Chron

FINDINGS AND RECOMMENDATION OF THE HEARING EXAMINER OF THE CITY OF OLYMPIA

CASE NO: File No. 97-0187 (Recommendation on Master Plan Approval for Briggs Urban Village)

APPLICANT:

Briggs Development Company
Gary Briggs, President

SUMMARY OF REQUEST:

The Applicant requests master plan approval under Chap. 18.57 of the Olympia Municipal Code (OMC) for an urban village under Chap. 18.05 OMC.

LOCATION OF PROPOSAL:

The proposed urban village would be located on an approximately 133 acre site immediately west of Henderson Boulevard and north of Yelm Highway. Its legal description is found at Exhibit (Ex.) 1, Attachment (Att.) C.

SUMMARY OF DECISION:

Approval of the proposal is recommended, subject to conditions. Most of the conditions may be met after approval of the Master Plan. However, please note that Condition 40 would require an additional showing by the Applicant as part of City Council consideration.

HEARING AND RECORD:

The hearing on this request was held before the undersigned Hearing Examiner on June 30, 2003. At the hearing, the following individuals testified under oath:

Susan Messegee, Associate Planner for the City of Olympia
Community Planning and Development Department
837 7th Avenue S.E., P.O. Box 1967
Olympia, WA 98507

Jeff Fant, City of Olympia Engineering Review
Community Planning and Development Department

837 7th Avenue S.E., P.O. Box 1967
Olympia, WA 98507

Alexander W. Mackie
Perkins Coie, LLP
111 Market Street NE, Suite 200
Olympia, WA 98501-1008

Joe Rousch
City of Olympia Urban Forester
Community Planning and Development Department
837 7th Avenue S.E., P.O. Box 1967
Olympia, WA 98507

Mark Blosser
Project Engineer
Public Works Department
P.O. Box 1967
Olympia, WA 98507

Dave Smith
City of Olympia Traffic Engineer
Public Works Department
P.O. Box 1967
Olympia, WA 98507

Todd Stamm
City of Olympia Environmental Review Officer
Community Planning and Development Department
837 7th Avenue S.E., P.O. Box 1967
Olympia, WA 98507

Jim Lazar
1907 Lakehurst Dr. SE
Olympia, WA 98501

John Ridgway
1617 Legion SE
Olympia, WA 98501

Brenda Bulger
4215 Amber Court
Olympia, WA

Roger Gellenbeck
City of Tumwater Director of Development Services
555 Israel Road SW
Tumwater, WA 98501

Chris Carlson
City of Tumwater Senior Planner
Development Services Department
555 Israel Road SW
Tumwater, WA 98501

Kim Selby
Planner and Landscape Architect
NBBJ
111 South Jackson Street
Seattle, WA 98104

At the hearing, the following exhibits were admitted as part of the official record of these proceedings:

Exhibit 1. Staff Report by Olympia Community Planning and Development Department for Case No. 97-0187, prepared by Susan Messegee on behalf of Site Plan Review Committee and dated June 30, 2003. This Exhibit includes the 34-page Staff Report and Attachments A through N, identified on Page 34 of the Staff Report.

Exhibit 2. Letter from Bob Wolpert, Olympia School District, to Susan Messegee, dated May 30, 2003.

Exhibit 3. Letter from Lisa Pearson, state Department of Ecology, to Susan Messegee, dated June 9, 2003.

Exhibit 4. Letter from Pat Cole to Hearing Examiner, dated June 30, 2003.

Exhibit 5. Letter from Bob Jacobs to Hearing Examiner, dated June 30, 2003.

Exhibit 6. Letter from Donald Fagerstrom to Susan Messegee, dated June 25, 2003.

Exhibit 7. E-mail from Joe Kane to Todd Stamm, sent June 27, 2003.

Exhibit 8. Expanded map showing neighborhood context.

Exhibit 9. Letter from Emily Ray to Hearing Examiner, dated June 9, 2003.

Exhibit 10. Letter from Alexander W. Mackie to Hearing Examiner, dated June 27, 2003.

Exhibit 11. Videotape showing "design parameters", offered by Gary Briggs, Randy Benedict and Bill Johnson.

Exhibit 12. Maps 1-19 and 23-25 (2003), submitted by Applicant.

Exhibit 13. 2001 Briggs Village Map.

Exhibit 14A-14D. Enlarged versions of four images from Ex. 1, Att. D.

Exhibit 15. Geotechnical Report by Geotechnical Testing Lab, dated June 27, 2003

Exhibit 16. Site layout transparency overlaying aerial photograph (1-03).

Exhibit 17. Revision of Briggs Village Master Plan dated June 2003, proposed by the Applicant.

Exhibit 18. Landscape Addendum, revised April 17, 2003.

At the close of the hearing, the record was left open for additional submittals from Olympia, Tumwater and the Applicant. Exhibits 19-21, below, were received in response. A letter dated July 9, 2003 was also received from Margaret McPhee after the hearing. This letter, however, is beyond the scope for which the record was left open and cannot be admitted.

Exhibit 19. Memorandum from Susan Messegee to Hearing Examiner, dated July 2, 2003, with attachments; letter from City of Tumwater to Hearing Examiner, dated July 11, 2003; letter from David Hanna to Hearing Examiner, dated July 11, 2003; memorandum from Todd Stamm to Hearing Examiner, dated July 15, 2003; memorandum from David Hanna to Todd Stamm, dated July 15, 2003.

Exhibit 20. Letter from Susan Messegee to Thomas R. Bjorgen, dated July 16, 2003, with attachments. (Some of these attachments are documents from Ex. 19.)

Exhibit 21. Letter from Sandy Mackie to Thomas R. Bjorgen, dated July 21, 2003, including attached exhibits 1-4.

After the close of the hearing, the Hearing Examiner posed three questions concerning hazardous materials to those parties who had submitted evidence on the subject. Those questions and the Applicant's response are Exhibits 22 and 23, described below.

Exhibit 22. E-mail from Tom Bjorgen to Susan Messegee and Alexander Mackie, sent August 1, 2003.

Exhibit 23. E-mail from Melody Allen of Entrix, Inc. to Sandy Mackie, sent August 6, 2003 and delivered to the Hearing Examiner on August 7, 2003, together with cover letter from Alexander W. Mackie to the Hearing Examiner delivered on August 7, 2003.

After consideration of the testimony and exhibits described above, the Hearing Examiner makes the following findings of fact, conclusions of law, and recommendation.

FINDINGS OF FACT IN SUPPORT OF RECOMMENDATION

I. Nature of the proposal and its impacts.

1. The Applicant proposes to build an urban village on the property described above. The size of the site is variously described as approximately 133 or 137 acres, but is precisely defined by the legal description in Ex. 1, Att. C. Ex. 1, Att. A, p. 8 states that 3.7 acres of the proposed development lies within the City of Tumwater. Testimony at the hearing, though, made clear that all property subject to this proposal is within the City of Olympia.

