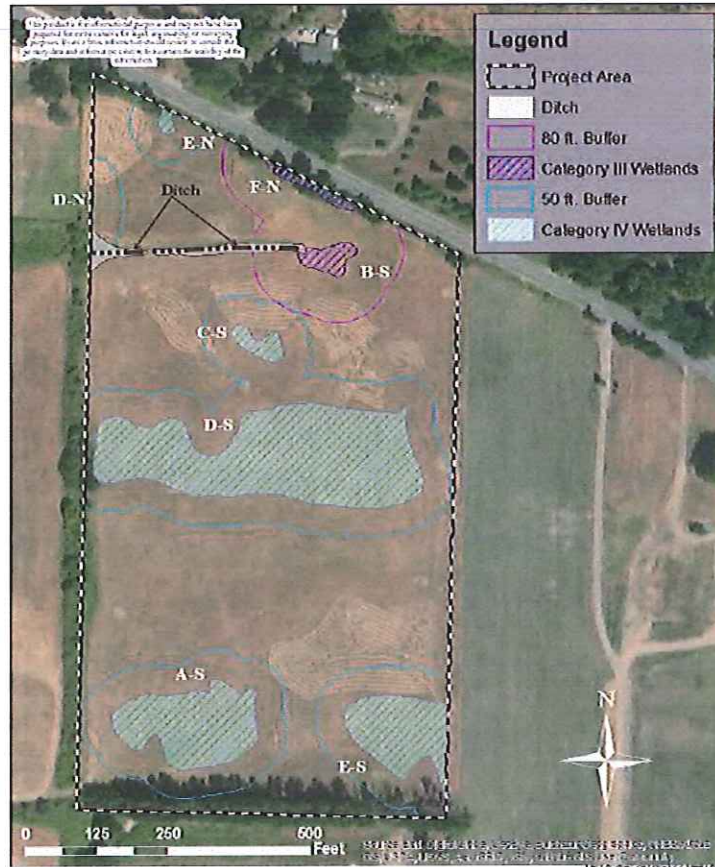


Figure 3 Delineated Wetlands and Buffers

### III. REVIEW

#### III. A Jurisdiction

The site is within La Center City limits and is zoned Low Density Residential (LDR-7.5). The site also has a zoning overlay of Urban Holding (UH-10), but this zoning overlay will be lifted once sewer improvements have completed construction. The City of La Center provides sanitary sewer service and public streets. Clark Public Utilities provides potable water service. The project is within the La Center School District and the Clark County Fire and Rescue service area.



### III.B Applicable regulations

The relevant La Center regulations include:

- 18.30, Procedures
- 18.300, Critical Areas
- 18.310, Environmental Policy
- 18.320, Stormwater
- 18.340, Native Plant List
- 18.360, Archaeological Protection
- La Center Engineering Standards

### III.C Public Notice

On December 4, 2019 *The Columbian* published legal notice of the land use application, and SEPA Mitigated Determination of Non-Significance (MDNS). The Department of Ecology entered the SEPA Checklist and MDNS in the Ecology SEPA Register on December 17, 2019 (Ecology SEPA # 201906831.)

The SEPA comment period closed on December 18, 2019 and the City has received 1 comment:

- Letter from the Department of Ecology, care of Tim Mullin, dated December 17, 2019.

### III.D Proposal

The applicant seeks critical areas permit approval to permit temporary and permanent wetland impacts associated with the previously approved conditional use permit application (file no. 2018-027-CUP) for a new middle school of 77,275 square feet. Proposed improvements also include landscaping, road and pedestrian access, parking, utilities, and other required infrastructure.

The applicant is proposing to directly impact five individual wetlands for a total of 2.34 acres of permanent impact. The impacts will occur for the construction the new school building, visitor, staff and bus parking areas, bus loading and unloading areas, physical education field, outdoor playfield, and stormwater facilities. All of the permanently impacted wetlands are located within the hayfield and provide low to moderate functions for water quality, hydrology and habitat. These unavoidable, permanent wetland impacts will be compensated through the purchase of bank credits from the East Fork Lewis Mitigation Bank (EFLMB). There is also an opportunity to enhance 0.72 acres of the non-impacted wetlands onsite. As per the EFLMB instrument, the bank is projected to re-establish 108.2 acres of wetland, enhance 0.29 acres of wetland and preserve 4.77 acres of wetland and upland forest.

Approximately 6,000 cubic yards of contaminated soil will be excavated and hauled off site, and the proposed excavation will temporarily impact 0.62 acres of additional wetland. The proposed construction activities will not impact the other wetlands on the property. Following the removal of contaminated topsoil and any required testing of remaining soil, the restoration activities will commence. Restoration will include inspection of the excavation site, importation of topsoil, and hydroseeding of all disturbed areas.



### III.E Key Issues

The relevant issues to consider include:

1. Standards and requirements for submittals, documentation, and reporting.
2. Appropriate off-site mitigation for permanent impacts to wetlands.
3. Appropriate on-site mitigation for temporary impacts to wetlands.
4. Proper procedure in relation to SEPA, archaeological resource protection and other applicable city codes.

### III.F Land Use Analysis

#### ***LCMC Chapter 18.30.020 Pre-application review***

#### ***Finding***

The City conducted the required pre-application conference review on November 7, 2019. A copy of the pre-application conference written summary is included as an exhibit to this report. The Applicant submitted a land use application on November 21, 2019 within the required one-year timeframe from the date of the pre-application conference.

#### ***LCMC Chapter 18.30.030(3)(b) Application types and classification***

*(3) Procedure Types. There are four types of land use review procedures. This chapter or the chapter that authorizes an application generally identifies the type of procedure that applies to the application. If the appropriate procedure is not clearly defined, the director shall decide which of the four procedures will apply, based on the following considerations:*

*(b) A Type II process generally involves a mix of discretionary and nondiscretionary standards that require the exercise of limited discretion about nontechnical issues and about which there may be a limited public interest. It may be subject to SEPA review.*

#### ***LCMC Chapter 18.30.090 Type II procedure***

*(1) Within 14 calendar days after the date an application subject to Type II review is accepted as technically complete, the city clerk shall mail a written notice of the application as provided in LCMC 18.30.120.*

*(2) The city clerk shall mail to the applicant a copy of comments timely received in response to the notice together with a statement that the applicant may respond to the comments within 14 calendar days from the date the comments are mailed.*

*(3) Decision.*

*(a) Within 56 calendar days after the date an application subject to a Type II process is accepted as technically complete, the review authority shall issue a decision that approves, approves with conditions, or denies the application; provided, an applicant may agree in writing to extend that time and may provide additional information within that time at the request of the city.*

*(b) The decision shall include a brief summary of the relevant facts and applicable standards for the application and a summary of how the application complies with those standards based on the facts and evidence, including any conditions of approval.*

*(4) Within seven calendar days after issuing a decision, the city clerk shall mail notice of the decision as provided in LCMC 18.30.120.*

*(5) A final decision regarding an application subject to Type II process can be appealed pursuant to LCMC 18.30.130 and can be amended by post-decision changes pursuant to LCMC 18.30.150.*

**Finding**

The proposal requires review of both discretionary and nondiscretionary standards, is likely to have some limited public interest, and is subject to SEPA review. In addition, the City Planner has determined that the critical areas permit application is subject to a Type II review under *LCMC 18.300*. Therefore, the proposal shall be considered under a Type II process and is subject to the Type II procedure as codified in *LCMC 18.30.090*.

The application was deemed complete on December 2, 2019. In compliance with this section, the City issued a notice of application on December 03, 2019 requesting comments be provided within 14 days or by December 17, 2019. This report serves as the notice of decision. The City will mail notice of the decision within seven days after issuance. Appeal procedures are noted at the end of this permit.

***LCMC Chapter 18.30.050 Review for Technically Complete Status***

**Finding**

The City found the application technically complete on December 02, 2019.

### III.G Critical Areas / Environmental Policy

#### **LCMC Chapter 18.300 Critical Areas**

*Critical areas are valuable and fragile natural resources with significant development constraints that, in their natural state, provide many valuable social and ecological functions. The attendant buffers of critical areas are essential to the maintenance and protection of the sensitive land, its functions and values. The City of La Center's Critical Areas Ordinance requires the conservation and/or enhancement of identified wetlands and other critical areas. Where impacts to critical areas are unavoidable, mitigation is required.*

#### **LCMC Chapter 18.300.040 Applicability and critical areas maps.**

*(1) Applicability. The provisions of this chapter apply to lands within the La Center corporate limits and urban growth area that are either designated as critical areas and their buffers on the city's official critical areas maps, or are critical areas and buffers which are identified as part of a project specific application and land use review.*

*(2) Critical areas include:*

- (a) Wetlands;*
- (b) Category I and II aquifer recharge areas;*
- (c) Wellhead protection areas;*
- (d) Fish and wildlife habitat conservation areas;*
- (e) Frequently flooded areas;*
- (f) Geologically hazardous areas; and*
- (g) Slopes with a gradient of 25 percent or greater.*

#### **Finding**

According to the application materials, wetlands are the only critical area on the subject site of the proposal. No other critical areas are present. The applicant proposes to impact wetlands and buffers onsite. Therefore, the proposal is subject to review under *LCMC Chapter 18.300, Critical Areas*.