2. The project site is zoned Urban Village and is in the Rural environment under the Shoreline Management Act.

3. The proposed urban village center is at least one mile from any other urban village center or community oriented shopping center.

4. The proposed urban village would be a mixed-use development with a variety of housing and commercial types. The Final Environmental Impact Statement (FEIS), Ex. 1, Att. K, p. 1-2, estimates that the entire project will be constructed over a period of 18 to 25 years.

5. The residential development would be focused in four areas, which are shown in the FEIS at Fig. 1-3. The North Residential area, covering 32 acres,[1] would contain 75 single-family detached houses and 22 single-family townhouse units. The West Residential area, 51 acres, would contain 58 single-family detached houses, 40 townhouse units, 28 units in duplexes, and 72 multi-family apartment units. The Central Residential area, eight acres, would contain 20 townhouse units and 72 multi-family apartment units. The East Residential area, 25 acres in size, would contain 200 senior living units, 14 units in duplexes, and 60 multi-family apartment units. In addition to these four neighborhoods, the Village Center area (Mixed Use district) would contain 140 residential units. With the nine housing units presently on the site, the total number of housing units proposed is 810. (These dwelling type figures are from the revised Briggs Village Master Plan, Table 3, found at Ex. 17.)

---

[1]The acreage numbers in this Finding are taken from the FEIS and differ somewhat from the figures in Ex. 1, Att. 2, Map 19. These differences do not affect the terms of this recommendation.

6. The single-family detached units are largely placed along the edges of the site, closest to similar housing found in adjacent neighborhoods. Duplex, townhouse and apartment units are placed more in the interior of the site, away from adjacent neighborhoods.

7. Each of the four residential areas would include one or more "commons", recreational areas aimed at serving the families of each neighborhood. These commons areas would not be open to the public. A four-acre neighborhood park to be owned by the City would be located immediately south of the Central Kettle. This park would be open to the public. The proposed location of this park is shown on Ex. 1, Att. D.

8. The village center or mixed use area is shown on Fig. 1-3 of the FEIS. It would include retail uses, offices and housing in a series of three-story buildings surrounding the Town Square. The Town Square is a pentagonal park or "green" approximately 1 acre in size. The three-story buildings facing Town Square would contain retail at ground level, topped by offices and/or housing. Buildings facing the radial streets extending from Town Square are proposed as a mix of office and housing. The Village Center is planned to provide approximately 224,000 square feet of commercial space, including a grocery of nearly 50,000 square feet, approximately 60,000 square feet of retail space, and approximately 114,000 square feet of offices and services.

9. A number of potential transit stops are identified within the village center on Ex. 1, Att. B, Map 14. The specific location and design of the transit stop required by OMC 18.05.050 C. 1 may be determined at the later approval stage for the village center.

10. Approximately 40% of the total site is proposed to be open space, including the neighborhood park, the Town Square, the neighborhood commons areas, the glacial kettles and areas around them, and the Arboretum. The latter would include the area around the Northeast Kettle and the shoreline of Ward Lake, as shown on Fig. 3-1 of the FEIS and maps at Ex. 1, Att. B and Ex. 12. The Arboretum would be owned by a private foundation and would be open to the public subject to payment of a fee.

11. The Applicant proposes to construct over three miles of trails, as shown by the reddish lines on Ex. 1, Att. B, Map 12. The trail segments through the neighborhood commons areas would not be open to the public. The segments in the Arboretum would be open to the public subject to a fee. The remainder of the trail system would be open to the public without charge.

12. The Arboretum trails would not provide physical access to Ward Lake. The Applicant would place a structure near the Northeast Kettle which would afford the public a view of Ward lake.

13. Three vehicular accesses to the urban village are proposed from Yelm Highway: a residential street connection opposite the existing access to the Farm subdivision, the intersection with proposed Briggs Boulevard just west of the YMCA complex, and a driveway to the

proposed senior housing east of Henderson Boulevard. Five accesses to Henderson Boulevard are proposed: one entry to the grocery store area, one entry to the Town Square, the intersection with proposed Briggs Boulevard north of Town Square, and two entries to the North Residential area. The Applicant proposes to widen Henderson Boulevard to a boulevard street section.

14. The Applicant also proposes to reserve a right-of-way stub for a future connection of the North Residential area to the north and to provide a connection from the North Residential area to Pifer Street for pedestrian, bicycle and emergency access only. No connection to Delta Lane to the west is proposed.

15. The proposed residential density of the Mixed Use district, as calculated for maximum density purposes, is 12 units per acre. Ex. 1, Att. A, p. 61. The proposed residential density for maximum density purposes for the remainder of the site is seven units per acre. Id. The same for the entire site is eight units per acre.

16. The proposed residential density of the Mixed Use district, as calculated for minimum density purposes, is 11 units per acre. Ex. 1, Att. A, p. 62. The proposed residential density for the same purpose for the remainder of the site is 9.5 units per acre. Id. The same for the entire site is ten units per acre.

17. At least 90% of all residences are within one-fourth of a mile from the perimeter of the village center.

18. Parking for residents and customers of the Mixed Use district would be provided both on-street and in off-street lots and structures. Two-level parking structures are proposed in the north and west blocks of the Mixed Use district.

19. The Applicant proposes to construct the urban village in five phases: the North Residential area, the West Residential area, the Central Residential area, the Village Center (Mixed Use district), and the East Residential area. These phases are depicted on pp. 3-5 through 3-15 of the FEIS. The FEIS estimates that each phase would be built over approximately five years and that there could be some overlapping of construction of the phases.

20. The Application materials and the FEIS analyze the phasing in the order given above. However, the Applicant asks to be able to construct phases in any other sequence, as long as all requirements of law are met. The Applicant, though, does not propose to use different phases or to construct the project without regard to the proposed phases.

21. The Applicant proposes to construct the commons and trail network in each phase with that phase. There are, however, some potential inconsistencies in the phasing of other improvements. The FEIS at p. 3-5 states that the neighborhood park would be purchased for "future construction" in the West Residential phase (second phase), while at p. 4-31 it states that the park would be constructed in that phase. The FEIS at p. 3-5 states that restoration of the

Central Kettle would be initiated in the North Residential phase (first phase) and "continued" in the West Residential phase. However, at p. 4-11 the FEIS states that mitigation work in the Central Kettle would be completed and post-construction monitoring initiated in the West Residential phase. Finally, the FEIS at p. 3-5 states that the Central Residential phase would include the Arboretum facility, associated parking, and its preliminary trail network. Page 3-12, though, states that the Arboretum would not be completed until the East Residential phase.

22. The Applicant proposes to use the six glacial depressions or kettles on the property for stormwater infiltration. These kettles are described in more detail in Part II of the Findings. The Applicant originally proposed to direct the bulk of the stormwater to the South Kettle, resulting in the loss of its 1.5 acres of wetlands.

23. The City staff opposed this, proposing instead that stormwater be routed for the most part into the kettle into which it would flow under natural conditions. See Staff Report, Ex. 1 at pp. 7-8, and testimony of Jeff Fant. The Staff proposes that a diversion device be installed that can direct water into either the South Kettle or the Central Kettle, to prevent overflow, to prevent damage to trees and to insure adequate water to sustain the wetlands. The Staff also proposes an overflow system for the Central Kettle that would allow water beyond its capacity to discharge to another kettle off the property to the west. This would only occur in conditions more severe than the 100-year storm. The Staff testified that an overflow system is not needed for the South Kettle, due to its size. The combination of the size of the South Kettle and the diversion device suggested above by the Staff will protect Yelm Highway and its retaining wall from damage. Finally, the Staff proposes that compost filters be used to treat stormwater.

24. The Applicant changed its proposal to mimic stormwater flows into natural basins and abandoned the notion of routing most stormwater to the South Kettle. See Ex. 10, p. 10. The Applicant, though, desires to be able to use infiltration galleries and ponds, as well as compost filters, for stormwater treatment. See Ex. 21, p. 10.

25. The p.m. peak hour vehicle trips generated by this project which are new to the network are estimated in Table 4-5 of the FEIS. The North Residential phase would add 85 new p.m. peak hour trips. The North and West Residential phases combined would add 222 new p.m. peak hour trips. The entire urban village is estimated to add 1082 new p.m. peak hour trips.

26. The distribution of these new trips was projected by the FEIS using the regional transportation model. For the North, West and Central Residential phases, the Olympia 2005 model was used, which includes roadway improvements anticipated through that year. For the Village Center and East Residential phases, the Olympia 2020 model was used, anticipating roadway improvements through that year.

27. Using this and other information, the FEIS projects future traffic conditions at eight intersections. For each intersection, Table 4-6 of the FEIS shows the level of service (LOS) and

traffic delay existing in 2000, projected in 2007 without the project, projected in 2007 with the North Residential phase, projected in 2007 with the North and West Residential phases, and projected in 2020 with the full urban village. LOS's are given on a scale of A to F, with A the best and F the worst condition. The minimum acceptable LOS for the intersections examined is D.

28. Of the 2007 projections, Table 4-6 of the FEIS shows that three of the intersections examined will have a minor street left turn at a substandard LOS in 2007 with the North and West Residential phases. For two of those intersections, the intersection average will also be at a substandard LOS with those phases. According to the Table, however, both the minor left turn and the intersection average for these intersections would have been at the same substandard LOS in 2007 without these phases, but the phases do increase the amount of delay. Of the remaining intersections, six would be at an acceptable LOS in 2007 with North and West Residential phases. Information is not provided for the seventh.

29. Of the 2020 projections, Table 4-6 of the FEIS shows that five or six of the intersections will be at a substandard LOS in 2020 with the completed urban village.

30. The FEIS also examines the intersections of the urban village's streets or driveways with Henderson Boulevard and Yelm Highway. It projects that in 2007 with North and West Residential phases, the four such intersections then constructed would operate at an acceptable LOS. See FEIS Table 4-7. In 2020, with the full urban village completed, six of the seven intersections constructed would have a minor street left turn at a substandard LOS. FEIS Table 4-7. The average for each of those intersections, though, would be at LOS A.

31. The Olympia School District currently provides bussing to pupils living more than one mile from the school or who must use hazardous walking routes. Centennial Elementary and Washington Middle School are approximately one mile from the project site. Pioneer Elementary and Olympia High are approximately .75 mile from the project site. Thus, pupils from the urban village in the latter two schools would not be provided with school bus transportation.

32. The FEIS at p. 4-51 projects that high school students would walk to school along either Henderson Boulevard or Pifer Street. Those walking on Pifer would cross North Street on a marked crosswalk. Those walking on Henderson would cross North Street at traffic signal. The Olympia School District points out at Ex. 2 that there is not a continuous sidewalk on Pifer from the project site to North Street and that the Pifer sidewalk is not aligned with the crosswalk on North Street, forcing students to cross Pifer before crossing North.

33. The FEIS does not project the walking route of Pioneer Elementary pupils. The School District, though, states that pupils from Pioneer, Washington and the High School will walk from the urban village north on Henderson and need to cross North Street. Ex. 2. The District has concerns for student safety at that intersection, especially if additional traffic turn

lanes are built. Id. The District and the FEIS state that sidewalks are provided from the project site to Pioneer along Henderson Boulevard and Carlyon Avenue, except along the project site and one adjacent lot. FEIS, p. 4-51. The comment letter in the FEIS from Mr. Lazar states that "many" of the walking routes to Pioneer, Washington and Olympia High have sidewalk deficiencies.

34. The FEIS did not examine the effect of vehicle trips to the schools, because those trips are not at the p.m. peak hour analyzed in the traffic studies. The comment letter from Mr. Lawrence in the FEIS states that these trips will depress the LOS at several intersections and will cause problems with queuing traffic at Pioneer Elementary. The comment letter from Mr. Kane in the FEIS states that one Olympia School District study showed that less than 20% of the students eligible for bus transportation actually use it. The rest, Mr. Kane states, arrive by private vehicle. Mr. Kane also states that the driveway at Pioneer Elementary is at its maximum length and will not accommodate any more queuing vehicles.

35. The North and West Residential phases would add approximately 70 p.m. peak hour trips at a crosswalk on Henderson at Carlyon, which is used by students on the east side of Henderson to reach the elementary and high schools and by students on the west side of Henderson to reach Washington Middle School. This crosswalk is under crossing guard control during student arrival and departure times.

36. The Olympia School District projects that 265 children will be added to the public elementary, middle, and high schools as the result of the proposed urban village.

II. **Existing conditions.**

37. The existing conditions on the site are shown on the maps entitled "Existing Conditions" and "Wetland Boundary Survey" in Ex. 1, Att. B. Aside from nine residences on the site, the site has housed the Briggs nursery operations for nearly 100 years. These operations consist of field and container production, laboratory facilities and a landscape sales yard, along with ten structures associated with nursery operations. The nursery currently has over 200 employees and sells plants to 38 states and 17 foreign countries. A 40,300 square foot YMCA building occupies the northwest corner of the intersection between Yelm Highway and Henderson Boulevard.

38. The nursery operations are presently being moved to Porter, in Grays Harbor County. The operations located west of Henderson Boulevard are expected to be moved by 2003 and those east of Henderson by 2007.

39. The project site is gently sloped, with the exception of six glacial kettles or depressions ringing the site. The location of the kettles is shown on the "Wetland Boundary Survey" in Ex. 1, Att. B. The kettles range in size from one to nine acres. Forested, scrub-shrub, emergent, aquatic and open water vegetation communities are present in one or more of

them. Portions of the Northwest, North, Northeast, and Southeast kettles contain upland forest.