*(6) Applicability by Activity. Table 18.300.040 establishes the level of review required for uses or activities under this title.*

- (a) Exempt (E). Activities or uses that are exempt require no review and do not need to meet the standards of this chapter.*
- (b) Review Required (RR). Activities and uses that are categorized as "Review Required" must comply with the standards of this chapter but no special report is needed. Determination of compliance with this chapter shall be determined through the review process required for the underlying development permit application.*
- (c) Critical Area Report (CAR). When a critical area report is required, the applicant must submit a report consistent with this chapter and with the underlying development application and will submit additional application fees consistent with the adopted fee schedule.*



**Table 18.300.040**

<b>USE/ACTIVITY</b>	<b>WETLAND</b>
<b>COMMERCIAL AND INDUSTRIAL ACTIVITIES</b>	
<i>New construction on vacant land in critical area or buffer</i>	CAR
<b>OTHER ACTIVITIES</b>	
<i>Clearing, filling, grading, and native vegetation removal activities within a critical area or buffer</i>	CAR
<i>Public and private pedestrian trails</i>	RR
<i>Construction of fences in a critical area or buffer</i>	RR

**Finding**

The proposal consists of both permanent and temporary impacts to wetlands, which are designated as critical areas, and their associated buffers, related to new construction on vacant land. Additionally, one wetland was found to be contaminated with Dieldrin, a commercial pesticide, and will require remediation and restoration. This remediation and restoration work necessitates clearing, filling, and grading activities, as well as removal and replanting of native vegetation. Due to these proposed activities, a Critical Area Report (CAR) is required. For this project, the only critical areas present are wetlands, so the required CAR in this case, is a Wetland Delineation Report. Other activities proposed for the development include construction of pedestrian trails and fencing to demarcate wetland buffers. These activities will require review to ensure compliance with provisions in the code.

**LCMC Chapter 18.300.050 Allowed Uses**

*(3) The city may approve uses listed in subsection (4) of this section, Allowed Uses, subject to a Type II process, if the proposed development activity meets the standards in LCMC 18.300.110, Development standards, and LCMC 18.300.120, Mitigation.*

*(4) Allowed Uses. The city may allow the following uses on critical areas and within buffer areas subject to the development standards of LCMC 18.300.110 and appropriate mitigation standards as described in LCMC 18.300.120:*

- (a) Pervious trails for nonmotorized use.*
- (b) Below or aboveground utilities, facilities and improvements, where necessary to serve development consistent with the La Center comprehensive plan and development code, including: streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, open space, and parks and recreational facilities, where there is no other reasonable alternative, based on topographic and environmental conditions, as determined by the director.*
- (f) Specific Uses Allowed in Wetlands.*

*(i) Enhanced Replacement. Replacing or enhancing a wetland such that the enhanced wetland is of higher quality and meets the criteria for a higher category.*

*(5) Limited Uses. Limited uses, as described in this section, shall avoid critical areas, to the greatest extent reasonable and practicable. Limited uses may be allowed within critical area buffers subject to the mitigation measures and implementation of a monitoring plan as described in LCMC 18.300.090(6)(l). Applications for development within critical areas or buffers shall demonstrate that all reasonable efforts*

*have been examined with the intent to avoid and minimize impacts to critical areas and buffers. All limited uses shall be consistent with the provisions of this chapter and shall be subject to SEPA review.*

*(b) Development Subject to Site Plan Review. Any new building or structure affecting critical areas or buffers shall be subject to site plan review, unless otherwise exempted in this chapter.*

*(c) Stormwater Facilities. Stormwater facilities may be allowed in buffers of Class III and IV wetlands with low habitat function (less than 20 points on the habitat section of the rating system form); provided, the facilities shall be built on the outer 25 percent of the buffer and not degrade the existing buffer function and are designed to blend with the natural landscape. Unless determined otherwise by the responsible official, the following activities shall be considered to degrade a wetland buffer when they are associated with the construction of a stormwater facility:*

- (i) Removal of trees greater than four inches diameter at four and one-half feet above the ground or greater than 20 feet in height;*
- (ii) Disturbance of plant species that are listed as rare, threatened or endangered by the county or any state or federal management agency;*
- (iii) The construction of concrete structures other than manholes, inlets, and outlets that are exposed above the normal water surface elevation of the facility;*
- (iv) The construction of maintenance and access roads;*
- (v) Slope grading steeper than four to one (4:1) horizontal to vertical above the normal water surface elevation of the stormwater facility;*
- (vi) The construction of pretreatment facilities such as fore bays, sediment traps, and pollution control manholes;*
- (vii) The construction of trench drain collection and conveyance facilities;*
- (viii) The placement of fencing; and*
- (ix) The placement of rock and/or riprap, except for the construction of flow spreaders, or the protection of pipe outfalls and overflow spillways; provided, that buffer functions for areas covered in rock and/or riprap are replaced;*

### **Finding**

The proposal consists of both permanent and temporary impacts to wetlands, which are designated as critical areas, and their associated buffers, related to new construction on vacant land. According to the project description, proposed new construction and wetland restoration **includes allowed uses** as identified in *LCMC 18.300.050(4)(a)*, *LCMC 18.300.050(4)(b)*, and *LCMC 18.300.050(4)(f)(i)*, specifically including pervious trails and below ground utilities (sewer, water). The project also includes limited uses in the form of development of the school and associated facilities subject to a previous site plan review, and stormwater facilities.

In Section 4.0 of the applicant's Updated Mitigation Plan, the applicant discusses their approach to avoidance and minimization. The applicant says- "The Applicant is proposing to permanently impact five of the eight wetlands within the study area to provide for the school and required supporting amenities and infrastructure. Due to the need for the school and the lack of suitable available sites for development of a school site, as outlined in the alternatives analysis, avoidance of all of the wetlands within the study area is not practicable for this project. The site has been designed to minimize wetland impacts by avoiding three wetlands and their associated buffers."

The applicant has submitted a mitigation plan as described in *LCMC 18.300.090(6)(l)*, and has sufficiently demonstrated that they are avoiding critical areas to the greatest extent reasonable and practicable, thereby allowing limited uses. The mitigation plan proposes monitoring for a period of three years.

In addition to the allowed uses identified in LCMC 18.300.050(4), proposed new construction includes allowed limited uses as identified in LCMC 18.300.050(5)(b) and LCMC 18.300.050(5)(c).

### **LCMC Chapter 18.300.090 Critical Lands**

#### **(6) Wetlands.**

*(c) Exempted Wetlands. This chapter shall not apply to the following wetlands:*

*(i) Isolated wetlands less than one-tenth of an acre in size and scoring less than 20 points under the Department of Ecology rating system, as amended.*

*(ii) Riparian. Wetlands less than five feet wide above the ordinary high water mark along streams and lakes which are regulated under the State Shorelines Management Act*

#### **Finding**

The Revised Wetland Delineation Report submitted by the applicant identifies and delineates a total of eight (8) wetlands at the site. One of these wetlands is depressional, under one-tenth of an acre in size, and scores less than 20 points under the Department of Ecology rating system. This wetland, C-S, may meet this criterion and may be exempt. The other seven (7) wetlands **do not meet this criterion** and are not exempt.

In this case, the applicant is proposing mitigation for all permanent and temporary impacts to wetlands, so potential exemption of one wetland does not affect the applicant's scope of mitigation.

*(d) Interpretation. Except where a contrary intent clearly appears, the provisions of this chapter shall be construed to the maximum feasible extent consistent with the Federal Clean Water Act, 33 USC Section 1251 et seq., and the rules and guidelines promulgated pursuant thereto. Nothing in this chapter shall be construed to preclude application of the State Environmental Policy Act in approving applications not listed in LCMC 18.310.090.*

#### **Finding**

The wetlands onsite have been determined to be jurisdictional wetlands regulated by the U.S. Army Corp of Engineers. The applicant is required to obtain a Section 404 permit for impacts to these wetlands which triggers the need for a 401 water quality certification under the Clean Water Act. The requirement to obtain 404 and 401 approvals ensures the proposal is consistent with the Clean Water Act.

#### ***(e) City Policy Towards Disturbance of Wetlands and Wetland Buffers.***

*(iii) The city may allow disturbance of Category III and IV wetlands or wetland buffers for public purposes if the disturbance directly advances the provision of infrastructure facilities and services. Public purpose includes streets, potable water, sanitary sewer, stormwater facilities, schools, and utilities.*

#### **Finding**

The proposal is for temporary and permanent impacts to category III and IV wetlands related to the proposed construction of a new public middle school. Schools are included under the "public purpose"



provision of LCMC Chapter 18.300.090(6)(e)(iii) and the disturbance is therefore, consistent with this provision.