40. Each kettle contains a wetland at its bottom: the South Kettle has a Category III wetland 1.5 acres in size, the Central Kettle has a Category II wetland 4.27 acres in size, the Northwest Kettle has a Category III wetland 1.79 acres in size, the North Kettle has a Category III wetland .12 acres in size, the Northeast Kettle has a Category III wetland .88 acres in size, and the Southeast Kettle has a Category III wetland .9 acres in size.

41. The hydrology of the kettles is described in detail on pp. 2-24 through 2-28 of the FEIS. In summary, the kettles receive water in varying degrees from precipitation, regional groundwater, surface and transient subsurface flow from precipitation, and irrigation return flow. In addition, the Central and Northwest Kettles receive stormwater piped in from adjacent developments.

42. Each of the kettle wetlands has been disturbed by prior nursery operations. Buffers have been reduced to the steep kettle side slopes in the Southeast, Northwest, North and Northeast kettles. Buffers have been diminished further in the South, Southeast, Central and Northwest kettles, where portions of the kettle sides have been logged and cleared. Faunal support and habitat has been further disrupted by filling in the South, Central, Northwest and Northeast kettles.

43. Unlike the others, the Northeast Kettle has developed an impermeable layer that prevents infiltration of its waters. Sediments and water quality in the Northeast Kettle have been degraded by nutrient loading from past nursery practices. Further, the Northeast Kettle has received most of the runoff over the years from the areas of potential contamination from nursery operations. The Northeast Kettle has two eight-inch outlet pipes that drain directly to Ward Lake. A Department of Ecology employee observed on one occasion a "dark, rolling plume of turbidity" in Ward Lake from the discharge from the Northeast Kettle.

44. The Department of Ecology has determined the Southeast Kettle to be contaminated, containing the pesticide Dieldrin and the PCB Arochlor 1254 in concentrations exceeding regulatory limits.

45. Ward Lake is a 65 acre lake which borders the proposed urban village to the east. The site immediately adjacent to Ward lake is steep, with slopes of approximately 60%. The lake's mean depth is 33 feet and its maximum depth is 67 feet. The lake is fed by groundwater springs and has no natural surface water inlet or outlet. As noted above, two outfall pipes from the Northeast Kettle drain into the lake.

46. According to the FEIS, the Department of Ecology deems Ward Lake's water quality to range from relatively good to excellent. On the other hand, the lake is on the State's 303(d) list of impaired water bodies, because it exceeded the criterion for polychlorinated biphenyls (PCBs). The lake also contains sediments with arsenic concentrations exceeding sediment quality

guidelines.

47. Thurston County and the Department of Ecology state in the FEIS that algae blooms in Ward Lake are not common, but occasionally moderate densities of algae are observed. A user of Ward Lake reports annual algae blooms since 1997, with a blue-green algae bloom in March 2003. See Lazar comment letter in FEIS, Ex. 1, Att. K.

48. Approximately 90% of the project site is covered with Yelm fine sandy loam soil, with moderately rapid permeability, slow runoff and low hazard of water erosion. The remaining soils types are Mukilteo muck in the South Kettle and Norma silt loam in the Southeast Kettle. These have ponded or slow runoff and low water erosion hazard.

49. Slopes with grades of over 40% are found on the sides of each kettle, along the shore of Ward Lake and in several areas where the Applicant has graded hillsides to create protected areas for plant cultivation. These are shown on the "Steep Slopes" map in Ex. 1, Att. B. According to the Geotechnical Report, Ex. 15, these latter, "non-natural" slopes are stable and are capable of meeting Uniform Building Code requirements for grading and structural fill.

50. The nursery operations over the years have involved the use of liquid and solid fertilizers and liquid and solid pesticides and herbicides. Undetermined amounts of petroleum products and cleaning solvents may also have been released into soil and/or ground water on the site.

51. As explained in the FEIS at pp. 2-8 and 2-9, a cleanup level for hazardous substances under MTCA[2] is defined as a concentration "that is determined to be protective of human health and the environment under specified exposure conditions." Of the three methods, A, B and C, used for establishing cleanup levels, Method B is the standard method and is best suited to this site. Unless otherwise noted, all references to cleanup levels below are to Method B.

52. Between 1996 and 2000 five separate sampling programs were carried out on the site. These are described in detail on pp. 2-9 through 2-17 of the FEIS. These programs took over 120 samples from 70 different locations on the site. Many of these locations have been tested for 118 to 190 different elements and compounds typically associated with nursery operations.

53. Of the 120 samples taken, eight showed substances that exceeded the standard cleanup levels for protection of groundwater. Those substances are described in detail on pp. 2-16 and 2-17 of the FEIS and are summarized as follows:

---

[1]The state Model Toxics Control Act, Chap. 70.105D RCW.

Thallium was found at concentrations above state MTCA cleanup levels for protection of groundwater in six of 21 samples;

DDE concentrations were found just above the standard carcinogen cleanup levels for protection of groundwater;

DDT was found at levels significantly higher than the standard carcinogen and non-carcinogen cleanup levels for protection of groundwater;

Dieldrin, a pesticide, was found at levels significantly higher than the standard carcinogen cleanup levels for protection of groundwater;

Aroclor 1254 (PCB) was found at levels slightly higher than the standard carcinogen cleanup levels for protection of groundwater.

In discussing these five substances, the FEIS concludes for various reasons that it is "unlikely" that any will adversely affect surface or groundwater. See FEIS pp. 2-16 and 2-17, Ex. 1, Att. K.

54. The FEIS states on pp. 2-25 and 2-26 that OCDD, which is octachlorodibenzodioxin, was detected in the Central Kettle. The Applicant's consultant states that a low concentration of OCDD was detected in a water sample from the Central Kettle and that other low levels of polychlorinated dibenzodioxins (PCDDs) and polychlorinated dibenzofurans (PCDFs) were detected in a sediment sample from the Central Kettle. Ex. 23.

55. PCDDs and PCDFs, including OCDD, are listed as dangerous or hazardous wastes under state and federal law. See Ex. 23. No cleanup levels have been established for these compounds under MTCA. The federal Environmental Protection Agency (EPA) uses a toxicity equivalence (TEQ) method to evaluate these compounds, as explained in Ex. 23. The TEQ for both the water and sediment samples from the Central Kettle were below EPA's action level. Ex. 23. This exhibit also states that site-specific cleanup levels for dioxin/furan compounds "are established by risk assessment methodologies by Washington and the EPA to determine cleanup levels . . ." Ex. 23 concludes by stating that "[a]s identified in the supporting materials to the EIS, the levels are sufficiently low as to require no further action." However, the evidence is not clear as to whether these "risk assessment methodologies by Washington and the EPA" were actually carried out to determine cleanup levels for dioxin/furan compounds for this property.

56. As found above, the Department of Ecology has determined that the Southeast Kettle contains the pesticide Dieldrin and the PCB Arochlor 1254 in concentrations exceeding regulatory limits. FEIS, Letter from Lisa Pearson.