*(f) Wetland Delineation and Marking.*

*(i) An application for wetland impacts shall not be deemed technically complete until completion (if required) of a wetland delineation.*

*(ii) The mayor or his or her designee shall determine whether a wetland delineation is required based upon several factors including but not limited to a site visit, review of existing critical areas maps, review of National Wetland Inventory maps, the presence of hydric soils, historical evidence, or consultation with a qualified expert.*

*(iii) Wetland Delineation.*

*(A) Methodology. The location of a wetland and its boundary shall be determined through the performance of a field investigation, to be performed by a qualified scientific expert (see WAC 395-195-905) using the methodology contained in the wetlands delineation manual. The applicant shall be responsible for the cost of the professional services. If a wetland is located off site and is inaccessible, the best available science shall be used to determine the wetland boundary and category.*

*(B) Information Requirements. Wetland boundaries shall be staked and flagged in the field and a delineation report shall be submitted to the city. The report shall include the following information:*

*(I) U.S.G.S. quadrangle map with site clearly defined;*

*(II) Topographic map of area;*

*(III) National wetland inventory map showing site;*

*(IV) Soil Conservation Service soils map of the site;*

*(V) Site map, at a scale no smaller than one inch equals 400 feet, if practical, showing the following information: (1) wetland boundaries; (2) sample sites and sample transects; (3) boundaries of forested areas; and (4) boundaries of wetland classes if multiple classes exist;*

*(VI) Discussion of methods and results with special emphasis on technique used from the wetlands delineation manual;*

*(VII) Acreage of each wetland on the site based on the survey if the acreage will impact the buffer size determination or the project design;*

*(VIII) All completed field data sheets (U.S. Army Corps of Engineers' format for three parameter application) numbered to correspond to each sample site.*

*(C) Responsibility. The wetland delineation is the responsibility of the applicant. The city shall verify the accuracy of the boundary delineation within 20 working days of receiving the delineation report. This review period may be extended when excessively dry conditions prohibit the confirmation of the wetland delineation. If the delineation is found to not accurately reflect the boundary of the wetland, the city will issue a report, within 30 working days of receiving the applicant's delineation report, citing evidence (for example, soil samples) that demonstrates where the delineation is in error. The applicant may then either revise the delineation and submit another report or administratively appeal.*

**Finding**

A Wetland Delineation Report for the site was completed by a qualified professional (Kevin Grosz, PWS, Olson Environmental LLC.) in accordance with Best Available Science as established in WAC 365-195-900 through 365-195-925, and delineated wetlands have been assessed using the Washington State

Wetland Rating System for Western Washington (Hruby Update 2014). Field investigations occurred in November 2017, September and December 2018, and in January 2019. The wetland delineation contains sufficient detail applicable to all information required by this section, and the applicant used acceptable sampling methodologies under the wetland delineation manual.

*(iv) Buffers. All buffers shall be measured perpendicularly outward from the delineated wetland boundary.*

(v) Marking Buffer during Construction. The location of the outer extent of the wetland buffer shall be marked in the field and such markings shall be maintained throughout the duration of the permit.

(vi) Permanent Marking of Buffer Area. A permanent physical demarcation along the upland boundary of the wetland buffer area shall be installed and thereafter maintained. Such demarcation may consist of logs, a tree or hedgerow, fencing, or other prominent physical marking approved by the hearings examiner. In addition, small signs shall be posted at an interval of one per lot or every 100 feet, whichever is less, and perpetually maintained at locations along the outer perimeter of the wetland buffer worded substantially as follows: "Wetland and Buffer – Please Retain in a Natural State."

(vii) A conservation covenant shall be recorded in a form approved by the city attorney as adequate to incorporate the other restrictions of this section and to give notice of the requirement to obtain a wetland permit prior to engaging in regulated activities within a wetland or its buffer.

(viii) In the cases of plats, short plats, and recorded site plans, include on the face of such instrument the boundary of the wetland and its buffer and a reference to the separately recorded conservation covenant provided for in subsection (6)(f)(vii) of this section.

### **Finding**

The wetland delineation categorizes all wetlands onsite as category III or IV and the mitigation plan specifies that buffer widths adjacent to high intensity land uses are 50 feet for category III wetlands and 80 feet for category III wetlands as required by *LCMC Table 18.300.090(6)(h(i))*, as further discussed in the corresponding section of this staff report.

The applicant includes information in their Updated Mitigation Plan that indicates they will comply with provisions in *LCMC 18.300.090(6)(f)(v)* through *LCMC 18.300.090(6)(f)(vii)* for marking during construction, permanent marking, and a conservation covenant.

As Section 4.0 of the Updated Mitigation Plan notes- "The following additional measures will be taken to avoid/minimize additional impacts to wetland and buffer areas:

1. All wetland, wetland buffer, and riparian buffer boundaries will be temporarily flagged in the field prior to construction."

Additionally, Section 8.0 of the Updated Mitigation Plan notes- "As per *LCMC 18.300.090(6)(f)(v & vi)* the outer perimeter of the wetland buffers shall be demarcated as follows:

"The school district has chosen a 3-rail wood fence with chain link fabric to demarcate the buffer perimeter. The fence will have a gate installed to allow for access for maintenance and future wetland studies for school students. Signs will be placed every 50 feet as per the comments received by Ecology. Details of the fence are provided in Appendix A."

Finally, Section 9.0 of the Updated Mitigation Plan notes- "The retained wetland and buffers will be placed in a conservation covenant to protect these critical areas as per *LCMC18.300.090(6)(f)(vii)*."

The final site plan will not be recorded, therefore *LCMC 18.300.090(6)(f)(viii)* does not apply.

The proposal meets all applicable criteria related to wetland delineation and marking as identified in *LCMC 18.300.090(6)(f)*.

As a **condition of approval**, the applicant shall temporarily mark the outer extent of the wetland buffer in the field and it shall be maintained until the completion of construction.

As a **condition of approval**, the applicant shall install permanent marking along the upland boundary of the wetland buffers and thereafter maintain the marking. The marking shall meet the requirements of *LCMC 18.300.090(6)(f)(iv)* including posting signs every 100 feet at a minimum.

As a **condition of approval**, the applicant shall record a conservation covenant on retained wetlands prior to issuance of building permits for the school building.

*(g) Wetland Rating. The Washington State Department of Ecology wetland rating system, Washington State Wetland Rating System for Western Washington (Revised, Publication No. 04-06-025, August 2004), as updated, shall be used in part to determine base buffer widths and to determine mitigation and enhancement requirements.*

*(i) The determination of the specific category of wetland and buffer type for each wetland shall be the responsibility of the applicant and subject to city approval.*

*(iii) Wetlands that are enhanced thereafter shall provide buffers that satisfy the function requirements of the buffer for the enhanced and higher category wetland.*

*(iv) Wetland Rating System.*

*(C) Category III. Category III wetlands perform a moderate level of functions, typically have been disturbed in some manner, and are often less diverse and more isolated from other natural resources in the landscape than Category II wetlands. These wetlands score between 30 to 50 points in the Ecology rating system.*

*(D) Category IV. Category IV wetlands have the lowest levels of functions and are often heavily disturbed. These wetlands score less than 30 points in the Ecology rating system.*

### **Finding**

The delineated wetlands have been assessed using the Washington State Wetland Rating System for Western Washington (Hruby Update 2014). According to this Wetland Rating System, two (2) of the eight (8) wetland are categorized as Category III wetlands (wetlands B-S and F-N), and the remaining six (6) wetlands are categorized as Category IV wetlands. The applicant will not be enhancing retained wetlands, but will either avoid wetlands and their attendant buffers, or restore wetlands to their pre-construction condition and wetland rating.

*(h) Base Buffer Width.*

*(i) Buffer width, measured in feet, shall be based upon "Alternative 3 in Appendix 8C of Freshwater Wetlands in Washington State, Vol. 2." Intensity of use shall be based upon "Table 8C-3, Types of proposed land use that can result in high, moderate, and low levels of impacts to*



adjacent wetlands” described in “Appendix 8C of Freshwater Wetlands in Washington State, Vol. 2” and attached to the ordinance codified in this chapter.

**Table 18.300.090(6)(h)(i) – Buffers Required to Protect Hydrologic Functions**

Wetland Rating	High Intensity Use
Category III	80 feet
Category IV	50 feet

**Finding**

According to plans and other application materials provided by the applicant, the wetland buffers are consistent with requirements as identified in *Table 18.300.090(6)(h)(i)*.

*(j) Wetland Development Standards – General.*

*(i) Any development proposal that impacts a wetland or wetland buffer shall not be allowed without an approved mitigation or enhancement plan consistent with LCMC 18.300.120 and the mitigation sequencing preference. (See “mitigation” in subsection (6)(l) of this section.)*

*(ii) The city shall not approve a development proposal that impacts wetlands or wetland buffers without a finding that:*

*(A) The proposed activity shall not cause significant degradation of ground water or surface water quality or fish and wildlife habitat;*

*(B) The proposed activity shall comply with all state, local and federal laws, including those related to sediment control, pollution control, floodplain restrictions, stormwater management, and on-site wastewater disposal; and*

*(C) Wetland and wetland buffer impacts shall be avoided or substantially minimized consistent with the mitigation sequencing criteria.*

**Finding**

The proposed new construction will result in temporary and permanent impacts to several wetlands and their attendant buffers. The applicant has submitted a mitigation and enhancement plan to address permanent and temporary wetland impacts that is consistent with *LCMC 18.300.120* and explained their mitigation sequencing decision process. Provisions *LCMC 18.300.090(6)(j)(ii)(A-C)* are also met.

Mitigation sequencing is typically avoidance, minimization and compensation for unavoidable wetland impacts. The applicant is proposing to permanently impact five of the eight wetlands within the study area to provide for the school and required supporting amenities and infrastructure. Due to the need for the school and the lack of suitable available sites for development of a school site, as outlined in the alternatives analysis, avoidance of all of the wetlands within the study area is not practicable for this project. The site has been designed to minimize wetland impacts by avoiding three wetlands and their associated buffers. Compensation will be accomplished through the purchase of wetland bank credits from the EFLMB.

Lost wetland functions and values will be completely replaced by the purchase of credits from EFLMB. As per the approved EFLMB bank instrument, Category IV wetlands are compensated at a 0.85:1 ratio and Category III wetlands are compensated at a 1:1 ratio. The applicant is proposing to purchase 2.0 bank credits to compensate for 1.94 acres of wetland permanent impact to four Category IV and 0.06 acres of Category III wetlands within the project area.

The applicant will comply with state, local, and federal laws related to wetland development. The applicant is required to obtain Section 401 and 404 water quality certification permits from the United States Army Corps of Engineers, comply with the City of La Center’s Critical Areas ordinance (*LCMC 18.300*) and the City’s Stormwater and Erosion Control ordinance (*LCMC 18.320*). The site is not located within a floodplain.

***LCMC Chapter 18.300.090(6)(k)***

- (k) Wetland Activities. Activities that trigger a wetland permit shall meet the following standards:*
- (i) Wetland impacts to Category I wetlands that are bogs or natural heritage sites shall be avoided.*
  - (ii) All other wetland impacts shall meet the compensation ratios stated in Table 18.300.090(6)(k), Wetland Mitigation Ratios, for projects in the La Center urban growth area.*

***Table 18.300.090(6)(k) – Wetland Mitigation Ratios***

<b><i>Impacted Wetland Category and Type</i></b>	<b><i>Reestablishment or Creation</i></b>	<b><i>Rehabilitation</i></b>	<b><i>1:1 Reestablishment or Creation (R/C) plus Enhancement (E)</i></b>	<b><i>Enhancement Only</i></b>
<i>Category III</i>	<i>2:1</i>	<i>4:1</i>	<i>1:1 R/C and 2:1 E</i>	<i>6:1</i>
<i>Category IV</i>	<i>1.5:1</i>	<i>3:1</i>	<i>1:1 R/C and 2:1 E</i>	<i>4:1</i>

**Finding**

All wetlands onsite are Category III or IV and the applicant does not propose to impact Category I wetlands. The impacts to the wetlands will be compensated through the purchase of bank credits from the East Fork Lewis River Mitigation Bank (EFLMB) offsite as allowed by *18.300.120(2)(c)(ii)*. Therefore, the wetland mitigation ratios specified in this code section do not apply. As Section 6.0 of the applicant’s Updated Mitigation Plan notes- “This plan has been prepared to meet the mitigation requirements of *LCMC 18.300.090(6)* and Sections 401 and 404 of the Clean Water Act. EFLMB is located in north Clark County and is part of the Fargher Lake system. The EFLMB is a 113-acre site located within the East Fork Lewis River Watershed as is the project area. The bank sponsor conducted a functional assessment of the bank site using the Washington State Method for Assessing Wetland Functions (WAFAM): Volumes I and II (Hruby et al, 1999). Based on this assessment, the bank sponsor concluded that wetland functions could be significantly increased through manipulation of the site.”

The applicant’s Updated Mitigation Plan continues- “Both the bank and project area are located within the East Fork Lewis River Watershed. All of the proposed wetlands to be impacted are Category III and Category IV wetlands as rated by Ecology’s updated rating system for western Washington. As per the approved EFLMB bank instrument, Category IV wetlands are compensated at a 0.85:1 ratio and Category III wetlands are compensated at a 1:1 ratio.”

According to the Updated Mitigation Plan, the applicant proposes to purchase 2.0 bank credits to compensate for 1.94 acres of permanent wetland impact to four Category IV wetlands and 0.06 acres of Category III wetlands in the project area.

The applicant indicates that purchasing credits in the EFLMB will provide “significant ecological lift for the wetland functions in the East Fork Lewis River Watershed and adequately compensate for the loss of the functions on the proposed development site.”

As a **condition of approval**, the applicant shall purchase the mitigation bank credits and provide documentation of the purchase to the City prior to impacting wetlands on the site.

*(l) Wetland Enhancement – Preliminary Plan. The preliminary enhancement/mitigation plan consists of two parts, baseline information for the site and a conceptual plan.*

*(i) Baseline information shall include:*

- (A) Wetland delineation report;*
- (B) Description and maps of vegetative conditions at the site;*
- (C) Description and maps of hydrological conditions at the site;*
- (D) Description of soil conditions at the site based on a preliminary on-site analysis;*
- (E) A topographic map of the site;*
- (F) Assessment of the functional uses of the existing wetland and buffer.*

*(ii) The contents of the conceptual plan shall include:*

- (A) Goals and objectives of the proposed project;*
- (B) Description of wetland type to be created;*
- (C) Map showing proposed wetland and buffer. This map should include the base buffer and the proposed buffer;*
- (D) Site plan;*
- (E) Discussion and map of plant material to be planted and planting densities;*
- (F) Preliminary drainage plan identifying location of proposed drainage facilities including detention structures and water quality features (e.g., swales);*
- (G) Discussion of water sources for the wetland;*
- (H) Project schedule;*
- (I) Discussion of how the completed project will be managed and monitored;*
- (J) Discussion of contingency plans in case the project does not meet the goals initially set for the project.*

### **Finding**

The applicant has submitted a Preliminary Plan as part of their Final Mitigation Plan. This plan includes all provisions in both LCMC 18.300.090(6)(l)(i) and LCMC 18.300.090(6)(l)(ii).

Discussion of water sources for the various wetlands is not included in the Wetland Delineation Report, however, according to written communication from Kevin Grosz, PWS, the primary water sources for the wetlands are precipitation retention, and to a lesser extent, perched ground water.

*(m) Wetland Enhancement – Final Plan. The contents of the final enhancement/mitigation plan shall include:*

- (i) Preliminary enhancement/mitigation plan and all conditions imposed on that plan.*
- (ii) Performance Standards. Specific criteria shall be provided for evaluating whether or not the goals and objectives of the enhancement/mitigation project are being met. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria.*

(iii) *Detailed Construction Plans.* Written specifications for the enhancement/mitigation project shall be provided. The specifications shall include: the proposed construction sequence, grading and excavation details, water and nutrient requirements for planting, specification of substrate stockpiling techniques, and planting instructions, as appropriate. These written specifications shall be accompanied by detailed site diagrams, sealed cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

(iv) *Monitoring Program.* Description of a detailed program for monitoring the success of the enhancement/mitigation project. In addition to the standards described in LCMC 18.300.120, a monitoring program shall include, but is not limited to:

- (A) Establishing vegetation plots to track changes in plant species composition and density over time;
- (B) Using photo stations to evaluate vegetation community response;
- (C) Sampling surface and subsurface waters to determine pollutant loading, and changes from the natural variability of background conditions (pH, nutrients, and heavy metals);
- (D) Measuring base flow rates and stormwater runoff to model and evaluate water quality predictions, if appropriate;
- (E) Measuring sedimentation rates, if applicable; and
- (F) Sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity. A protocol shall be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the project. A monitoring report shall be submitted annually, at a minimum, documenting milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years.

(v) *Associated Plans and Other Permits.*

- (A) Final landscaping plan;
- (B) Final drainage plan; and
- (C) Final erosion and sediment control plan.

(vi) *Evidence of Financial and Scientific Proficiency.* A description of how the enhancement/mitigation project will be managed during construction and the scientific capability of the designer to successfully implement the proposed project. In addition, a demonstration of the financial capability of the applicant to successfully complete the project and ensure it functions properly over a five-year period. Evidence that required bonding can be obtained.

(vii) *Contingency Plan.* Identification of potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates project performance standards are not being met.

### **Finding**

The applicant has submitted their Final Mitigation Plan. This plan includes all provisions in LCMC 18.300.090(6)(m)(i) through LCMC 18.300.090(6)(m)(vi). The applicant proposes to install piezometers to monitor various applicable hydrology measures and visually assess vegetation coverage on an annual basis through the monitoring period. The applicant has also submitted sufficient material related to landscaping plans, drainage plans, and erosion/sediment control plans.

The professional services firms of PBS Engineering and Environmental and Olson Environmental LLC., have demonstrated capabilities of completing similar projects. The school district is required to bond for



the proposed onsite mitigation and, all proposed offsite mitigation credits at the EFLMB will be purchased prior to undertaking activities that will impact any wetland.