57. The Applicant intends to supply needed irrigation water for 24.5 acres of the urban village from groundwater from a well on the central part of the site. The well pumps from a

depth of 328 feet, with a static water level in 1986 of 78.5 feet. This irrigation use is expected to require 40 acre-feet of water per year.

58. Groundwater in the project area moves both laterally and vertically, with a general lateral movement toward the Deschutes River. Groundwater discharges locally to springs, creeks, lakes and kettles, and through withdrawal from wells. In the fall of 2000, water from the Briggs well was tested for metals of concern associated with nursery operations, including thallium, chromium, beryllium and arsenic. None of the metals of concerns were detected in the deep groundwater drawn from the well. From this, the FEIS concludes at p. 2-31 that it is unlikely that any compounds associated with nursery operations would enter groundwater over 200 feet beneath the project site.

59. An approximately five-acre debris field/solid waste site near the southeast portion of the Central Kettle was tested in 2001 and 2002 and found to contain some chemicals from nursery operations. The cleanup of that site has been completed and the Department of Ecology expects it to be delisted from the hazardous sites list by the end of summer 2003. See Ex. 3.

60. The tree inventory for the site is shown on Map 25 of Ex. 1, Att. B. Upland forest covers approximately ten acres of the site. These forested areas are located near portions of the project site boundaries, including a portion of the Ward Lake shoreline, and near the Central, Southeast, Northwest, North and Northeast Kettles. The upland forest includes both deciduous and coniferous trees, such as big-leaf maple, red alder, Douglas fir, and western red cedar. Additional species in the understory include vine maple, Indian plum, salal, sword fern and Oregon grape. The upland forest provides habitat to the bird and mammal species listed on p. 2-35 of the FEIS.

61. A large Douglas fir over five feet in diameter stands on the project site near Yelm Highway, across from the entrance to the Farm subdivision. This tree is pictured in the attachment to Ex. 20 and its location is shown on Ex. 1, Att. L. The Applicant testified that it is a hazardous tree and should be removed. The City's Urban Forester, Mr. Rousch, testified that although some root compaction may have occurred, the tree is not hazardous.

62. Trees are also found in and around the six kettles, although only the North Kettle has a substantial forested wetland component. The kettles provide habitat for the bird and mammal species listed on p. 2-35 of the FEIS.

63. The tree plan proposed by the Applicant easily meets the requirement of Chap. 16.60 OMC to achieve at least 30 tree units per acre. See Ex. 1, Att. B, Appendix D, and Ex. 17.

64. Retention of the large Douglas fir described above would likely require restricting the proposed westernmost access onto Yelm Highway to pedestrian and emergency vehicles only. See Ex. 21, exhibit 1. The effects of this are described in Ex. 21, exhibit 1 and include displacing one single family unit, realigning the west residential neighborhood road, shifting

duplex units to the northeast, eliminating the direct trail connection between the west commons and the South Kettle, and increasing the driving distance for residents of the west neighborhood. The Applicant acknowledges, though, that even with these drawbacks, retention of the tree is feasible. Id.

65. The Applicant also points out that eliminating dwelling units may create noncompliance with the density and housing variety requirements of Chap. 18.05A OMC. The evidence shows, though, that this prospect is remote. First, Tables 6 and 7 of Ex. 1, Att. A (Compliance with Regulations) show that the proposed densities are well below applicable maximums and well above applicable minimums. Next, the Applicant's proposal of 51% single family and 49% multi-family is close to the edge of the ranges prescribed by OMC 18 Table 5.03A. However, the proposed total of 810 dwelling units will supply the flexibility to make whatever small adjustment is needed to stay within the ranges. Finally, with the exception of "over-commercial", the proposed four dwelling types are well over the 5% minimum required by OMC 18 Table 5.03B. See Ex. 17, Table 3. The adjustments needed to retain the large tree will not reduce the number of "over-commercial" units.

66. For the reasons in the above Findings, there are feasible and prudent alternatives on the site for proposed structures or improvements which would enable the large fir tree to be retained.

67. There are four main habitat types on the project site: urban horticulture (developed areas), kettle wetlands, upland forest, and upland scrub-shrub. None of the areas on or immediately adjacent to the site are considered significant wildlife habitat units under the City's 1994 Wildlife Habitat Study. The site does, though, provide a small, "satellite" link of habitat from Ward Lake west to the Deschutes River. FEIS, p. 2-34.

68. Records of the state Department of Fish and Wildlife do not disclose the presence of any sensitive animal species within the project vicinity. As of 1999, federal records disclosed no endangered, threatened or candidate species within the project area under the federal Endangered Species Act. Department of Natural Resources records do not identify any rare plants, high quality native wetlands or high quality native plant communities within the project boundaries. No important species under the City's Critical Area Ordinance are known to be present on the site.

69. Red-tailed hawks have been observed near the Central Kettle and a nest site has been reported in forest adjacent to and south of the Central Kettle. The likely nest is in the area outlined and labeled "Hawk Nest Site" on Ex. 1, Att. L. As discussed in the Conclusions, below, this decision recommends that no trees be cut in that area until it is determined as part of subdivision approval whether the trees may be preserved under Chap. 16.60 OMC. If warranted by law, the decisionmaker at that time may also require preservation of the trees to protect the hawk nest.

70. The park or recreation facilities in the project vicinity are listed on pp. 2-45 through 2-50 of the FEIS.

71. The proposed urban village is within the Olympia School District. That portion of the site north of South Street is within the attendance boundary of Pioneer Elementary School. The remainder of the site is within the attendance boundary of Centennial Elementary School. The entire site is within the attendance boundaries of Washington Middle School and Olympia High School. The School District's representative stated that in the future the District could bring the entire site into the attendance boundary of Pioneer Elementary. Ex. 2.

72. The enrollment at Pioneer Elementary is currently almost at capacity, although additional classrooms will be constructed as part of a recently authorized bond issue. Centennial Elementary, Washington Middle School and Olympia High School are each over capacity and rely in part on portable classrooms to serve students.

CONCLUSIONS OF LAW IN SUPPORT OF RECOMMENDATION

I. General requirements for master plan approval.

1. Development in the Urban Village district is allowed only after master plan approval, project approval, and issuance of construction permits. OMC 18.57.040 A. The approved master plan is an amendment to the official zoning map. OMC 18.57.040 C.

2. Applications for master plan approval are submitted to the Hearing Examiner and to the Design Review Board (DRB) for review and recommendation to the City Council. OMC 18.57.040 C. The City Council decides whether to approve or deny a requested master plan and, if approved, the conditions to which it is subject. OMC 18.57.080 D.

3. The DRB reviews the proposal for compliance with the design guidelines of Chap. 18.05A OMC. The Hearing Examiner reviews the proposal for compliance with the urban village requirements of Chap. 18.05 OMC and consistency with the Comprehensive Plan. This document contains the Hearing Examiner's review and recommendations.

II. The scope of the application.

4. This decision recommends that the proposed urban village master plan be approved, with conditions. Thus, it is important to identify the contents of the proposed master plan.

5. The original application consists of the textual material in Ex. 1, Att. A and the 25 schematic maps which make up Ex. 1, Att. B. All of this material is dated January 2001. Some of this material has been made obsolete by subsequent changes in the proposal.

6. Shortly before the hearing, the Applicant submitted a set of revised maps, numbered 1-19 and 23-25 and dated 2003. These maps are found at Ex. 12. The Applicant also submitted a revised "Briggs Village Master Plan" text, dated June 2003, to replace the corresponding document in Ex. 1, Att. A.

7. Also in June 2003, the Applicant prepared a document entitled "Briggs Village Design Guidelines, Vol. 2", which is at Exhibit 1, Att. D. This document is occasionally referred to in the record as the "Gold Book". It contains the design guidelines for the proposed urban village and incorporates the recommendations of the DRB.

8. The Staff's review of this proposal was based on the 2001 text and maps contained in Ex. 1, Att. A and B. The FEIS was based on the 2001 maps. With one exception, the DRB reviewed the 2001 maps contained in Ex. 1, Att. B. The version of Map 2 which it reviewed was that of April 2003.

9. On the other hand, the central changes to the 2001 material have been described through the testimony and exhibits and have been reviewed by the Hearing Examiner. For example, the material changes between the 2001 Land Use Map found in Ex. 1, Att. B and the 2003 Land Use Map found in Exhibit 12 are the four elements described in Ex. 21, Parts 2. a. i through iv on pp. 1-2. These changes are not material to the discussion of environmental impacts in the FEIS and have been reviewed as part of this recommendation decision. Similarly, the 2003 revised master plan text at Ex. 17 has been reviewed through this process. As already noted, the revised design guidelines at Exhibit 1, Att. D. simply incorporate the DRB recommendations into the proposed design guidelines.

10. With this background, the proposed Briggs Village Master Plan which is the subject of this recommendation decision consists of the following:

(a) the Briggs Village Master Plan text, stamped as received June 26, 2003, found at Ex. 17;

(b) the 2003 Land Use Map (Map 8) found in Exhibit 12, consistent with the DRB recommendation of May 15, 2003;

(c) Exhibit 1, Att. D.

On the advice of City staff, the Council may wish to incorporate additional 2001 or 2003 maps which are consistent with these documents.

11. Even though the proposed master plan consists of these three items, this recommendation relies in part on information from the 2001 text and maps which are consistent with these three items. The remaining Conclusions discuss whether the proposed plan complies with governing standards.

III. Comprehensive Plan.

12. As conditioned, the proposal is consistent with the goals and policies for urban villages found in the Comprehensive Plan.

IV. Shoreline Master Program.

13. With one exception, the proposal complies as conditioned with the policies and requirements of the Thurston Region Shoreline Master Program which can applied at this stage. The exception is that the residential lots shown do not comply with the minimum lot size or the required lot width for the Rural shoreline environment. Any plat submitted to create these lots must comply with these requirements.

14. Compliance with the remaining requirements of the Shoreline Master Program will be determined at the preliminary subdivision, land use approval or shoreline permits stage.

V. Use, density and development standards.

15. As conditioned, the proposal serves the purposes of urban villages found in OMC 18.05.020 and is compatible with surrounding property.

16. The proposal includes all of the uses that are required in urban villages and none of the uses that are not allowed, according to OMC 18.05.040.

17. OMC 18.05.080 B. and OMC 18.05.080 Table 5.05 require that this proposal comply with both the maximum housing density of 24 units per acre and the maximum average housing density of 14 units per acre. According to OMC 18.05.080 B., the maximum average housing density is applied separately to the project as a whole, the village center area by itself, and the remainder of the project by itself. The proposed residential densities of these three aspects of the proposal meet the maximum average housing density of 14 units per acre. See Ex. 1, Att. A. p. 61.

18. OMC 18.05.080 B. 2 requires that "individual project components" comply with the maximum housing density of 24 units per acre. "Project component" is not defined. It cannot mean the village center versus the rest of the project, since each of those is expressly subject to the much more restrictive maximum average housing density. OMC 18.05.080 B. c. ii. The example given in OMC 18.05.080 B. 2 suggests the maximum density may apply to "an apartment complex". On the other hand, the use of the phrase "project component" in the ordinance suggests that the Council did not intend it to refer to every structure. In a proposal such as this, with clearly defined residential neighborhoods and phases, the most rational view is that "project component" refers to each of the four residential neighborhoods described in the Findings. Thus, each of those is subject to the maximum housing density of 24 units per acre. It appears that each of these neighborhoods meets this requirement, but the evidence does not

contain an analysis that directly shows that to be the case. The Council should require that of the Applicant before approving the master plan.

19. The only minimum density requirement for the village center area is that it meet the use requirements of OMC 18.05.050 C. 2, which this proposal does. OMC 18.05.080 C. requires that the entire project and that part of it other than the village center separately meet the minimum density requirement. For urban villages, that requirement is seven units per acre. OMC 18.05.080 Table 5.05. As shown in the Findings, those requirements are met.

20. The following general urban village standards from OMC 18.05.050 and .080 are most rationally applied at subsequent permitting stages:

(a) the requirements of OMC 18.05.050 C. governing percentage of residential uses in village centers and the percentage of street frontage on the village green to be occupied by retail or professional uses,

(b) the requirements of OMC 18.05.050 D. 2 governing the distance commercial uses may extend from the village green,

(c) minimum lot sizes, minimum lot widths, minimum street frontages, setbacks, building and structure height, maximum business occupancy size, maximum building coverage, and maximum impervious surface coverage.

21. The proposal meets the requirement of OMC 18.05.050 that its size be between 40 and 200 acres.

22. The proposal contains a village green with the dimensions required by OMC 18.05.080 N. 2, and a sheltered transit stop.

23. The proposal meets the requirement of OMC 18.05.080 N. 2 that it provide at least 5% of its area as open space available for public or common use. The proposal is able to meet this requirement without counting any critical areas or buffers, thus complying with the requirement of OMC 18.05.080 N. 2 that no more than 50% of the required open space may be critical areas or buffers. However, the evidence is insufficient to determine whether multi-family housing parcels, excluding duplexes, contain at least 30% open space, as required by OMC 18.05.080 N. 4. Compliance with this requirement should be determined during the preliminary subdivision, land use approval or other permit stage for such multi-family housing.

24. The proposal meets the separation requirements of OMC 18.05.050 C. 6. a, abuts an arterial street as required by
OMC 18.05.050 C. 6. b, and meets the requirements of OMC 18.05.050
Table 5.02 (amount of commercial space), Table 5.03A (mix of housing types) and Table 5.03B (variety of dwelling unit types).