The applicant's Contingency Plan does not sufficiently meet the requirements identified in *LCMC 18.300.090(6)(m)(vii)*. As a **condition of approval**, the applicant must update their contingency plan to include how the applicant plans to meet the performance objectives stated, including wetland groundwater levels and vegetation growth. This condition must be met prior to undertaking activities that will impact the onsite wetlands.

*(n) Wetland Permit – Application.*

*(i) Applications for wetland permits shall be made to the city on forms furnished by the city. The city shall process a wetland permit application as a request for land use approval pursuant to LCMC Chapter 18.30.*

*(ii) Wetland permit applications shall include:*

*(A) Wetland delineations and required buffer width;*

*(B) A site plan for the proposed activity overlaid on an aerial photograph at a scale no smaller than one inch equals 400 feet showing the location, width, depth and length of all existing and proposed structures, roads, stormwater management facilities, sewage treatment, and installations within the wetland and its buffer;*

*(C) The exact sites and specifications for all regulated activities including the amounts and methods;*

*(D) A proposed preliminary enhancement/mitigation plan meeting the requirements of this chapter.*

**Finding**

The applicant has submitted an application that was deemed complete on December 2, 2019. The applicant has also submitted materials that include all provisions as described in *LCMC 18.300.090(6)(n)*.

***LCMC Chapter 18.300.090(6)(o)***

*(o) Wetland Permit – Approval.*

*(i) The city shall issue final approval of the wetland permit authorizing commencement of the activity permitted thereby upon:*

*(A) Submittal and approval of a final enhancement/mitigation plan;*

*(B) Installation and approval of the required field markings;*

*(C) The recording of a conservation covenant.*

*(ii) Conditions. An approval of a wetland permit shall incorporate the following condition:*

*(A) Posting of a cash performance bond or other security acceptable to the city in an amount and with surety and conditions sufficient to fulfill the requirements of the required final plan, mitigation plan and enhancement plan and to secure compliance with other conditions and limitations set forth in the permit.*

*(B) The city shall release the bond upon determining that:*

*(I) All activities, including any required compensatory mitigation, have been completed in accordance with the terms and conditions of the permit and the requirements of this chapter; and*

*(II) Upon forfeiture of a performance or maintenance bond, the proceeds thereof shall be utilized either to correct deficiencies which resulted in forfeiture or, if*

*such correction is deemed by the county to be impractical or ineffective, to enhance other wetlands in the same watershed.*

**Finding**

The applicant has submitted a final enhancement/mitigation plan, however the applicant is subject to the following conditions of approval:

As a **condition of approval**, the applicant shall pass an inspection site visit by city staff, verifying that required field markings have been installed before ground disturbance commences onsite.

As a **condition of approval**, the applicant shall post a cash performance bond in an amount and with surety and conditions sufficient to fulfill the requirements of all onsite mitigation, including remediation and restoration. The bond must be submitted prior to building permit approval.

**LCMC Chapter 18.300.100 Best available science.**

*Critical area reports and decisions to alter critical areas shall rely on the best available science to protect the functions and values of critical areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish and their habitat. Best available science is that scientific information applicable to the critical area prepared by local, state or federal natural resource agencies, a qualified scientific professional or team of qualified scientific professionals, that is consistent with criteria established in WAC 365-195-900 through 365-195-925.*

**Finding**

The Wetland Delineation Report and Updated Mitigation Plan were both prepared by qualified professionals and in accordance with Best Available Science as established in WAC 365-195-900 through 365-195-925. The applicant intends to mitigate for permanent wetland impacts by purchasing credits from the EFLMB. Mitigation banks are an Ecology-approved method for compensating for impacts.<sup>1</sup>

**LCMC Chapter 18.300.110 Development standards.**

*Within critical areas, the city shall prohibit soil excavation, grading, removal of native vegetation species, draining, intentional burning, planting of invasive or nuisance vegetation, placement of structures and new construction on critical areas unless otherwise authorized in this chapter.*

- (1) These development standards apply to uses on critical areas and within buffers unless otherwise exempted in this title.*
- (2) In order to approve application for development on lands subject to this chapter, the mayor or his or her designee shall find that the following standards have been met:
  - (a) All reasonable alternatives for locating the development activity in such a way so as to avoid critical areas have been considered and the development activity will be located in the least environmentally sensitive area as practicable and the purpose of this**

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<sup>1</sup> see Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance, Publication number 06-06-011a, March 2006.

*chapter, as described in LCMC 18.300.010, is fulfilled. If avoidance is not practicable, as determined by the city, development shall minimize adverse impacts to critical areas and buffers consistent with the mitigation sequencing measures and mitigation and enhancement measures prescribed in this chapter.*

*(b) The city has approved the vegetation removal methods and the removal of native plants has been avoided.*

*(c) All adverse impacts to all affected critical areas and buffers are either avoided or fully mitigated.*

*(d) The plan minimizes cuts and fills.*

*(e) Soils are not exposed during the rainy season (November 1st through April 30th) and construction activity is limited to the dry season (May 1st through October 31st).*

*(f) The mayor or his or her designee has reviewed and approved an erosion control plan, grading plan, and vegetation removal and replanting plan prior to construction activity.*

*(g) All activities have received applicable state and federal permits, and comply with SEPA requirements if the lead agency makes a threshold determination of significance (DS), or a mitigated determination of nonsignificance (MDNS).*

*(h) Hydraulic permits are required for any activity occurring within the ordinary high water mark of any state-regulated Class I or Class II stream.*

*(i) Compliance with this chapter does not constitute compliance with state and federal environmental standards. The applicant shall be responsible for demonstrating such compliance.*

**(3) Review Process.**

*(a) The review process shall be the type specified in the LCMC for each particular land use action unless otherwise specified in this chapter.*

*(b) Applications to develop on critical areas or their buffers shall be subject to Type I review if, within a one-year period, the cumulative impact on critical areas is:*

*(i) Disturbance of less than 10 cubic feet of soil;*

*(ii) An activity, the fair market cost of which is less than \$500.00; or*

*(iii) The activity involves less than 1,000 square feet of critical areas.*

**(4) SEPA Review.** *On a case-by-case basis, the responsible official may issue a determination of nonsignificance (DNS) if:*

*(a) The application for development review contains all requested information, including reports, maps and other documents relevant to the proposed activity; and*

*(b) The proposed activity complies with all applicable development review and performance standards; and*

*(c) Compliance with all applicable development standards and performance standards is made a binding condition of land use approval.*

**Finding**

According to the application materials, the applicant indicates that they will comply with all provisions as identified in LCMC 18.300.110(2). The proposal is subject to a Type II review process as identified under LCMC Chapter 18.30.030(3)(b).

The applicant has submitted an alternatives analysis demonstrating that no other alternative sites for the new school are available. The applicant has gone through the mitigation sequencing process as explained in Section 4 of the Updated Mitigation Plan, and has established that avoidance for all of the wetlands is not possible. Two of the wetlands will be

avoided and the applicant is taking steps to minimize impacts through design. As the applicant notes, "The site has been designed to minimize wetland impacts by avoiding three wetlands and their associated buffers." One of those three wetlands (Wetland A-S) was found to be contaminated and will require remediation and restoration, resulting in temporary impacts to that wetland.

According to the Revised Wetland Delineation Report, the non-wetland portions of the property are primarily open grassland that was used primarily as hay land, and is likely a pasture seed mixture sown for pasture use.

The applicant intends to mitigate for permanent wetland impacts by purchasing credits from the EFLMB, and will mitigate temporary impacts to a wetland as a result of remediation and restoration work by enhancing the onsite wetland.

Some cut and fill is at minimum necessary to construct a school and appurtenant facilities. Additionally, some cut and fill will be necessary for restoration/enhancement of wetland A-S to remove Dieldren. According to the applicant's SEPA checklist, approximately 30,000 cubic yards of cut and 29,000 cubic yards of fill will occur as a result of grading for the school and other facilities. Approximately 6,000 additional cubic yards of soil will be removed as a result of wetland remediation.

The applicant has submitted grading plans and these are reviewed concurrently. See public works engineering comments for further detail.

Applicant has received 404 and 401 approvals and is conditioned to obtain all state and federal permits prior to construction. Additional state permits needed may include a stormwater general permit from Ecology. SEPA review previously occurred under CUP-2018-027. Applicant is amending their SEPA concurrent with this application and the City is issuing an MDNS.

A Type II critical areas permit is required for activities with wetland impacts. The applicant is undergoing SEPA review concurrent with critical areas review.

As a **condition of approval**, prior to ground disturbance, the applicant must provide a schedule for work within wetlands and buffers, indicating that all construction activity in preserved wetlands, including Wetland A-S, is to occur between May 1<sup>st</sup> and October 31<sup>st</sup>, and that no bare soils will be exposed from November 1<sup>st</sup> to April 30<sup>th</sup>. This **condition of approval does not apply** to wetlands that will be permanently impacted.

### ***LCMC Chapter 18.300.120 Mitigation***

*(1) Approval. City approval of a mitigation plan is a prerequisite for approval of any development activities on critical areas.*

*(a) The applicant shall submit a written request describing the extent and nature of the proposed development activity on critical areas and buffers. The request shall include boundary locations and identification of all designated critical areas and buffers.*

*(b) The application for development shall include a mitigation plan prepared in compliance with this section. (See Appendix C, "Monitoring and Maintenance Plan" as an illustration of recommended plan.)*



(c) The city may require the applicant to prepare special reports evaluating potential adverse impacts upon critical areas and potential mitigation measures as part of the land use application process. These reports may include, but are not limited to, the following: stormwater management plan; hydrology, geology, and soils report; grading and erosion control plan; native vegetation report; fish and wildlife assessment and impact report; water quality report; wetlands delineation; and other reports determined necessary by the city.

(d) The city shall consult with state and federal resource management agencies and, in order to protect wildlife habitat or natural resource values, shall attach such conditions as may be necessary to effectively mitigate identified adverse impacts of the proposed development activity.

(e) The city may request third party "peer review" of an application by qualified professionals and may incorporate recommendations from such third-party reports in findings approving or denying the application.

(f) All reports recommending mitigation shall include provisions for monitoring of programs and replacement of improvements, on an annual basis, consistent with report recommendations and at years one, three, five, and seven. The city reserves the right to require reporting at year 10.

(g) The city may require replacement mitigation to be established and functional prior to project construction.

**(2) No Net Loss.**

(a) Mitigation efforts, when allowed, shall ensure that development activity does not yield a net loss of the area or function of the critical areas. No net loss shall be measured by:

(i) Avoidance or mitigation of adverse impacts to fish life; or

(ii) Avoidance or mitigation of net loss of habitat functions necessary to sustain fish life;  
or

(iii) Avoidance or mitigation of loss of area by habitat type.

(b) Mitigation to achieve no net loss should benefit those organisms being impacted.

(c) Where development results in a loss of wetland area, the mitigation plan shall demonstrate that wetland area is replaced consistent with the ratios described in Table 18.300.090(6)(k), Wetland Mitigation Ratios. The created or enhanced wetland shall be, acre for acre, of equal or greater biological values, including habitat value, and with equivalent hydrological values including storage capacity.

(i) Wherever possible, replacement or enhancement shall occur on site.

(ii) However, where the applicant can demonstrate that an off-site location is in the same drainage basin, and that greater biological and hydrological values will be achieved, the city may approve such off-site mitigation.

(iii) Wetponds established and maintained for control of surface water shall not constitute mitigation for wetland alterations.

(iv) Where there is a wetland within 25 feet of the toe of a slope equal to or greater than 25 percent, the buffer shall be a minimum of 25 feet beyond the toe of the slopes.

**(3) Mitigation Plan.** A mitigation plan shall provide for the design, implementation, maintenance, and monitoring of mitigation measures. A mitigation plan shall include but is not limited to the following:

(a) Methods and techniques to be used to mitigate impacts to critical areas;

(b) Explanation of methods and techniques, such as construction practices to be used to implement the identified mitigation methods;

(c) Methods and techniques for monitoring said mitigation and a proposed time frame for such monitoring.

**Finding**

A mitigation plan prepared by qualified professionals has been submitted to the City. Provisions in LCMC 18.300.120(1) through LCMC 18.300.120(3) have been met. The applicant proposes to achieve their mitigation obligations through both onsite restoration of impacted wetlands, and through the purchase of credits at an off-site mitigation bank in the same watershed. The applicants Updated Mitigation Plan and Addendum indicate that this combination of methods will ensure No Net Loss of critical area function as a result of the proposed development, or remediation and restoration of the contaminated wetland.

Monitoring is required. Monitoring requirements at years five, seven, and ten only apply to fully forested wetland buffers. This site does not include a fully forested wetland buffer, so this monitoring provision does not apply.

Wetland mitigation ratios do not apply to this proposal because the applicant is mitigating for permanent impacts to wetlands offsite at the EFLMB, at the bank-specified ratio. According to the Updated Mitigation Plan, the applicant indicates that wetland functions at the EFLMB will significantly increase as a result of the credit purchase enhancement. The applicant indicates that the offsite mitigation through the EFLMB will result in No Net Loss of wetland function.

As a **condition of approval**, the applicant shall implement all recommendations contained within the "Final Wetland Mitigation Plan – Updated" by Olson Environmental LLC., dated November 15, 2019 and the "SEPA Addendum for Wetland A-S Remediation/Restoration" by PBS Engineering and Environmental dated September 12, 2019.

As a **condition of approval**, the applicant shall monitor the mitigation strategies for a period of three years, with annual reporting due at years one, two, and three.

**LCMC Chapter 18.300.120(4)**

*(4) Stormwater Management. Any development on critical areas shall be consistent with either LCMC Chapter 18.320, Stormwater and Erosion Control, or the most recent version of the "Stormwater Management Manual for Western Washington," Washington State Department of Ecology, at the discretion of the public works director.*

**Finding**

The applicant has submitted utility construction plans which include storm sewer construction plans, and a grading and erosion control plan that are consistent with LCMC Chapter 18.320, Stormwater and Erosion Control.

LCMC Section 18.320.120(1) states that ground-disturbing activities of more than 500 square feet are subject to the requirements of City of La Center Erosion Control Guidelines. LCMC Section 18.320.120(2)(a) states that the creation of more than 2,000 square feet of impervious surface is subject to stormwater regulation.

The applicant is not increasing any impervious area as part of the contaminated material removal. The site plans submitted by the applicant previously addressed the water quality treatment and quantity disposal on the site using bioretention and detention ponds before out falling to the wetland.

**LCMC Chapter 18.300.170 Bonds to insure mitigation, maintenance and monitoring and**

*(1) When mitigation required pursuant to a development proposal is not completed prior to the city final permit approval, such as final plat approval or final building inspection, the city shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the city. If the development proposal is subject to mitigation, the applicant shall post a performance bond and a mitigation bond or other security in a form and amount deemed acceptable by the city to ensure mitigation is fully functional.*

*(2) The bond shall be in the amount of 150 percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater, and the cost of maintenance and monitoring for a 10-year period.*

*(3) The bond shall be in the form of an assignment of savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the city attorney or other method acceptable to the planning director.*

*(4) Bonds or other security authorized by this section shall remain in effect until the city determines, in writing, that the standards bonded for have been met. Mitigation bonds or other security shall be held by the city for a minimum of 10 years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.*

*(5) Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.*

*(6) Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.*

*(7) Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the city may demand payment of any financial guarantees or require other action authorized by the city code or any other law.*

*(8) Any funds recovered pursuant to this section shall be used to complete the required mitigation, maintenance or monitoring.*

**Finding**

The applicant is required to post a cash performance bond in a sufficient amount to cover the onsite mitigation. Offsite mitigation does not apply and no bond is required for the purchase of the credits at the EFLMB.

As identified previously in this report, as a **condition of approval**, the applicant shall post a cash performance bond in an amount and with surety and conditions sufficient to fulfill the requirements of all of onsite mitigation, including remediation and restoration. The bond must be prior to building permit approval.

**LCMC Chapter 18.300.180 Critical area inspections**

*Reasonable access to the site shall be provided to the city, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.*

**Finding**

As a condition of approval, the applicant shall comply with LCMC 18.300.180, ensuring reasonable access to the site is provided to city, state, and federal agency review staff, for a period of up to three years after construction.

**LCMC Chapter 18.310 LCMC Environmental Policy**

*The city of La Center has adopted this chapter under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA rules, WAC 197-11-904. The SEPA rules, Chapter 197-11 WAC, must be used in conjunction with this chapter.*

**Finding**

The original SEPA determination for the Type III conditional use permit (see final order file no. 2018-027 CUP) did not include any permanent or temporary wetland impacts. The applicant has submitted a SEPA addendum addressing both the temporary and permanent wetland impacts and the City will issue a modified SEPA determination addressing this issue.

The City reviewed the checklist and relevant materials, and the Responsible Official issued a Mitigated Determination of Non-Significance (MDNS) Threshold Determination on December 03, 2019. The City published notice of the MDNS in *The Columbian*, the La Center newspaper of record, and the Ecology SEPA Register. The City has received one SEPA comment from the Department of Ecology (see Exhibit B.2).

**LCMC Chapter 18.340 Native Plant List**

**LCMC Chapter 18.340.020 Applicability**

*(1) Any mitigation planting required pursuant to LCMC Chapter 18.300 shall use plants on the native plant list and not plants on the nuisance or prohibited plant lists. All property owners throughout the city shall avoid use of plants from the nuisance plant list and shall not landscape with any plants on the prohibited plant list.*

*(2) In situations where city review and approval of a landscaping plan is not required, the city strongly discourages use of plants on the nuisance and prohibited plant lists; however, unless specifically prohibited elsewhere in this code, this chapter does not prohibit use of these plants.*

**LCMC Chapter 18.340.020 Native plants, nuisance plants and prohibited plants**

*(1) The native plant list in this section identifies native plants historically found in southwest Washington and is divided into three groups: trees, shrubs, and herbaceous ground covers. Shrubs may not be used to meet criteria or conditions of approval that require trees. Indicator status refers to the frequency with which a plant occurs in a wetland, as derived from the National List of Plant Species That Occur in Wetlands: 1988 National Summary (USFWS, Biological Report 88(24), 1988). The indicator categories are as follows:*



- (a) Obligate wetland (OBL) plants occur almost always (estimated probability greater than 99 percent) under natural conditions in wetlands.
- (b) Facultative wetland (FACW) plants usually occur in wetlands (estimated probability 67 percent to 99 percent), but occasionally found in nonwetlands.
- (c) Facultative (FAC) plants are equally likely to occur in wetlands or nonwetlands (estimated probability 34 percent to 66 percent).
- (d) Facultative upland (FACU) plants usually occur in nonwetlands (estimated probability 67 percent to 99 percent), but are occasionally found in wetlands (estimated probability one percent to 39 percent).
- (e) Obligate upland (UPL) plants occur in wetlands in another region, but occur almost always (estimated probability greater than 99 percent) under natural conditions in nonwetlands in the Northwest region.