25. The proposal is subject to the parking and loading requirements of Chap. 18.38 OMC and has adequate space to meet those requirements. Compliance with them will be determined at subsequent subdivision, land use approval or other permit stages.

VI. Development Guidelines and Public Works Standards.

26. As conditioned, the proposal complies with the Development Guidelines and Public Works Standards as described in Part VI. B. through X. and BB. through DD of the Staff Report, Ex. 1, pp. 16-28. The remaining Development Guidelines and Public Works Standards are discussed below.

27. According to the FEIS and Staff Report, there is adequate sewer capacity to serve this proposal. However, the FEIS also states at p. 4-62 that this proposal is not expected to have adverse impacts on the sewer system, "[a]s long as implementation of the new regional treatment capacity progresses as planned". This contingency will be examined under the law at the preliminary subdivision, land use approval or other permit stage.

28. The City Staff asks that the Applicant construct the Henderson Boulevard sanitary sewer 15-inch diameter pipe from the current terminus of the City sanitary sewer system at the northeast corner of the site, south to Yelm Highway. This condition is reasonably related to project requirements and should be imposed.

29. The City water system has adequate capacity to meet the domestic water and fire suppression needs of the proposal.

30. The proposed 12-inch water main for the West Residential phase is located outside of street rights-of-ways, on private properties and through the neighborhood park. The City asks that the Master Plan maps be revised to delete this main through private property and the park. Ex. 20, p. 7. The Applicant responded by deleting the water line map from the plan set and stating that it will locate utilities outside the park. Ex. 21, p. 9. The Applicant did not state that it would also locate the main outside of private property, as requested by the City. That should be added as a condition of approval.

VII. Transportation.

31. The Findings show that at completion of the North and West Residential phases and at full build-out, this proposal would be served by multiple intersections at a substandard LOS. The size of this proposal makes clear that it would be a principal contributor to these deficiencies. Under RCW 58.17.110, dealing with subdivision approval, and Chap. 36.70A RCW, the Growth Management Act, the phases of this proposal would not be allowed to proceed, unless fully mitigated in a way proportionate to their impacts.

32. The Findings also show that under current conditions, safe walking conditions for

school children at the urban village are not present. Further, the evidence, as summarized in the Findings, strongly suggests that the proposal would make the current crosswalk over Henderson at Carlyon unsafe for other students.

33. Specific mitigation measures should be required, though, as part of preliminary subdivision, land use approval or other permit stage of the various phases. Only after those approvals will the actual impacts occur. Only during those processes will the decisionmakers have the most recent information about projected trip numbers and distribution and planned and current transportation facilities. Therefore, master plan approval should not attempt to impose specific transportation mitigation measures.

34. However, there are some requirements which should be imposed at this stage to insure the best analysis and result when mitigation is imposed. First, the evidence shows that the intersections of northbound Henderson to southbound Interstate 5 and Cain Road and North Street should also be analyzed at the stage of preliminary subdivision, land use approval or other appropriate permit. The City Staff should also consider whether intersections such as Boulevard Road and Yelm Highway and Rich Road and Yelm Highway should also be examined at that stage.

35. Second, the traffic analysis should also address the potential problems from vehicle queuing at Pioneer Elementary and the other schools. It should also project the percentage of eligible students who in fact use school busses and evaluate whether trips by students and their drivers will cause unacceptable congestion.

36. Third, if mitigation is offered in the form of impact fee payments, those payments should be used to finance improvements or measures which will address traffic impacts from this urban village.

37. More fundamentally, though, the FEIS and the Applicant propose to mitigate these transportation effects through the customary methods of adding traffic lanes and signals. These measures do tend to address safety and delay problems, but do nothing to meet the problems of increased air pollution, noise and resource use, to which the dominance of single occupancy vehicles leads.

38. The Thurston Regional Transportation Plan calls for an efficient transportation system that enables less reliance on automobiles for getting to work and performing errands. Goal LU3 of the Olympia Comprehensive Plan is to "establish land use patterns, densities, and site designs that enable less reliance on automobiles." This is implemented in part by Policy LU 3.3, which states

> "[p]rovide a compatible mix of housing and commercial uses in all . . . urban villages to enable people to walk to work and shopping, enable less reliance on automobiles, reduce commuting times and distances, make mass transit more viable, and provide

greater convenience for area residents."

To that end, Policy ENV 2.2 of the Comprehensive Plan is to

> "[e]ncourage and financially support transportation demand management and the use of modes of travel other than the single occupancy vehicle, in order to reduce energy consumption and air and water pollution."

Most to the point, Goal T1 of the Comprehensive Plan is to

> "[r]educe dependence on auto use, especially drive-alone vehicle use during morning and evening commute hours."

Following this goal are numerous policies designed to further it.

39. The proposed urban village serves these goals by combining commercial and residential uses, with easy pedestrian and bicycle routes between them. It does not, however, promote these goals with respect to commute traffic. That requires something more than simply building more lanes and signals.

40. Consistency with the Comprehensive Plan demands that a proposal of this size take reasonable measures to reduce dependence on auto use for commuting. Those measures should be part of the transportation mitigation required for the proposal. For the reasons given above, master plan approval is not the proper stage at which to impose specific traffic mitigation requirements. However, master plan approval should direct the City staff to examine and recommend measures to reduce commute auto use at the preliminary subdivision stage. Master plan approval should also require that reasonable measures to serve that goal be required at those later permit stages. Examples of such measures could include ride match services, preferential parking for carpools and vanpools, subsidized bus passes, promotional and educational programs and bicycle routes to employment centers.

41. The Applicant proposes that all streets in the Village Center (Mixed use district) be private, as well as the streets in the multi-family area east of Henderson and one street in the Central residential phase. See Ex. 1, Att. B, Map 18. Its rationale is that these are analogous to streets and driveways in malls and apartment complexes, which are typically private. This argument holds for the streets south of the Town Square, to the east of Henderson and as proposed in the Central residential phase. However, the area around the Town Square is designed to mimic the public central commercial area of a small town or village. Except in company towns, these areas are traditionally public in this country. They should remain so here. Therefore, the short entry drive to the Town Square from Henderson, the streets surrounding the Town Square, and the three radial streets extending to the north, northwest, and southwest from the Square should be public. The remaining streets should be public or private as proposed. For all private streets, the Applicant should be subject to the conditions described on Ex. 1, p. 22.

42. The Olympia Development Guidelines and Public Works Standards, Sec. 2.040 B. 3, require a street connection to any public street abutting the proposed development. Pifer Street is public and abuts the proposed urban village. Therefore, a full vehicle connection should be made with Pifer, when the first building permits are issued for the North Residential phase.