### Finding

The applicant includes a list of plants in both the Updated Mitigation plan and the Addendum to that plan, that will be used for both buffer restoration and Wetland A-S restoration after remediation.

The following plants that the applicant plans to include are on the approved Native plants list:

*Agrostis exarata*  
*Alopecurus geniculatis*  
*Beckmannia syziganche*  
*Carex obnupta*  
*Carex stipata*  
*Deschampsia caespitosa*  
*Eleocharis palustris*  
*Elymus glaucus*  
*Festuca rubra*  
*Glyceria occidentalis*  
*Hordeum branchyantherum*  
*Juncus tenuis*  
*Scirpus microcarpus*

The following plants are not listed in the Native plants, nuisance plants, or prohibited plants list:

*Bromus carinatus* (however, closely allied *Bromus vulgaris* is an approved Native plant)  
*Carex microptera* (however, other closely allied *Carex* species are approved Native plants)  
*Lupinus rivularis*

The applicant has not indicated that any proposed plants for mitigation planting are on the nuisance or prohibited plants lists. While *Bromus carinatus* and *Carex microptera* are not on the approved plants list, they are considered native wetland plants, and closely allied species are listed on the approved plants list. *Lupinus rivularis* is not on the approved plant list, but it is also considered a native wetland plant, and is appropriate in this context for planting.

## **LCMC Chapter 18.360 Archaeological Resource Protection**

### **LCMC Chapter 18.60.030 Applicability**

(2) *General.* The provisions of this chapter shall apply to all applications for ground-disturbing actions or activities for which a permit or approval is required:

(a) *Where any portion of the disturbance area is within predictive class 5 (high probability).*

### **LCMC Chapter 18.360.050 DAHP coordination and permitting**

(1) *Recording.* Any archaeological site identified pursuant to the provisions of this chapter shall be recorded with the Washington State Department of Archaeology and Historic Preservation (DAHP). A copy of the State of Washington Archaeological Site Inventory form and cover letter to DAHP shall be submitted to the city planner with the required survey report pursuant to LCMC 18.360.090(3). If an archaeological predetermination or archaeological survey was submitted to DAHP for review, proof of submittal must also be submitted prior to, or concurrent with, the application.

(2) *Permit Required.* A permit from DAHP shall be secured prior to digging, altering, excavating, and/or removing archaeological objects and sites or historic archaeological resources, or removing engraved, carved or painted records of tribes or peoples, or archaeological resources from Native American Indian cairns or graves. WAC 25-48-050.

### **LCMC Chapter 18.360.060 Documentation**

(1) *Documentation.* Archaeological sites shall be adequately investigated and documented. For purposes of this chapter, "adequately investigated and documented" shall mean that:

(a) *The investigation method, level of analysis, and area covered are sufficient to meet the requirements of LCMC 18.360.080 and 18.360.090, as appropriate; and*

(b) *The documentation is sufficient to allow another archaeologist to repeat the investigation and reach a similar conclusion. Adequacy shall be determined by the city planner.*

### **LCMC Chapter 18.360.070 Tribal notification**

(3) *Notification.* Where the city planner determines that the existence of an archaeological site is probable and an archaeological resource survey is required per LCMC 18.360.090, the city planner shall notify the tribes which have registered with the city of such determination. The city planner shall accept comments from registered tribes for 14 calendar days from the date the notification was received by the tribes

### **LCMC Chapter 18.360.090 Archaeological resource survey process**

(1) *Purpose.* The purpose of an archaeological resource survey is to determine whether an archaeological site actually does exist in a disturbance area, and to make a preliminary assessment of the potential significance of such a site. Surveys are to be conducted under the following circumstances:

(a) *A survey shall be required when the results of a predetermination indicate further investigation is necessary (LCMC 18.360.080(6)) and either:*

(i) *No previous survey has been done; or*

(ii) A previous survey or documentation is determined by the city planner to be inadequate (LCMC 18.360.060(1)).

(2) *Survey Standards.* Surveys shall include at a minimum the following elements and be carried out according to the following minimum standards:

(a) Surveys shall be performed by a professional archaeologist. Documentation shall be sufficient to allow another archaeologist to repeat the investigation and reach a similar conclusion. Adequacy shall be determined by the city planner.

(b) Surveys shall be performed in accordance with the best available technology and techniques commonly accepted as standards in the profession of archaeology.

(c) Artifacts may be collected during a survey only after consultation with DAHP.

(d) A thorough review of records, documentation, and other pertinent literature shall be performed.

(e) A systematic, 100 percent visual inspection of the ground surface shall be completed when conditions yield at least 50 percent visibility of the soil.

(f) Subsurface probes shall be required for all surveys as follows:

(i) Subsurface probes shall be no less than eight inches in diameter (12 inches or more preferred) at the ground surface, no less than eight inches in diameter at the base, and delve no less than 20 inches deep into natural soil deposits whenever possible.

(ii) No less than one subsurface probe shall be required for each quarter-acre. (For example, on a parcel of 2.33 acres, no less than nine probes would be required.)

(iii) The most appropriate locations for the subsurface probes shall be determined by the archaeologist.

(iv) All material excavated by subsurface probes shall be screened using both one-quarter-inch and one-eighth-inch hardware mesh cloths or equivalent.

(3) *Survey Reports.* A report shall be completed for each survey in accordance with subsection (2)(a) of this section and state guidelines. Survey reports shall be submitted to the city planner and filed with DAHP. When an archaeological site is identified, the State of Washington Archaeological Site Inventory form shall be submitted to DAHP with the survey report. LCMC 18.360.050(1).

(4) *Review of Survey Reports and Further Action.*

(a) Survey reports shall be filed with DAHP.

(b) Survey reports shall be reviewed by the city planner. Upon finding a survey report complete and adequate, the city planner shall determine whether an archaeological site has been identified. LCMC 18.360.080(6).

(c) Where the city planner determines that no archaeological site has been identified, the application may proceed through the remainder of the development review process.

(d) Where the city planner determines that an archaeological site has been identified, the city planner shall determine whether the site is likely to be potentially significant in accordance with the significance criteria of subsection (5) of this section and in consultation with DAHP.

(e) Where the city planner determines that an archaeological site has been identified and is not likely to be potentially significant, the application may proceed through the remainder of the development review process.

(f) Where the city planner determines that an archaeological site has been identified and is likely to be potentially significant, archaeological resources shall be further evaluated, avoided, properly mitigated, or properly recovered in accordance with the city planner's recommendation and the terms of any necessary permit from DAHP (LCMC 18.360.050(2)). Priority for thorough evaluation and data recovery shall be given to potentially significant archaeological sites. Monitoring and future corrective measures may be required to ensure that an archaeological site is not degraded by a permitted development.

(g) Where sites are to be avoided, the city planner shall require that appropriate land use restrictions be recorded using a proper legal instrument.

(h) An escrow or bond shall be required of the applicant to ensure that the site is treated in accordance with the city planner's recommendation and provisions of the state permit.

(5) *Significance Criteria.* A potential significant archaeological site is a site which:

(a) Contains archaeological objects at a density of at least 100 per cubic meter per stratigraphic or cultural unit; or

(b) Includes at least one feature; or

(c) Includes at least one relatively uncommon archaeological object; or

(d) Contains skeletal remains; or

(e) Is otherwise considered potentially significant by the archaeologist.

### **LCMC Chapter 18.360.100 Discovery principle**

(1) *Uncovering Archaeological Items.* In the event that any item of archaeological interest is uncovered during the course of a permitted or approved ground-disturbing action or activity:

(a) *Cessation of Activity.* All ground-disturbing activity shall immediately cease.

(b) *Notification.* The applicant shall immediately notify the city planner and DAHP.

### **Finding**

Due to the nature of the work, and the site's location in an area of high probability of encountering archaeological resources, the site is required to be surveyed. The applicant completed a Cultural Resources Survey consistent with *LCMC 18.360.090(2) & (3)* in June of 2018, with subsequent addenda submitted in October 2018, February 2019, and July 2019. No historical resources were found on site; however, one pre-contact, low-density lithic scatter, known as site 45CL1373, and one pre-contact lithic isolate were identified. Both cultural resources identified were recommended to be not eligible for listing in the National Register of Historic Places by qualified archaeological professionals. The pre-contact lithic isolate is located outside of the construction area and will remain undisturbed, and it does not require a permit from the USACE or DAHP. The applicant redesigned the entrance to the school to avoid impacting site 45CL1373, however impacts related to required road widening for the project are unavoidable. In July 2019, the applicant submitted an archaeological monitoring and site protection plan, associated with USACE permit #NWS-2018-696, for site 45CL1373. This plan includes pre-construction orientation, site protection fencing surrounding site 45CL1373 during construction, and capping and on-site monitoring of the portion of site 45CL1373 that cannot be avoided during construction. In addition to the archaeological monitoring and site protection plan, the applicant submitted an Inadvertent Discovery Plan.

During their consistency review with Section 106 of the National Historic Preservation Act, the USACE concurred that the cultural resources identified are not eligible and will require adherence to the *Archaeological Monitoring and Site Protection Plan for Site 45CL1373 and Inadvertent Discovery Plan* as a permit condition for USACE permit #NWS-2018-696. During their Section 106 review, the USACE consulted with the Cowlitz and Grand Ronde tribes, as well as Clark County, but received no comments. In a letter dated July 29, 2019, DAHP also concurs with the USACE's determination and permit stipulation.

As a **condition of approval**, the applicant must adhere to all recommendations as described in *La Center Middle School Development Project, Clark County, Washington: Archaeological Monitoring and Site Protection Plan for Site 45CL1373 and Inadvertent Discovery Plan* dated July 23, 2019.

### III.H Public Works and Engineering Analysis

#### ***LCMC Chapter 12.10 Public and private road standards***

*LCMC 12.10.040* states that the *City of La Center Engineering Standards for Construction* shall apply to all public road improvements unless modified by the director.

#### **Finding**

The proposed mitigation to the wetland will not impact any improvements in the public right of way and therefore no additional requirements will be necessary.

#### ***LCMC Chapter 18.320 Stormwater and Erosion Control***

*LCMC Section 18.320.120(1)* states that ground-disturbing activities of more than 500 square feet are subject to the requirements of *City of La Center Erosion Control Guidelines*. *LCMC Section 18.320.120(2)(a)* states that the creation of more than 2,000 square feet of impervious surface is subject to stormwater regulation.

The applicant is not increasing any impervious area as part of the contaminated material removal. The site plans submitted by the applicant previously addressed the water quality treatment and quantity disposal on the site using bioretention and detention ponds before out falling to the wetland.

The applicant submitted a Wetland Remediation/Restoration Plan with the revised SEPA for removal of Dieldren from the wetland. The applicant proposed to remove approximately 6,000 cubic yards of contaminated material at approximately 12 to 24-inch depth. The contaminated material will be replaced with topsoil and hydroseeding the disturbed area. No further plans need to be submitted for removal of contaminated material and replacement of topsoil. The City Erosion Control Standards require that any activity disturbance over 500 SF must comply with the City standards. Per the City Erosion Control Manual, from October 1<sup>st</sup> through April 30<sup>th</sup>, no soils shall remain exposed for more than two (2) days. From May 1<sup>st</sup> through September 30<sup>th</sup>, no soils shall remain exposed more than seven (7) days. The applicant proposed erosion control measures with the overall site plan that will be sufficient to perform this contaminated material removal.

As a **condition of approval**, site development earthwork for site grading and construction of sewer, storm drain, water and street systems shall be limited to the dry weather season between May 1<sup>st</sup> and October 31<sup>st</sup> with planting and seeding erosion control measures completed by October 1<sup>st</sup> to become established before the onset of wet weather. Grading may be done after October 31<sup>st</sup> and before May 1<sup>st</sup> with recommendations for wet weather construction from a Licensed Geotechnical Engineer.



## IV. CONCLUSIONS & RECOMMENDATION

The review authority finds the applicant has sustained the burden of proving the application complies with the applicable provisions of the La Center Municipal Code. The subject application should be **APPROVED, SUBJECT TO THE FOLLOWING CONDITIONS:**

### IV.A Planning Conditions-Critical Areas

1. The applicant shall temporarily mark the outer extent of the wetland buffer in the field and it shall be maintained until the completion of construction.
2. The applicant shall install permanent marking along the upland boundary of the wetland buffers and thereafter maintain the marking. The marking shall meet the requirements of *LCMC 18.300.090(6)(f)(iv)* including posting signs every 100 feet at a minimum.
3. The applicant shall record a conservation covenant on retained wetlands prior to issuance of building permits for the school building.
4. The applicant shall purchase the mitigation bank credits and provide documentation of the purchase to the City prior to impacting wetlands on the site.
5. The applicant must update their contingency plan to include how the applicant plans to meet the performance objectives stated, including wetland groundwater levels and vegetation growth. This condition must be met prior to undertaking activities that will impact the onsite wetlands.
6. The applicant shall pass an inspection site visit by city staff, verifying that required field markings have been installed before ground disturbance commences onsite.
7. The applicant shall post a cash performance bond in an amount and with surety and conditions sufficient to fulfill the requirements of all onsite mitigation, including remediation and restoration. The bond must be submitted prior to building permit approval.
8. Prior to ground disturbance, the applicant must provide a schedule for work within wetlands and buffers, indicating that all construction activity in preserved wetlands, including Wetland A-S, is to occur between May 1<sup>st</sup> and October 31<sup>st</sup>, and that no bare soils will be exposed from November 1<sup>st</sup> to April 30<sup>th</sup>. **This condition of approval does not apply to wetlands that will be permanently impacted.**
9. The applicant shall implement all recommendations contained within the "Final Wetland Mitigation Plan – Updated" by Olson Environmental LLC., dated November 15, 2019 and the "SEPA Addendum for Wetland A-S Remediation/Restoration" by PBS Engineering and Environmental dated September 12, 2019.
10. The applicant shall monitor the mitigation strategies for a period of three years, with annual reporting due at years one, two, and three.
11. The applicant shall comply with *LCMC 18.300.180*, ensuring reasonable access to the site is provided to city, state, and federal agency review staff, for a period of up to three years after construction.

#### IV.B Planning Conditions-Archaeological Resource Protection

1. The applicant must adhere to all recommendations as described in *La Center Middle School Development Project, Clark County, Washington: Archaeological Monitoring and Site Protection Plan for Site 45CL1373 and Inadvertent Discovery Plan* dated July 23, 2019.

#### IV.C Public Works Engineering Conditions-Grading

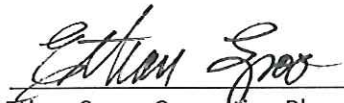
1. Site development earthwork for site grading and construction of sewer, storm drain, water and street systems shall be limited to the dry weather season between May 1<sup>st</sup> and October 31<sup>st</sup> with planting and seeding erosion control measures completed by October 1<sup>st</sup> to become established before the onset of wet weather. Grading may be done after October 31<sup>st</sup> and before May 1<sup>st</sup> with recommendations for wet weather construction from a Licensed Geotechnical Engineer.

### V. APPEALS

A final decision regarding a Type II application may be appealed by the applicant, applicant's representative, or by any person, agency, or firm with an interest in the matter within 14 calendar days of this decision date or by January 23, 2020. Appeals shall contain all information specified in LCMC 18.30.130. The public record for this file is available at the City's Public Works Building, 305 NW Pacific Highway, La Center, Washington between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Please contact Sarah Dollar at 360-263-7665 for further information.

For an appeal regarding a decision subject to a Type II process, the Finance Director/City Clerk shall schedule a public hearing to be held by the hearings examiner not more than 35 days from the date a complete appeal was timely filed. Notice and a staff report shall be provided, a public hearing shall be conducted, and a decision shall be made and noticed regarding the appeal. LCMC 18.030.130(4).

Signed:



Ethan Spoo, Consulting Planner, WSP USA, Inc.



Anthony Cooper, P.E.  
City of La Center  
City Engineer

## Exhibits

See Exhibits List – Attached

### Exhibit A – Application Materials

- A.1 Master Land Use Application
- A.2 Revised Wetland Delineation Report
- A.3 Updated Mitigation Plan
- A.4 East Fork Lewis-Wetland Mitigation Banking Instrument
- A.5 Final Wetland A-S Restoration
- A.6 Remedial Action Work Plan
- A.7 Grading and ESC Plans
- A.8 Utility Plans
- A.9 Needs and Alternatives Analysis
- A.10 Narrative Clarification
- A.11 Cultural Resources Survey June 19, 2018
- A.12 Cultural Resources Survey Addendum 1, October 10, 2018
- A.13 Cultural Resources Survey Addendum 2, February 25, 2019
- A.14 Cultural Resources Survey Addendum 3, July 1, 2019
- A.15 Archaeological Monitoring and Site Protection Plan for Site 45CL1373 and Inadvertent Discovery Plan
- A.16 Letter from USACE to DAHP, dated July 26, 2019
- A.17 Letter from DAHP to USACE, dated July 29, 2019

### Exhibit B – SEPA

- B.1 SEPA Addendum
- B.2 Department of Ecology Comment Letter, dated December 17, 2019

### Exhibit C – Public Hearing Notice

- C.1 Public Hearing Notice