43. Delta Lane is a Tumwater street with its terminus near the west end of the Briggs site. See FEIS, Fig. 5-1 and p. 5-5. If Delta Lane were connected with the urban village, residents in the West Residential phase would use it for trips to the west, according to the FEIS at p. 5-5. On the other hand, the Staff Report, Ex. 1 at p. 20, states that topography and critical areas and buffers significantly constrain the Delta Lane right-of-way and that a house listed on Olympia's Historical Properties Inventory is directly in line with Delta Lane. For the Applicant, Mr. Mackie testified that Delta Lane cannot connect, because the existing residence blocks it. Even though the City could likely condemn the needed public right-of-way, these are sufficient reasons not to require a connection. The Staff's recommendation of an intervening public cross-block pedestrian-bicycle connection to Delta Lane should be followed.

44. The Applicant proposes to improve Henderson Boulevard to five lanes. This is inconsistent with the Comprehensive Plan's designation of Henderson as a two/three lane major collector. Analysis by the City staff shows that Henderson will operate at an optimal LOS if built as a two/three lane major collector.

VIII. Phasing.

45. OMC 18.05.050 F. imposes a number of specific requirements on the phasing of commercial and residential development and of multi-family and single-family residential construction in urban villages. Compliance with these is required as a condition of approval.

46. Under the Growth Management Act, Chap. 36.70A RCW, and City ordinances, development must also be phased so that it is adequately served by public infrastructure and services. The proposal accomplishes this with central infrastructure such as water, sewer and stormwater.

47. However, as discussed in the Findings, the proposal is uncertain about the timing of the neighborhood park, the Central Kettle restoration, and the Arboretum. To ensure that the proposed residential development is adequately served by parks, the neighborhood park should be constructed by the end of the second phase of development, whether or not that is the West Residential phase as now proposed. To ensure that the proposed development has adequate open space and that its impacts have been mitigated, restoration of the Central Kettle should be completed and post-construction monitoring initiated by the end of the second phase of development, whether or not that is the West Residential phase as now proposed. The Arboretum also serves as open space and provides recreation for village residents. To postpone its completion, as proposed, until the East Residential phase would potentially delay this mitigation for up to 25 years from this approval. That is far too long. As the FEIS proposes at p. 3-5,

the Arboretum facility and associated parking should be completed by the third phase, whether or not that is the Central Residential phase. Because one of the central values of the Arboretum is the access it provides, its final trail network should also be completed at this time.

IX. Stormwater.

48. At this master plan stage, it is neither necessary nor advisable to attempt to review the details of future stormwater systems, such as the type and location of treatment facilities. For this reason, the choice of compost filters or ponds or infiltration galleries should be made at the preliminary subdivision, land use approval or other permit stage. On the other hand, the general approach of handling stormwater can and should be reviewed on the evidence available at this stage.

49. Both the Staff and the Applicant agree that the glacial kettles may be used for storage and infiltration and that the stormwater flow to each should mimic natural drainage flow. The kettles with by far the largest natural drainage basins are the South and Central kettles. See FEIS, p. 4-66. The evidence suggests that relying exclusively on flows from these basins could result in high water levels which threaten the survival of wetlands and trees or which could threaten off-site property or improvements. The diversion device proposed by the Staff would reduce these risks by allowing the regulation of water levels in these two kettles. It would also allow some flexibility in avoiding abnormally low levels which could threaten the wetlands. For these reasons, the diversion device should be required.

50. The evidence indicates that only in conditions worse than 100-year storms would water flow out of the Central Kettle and drain to another kettle off-site to the west. The evidence did not show, however, how often those conditions might occur, what volume of water would be discharged, and the effect it would have on property to the west. This master plan may be approved only if it is compatible with the surrounding neighborhood. OMC 18.57.020. Individual subdivisions may be approved only if they make adequate provision for drainage in a way that serves the public interest. RCW 58.17.110. Thus, the stormwater system may not be approved if it causes flooding or other damage to nearby property. Because the stormwater systems for the various phases are closely interrelated, this determination must be made no later than the preliminary subdivision or land use approval for the first phase or subphase presented.

51. As found above, the Northeast Kettle does not infiltrate its waters, has been degraded by nutrient loading from past nursery practices and has received most of the runoff over the years from the areas of potential contamination from nursery operations. The Northeast Kettle drains directly to Ward Lake, which has caused turbidity plumes. The Department of Ecology has "concerns" about using this kettle for stormwater. FEIS, letter from Lisa Pearson. For these reasons, stormwater should not be routed to this kettle.

52. As also found, the Southeast Kettle is contaminated with the pesticide Dieldrin and the PCB Arochlor 1254 in concentrations exceeding regulatory limits. The Department of

Ecology also has "concerns" about using this kettle for stormwater. Stormwater should not be routed to this kettle, unless all contamination has been cleaned up consistently with all applicable standards.

53. To assure the performance of the storm drainage facilities, the Applicant should file an agreement with the City, including an approved Performance Verification/Mitigation Plan, as required in the conditions, below.

X. Hazardous substances.

54. As found above, Thallium, DDE, DDT, Dieldrin and Aroclor 1254 (PCB) were found on the site at concentrations above cleanup levels for protection of groundwater. The levels of DDT and Dieldrin were significantly higher than the standard carcinogen cleanup levels for that purpose. As also found, these cleanup levels are the maximum concentrations that are protective of human health and the environment under specified exposure conditions. Thus, concentrations in excess of these cleanup levels, such as the ones just listed, pose a risk to human health if they come in contact with human uses. The FEIS concludes, though, that it is "unlikely" that any of these concentrations will adversely affect surface or groundwater, for reasons such as the presence of a confining aquitard. See FEIS pp. 2-16 and 2-17.

55. These five compounds are present at concentrations which could threaten human health if they reached groundwater used by individuals. As found, groundwater below the site will be extensively used for irrigation and will also flow off the site, discharging locally to springs, creeks, lakes and kettles, and through withdrawal from wells. Given this, the public health is inadequately protected by the conclusion of the FEIS that it is "unlikely" that any of these compounds will reach surface or groundwater. To protect public health, these compounds should be removed from the site, so that they are below state and federal cleanup levels.

56. As also described in the Findings, low concentrations of octachlorodibenzodioxin were detected in water from the Central Kettle and other low levels of polychlorinated dibenzodioxins and polychlorinated dibenzofurans were detected in a sediment sample from that kettle. These concentrations were below the TEQ "action level" established by the EPA. However, the evidence does not disclose whether the site-specific analysis described in Ex. 23 has been carried out.

57. To ensure protection of the public health, the risk assessment methodologies by Washington and the EPA to determine site-specific cleanup levels for dioxin/furan compounds, as described in Ex. 23, must be carried out for the urban village property. All dioxin/furan compounds must be cleaned up to comply with those levels. In addition, due to the toxicity of these compounds and the large number of people who will live on and visit this property, an impartial expert selected by the City should examine the property and determine whether cleaning up dioxin/furan compounds to these site-specific levels will adequately protect human health. If the expert determines it will not, this master plan approval should be reopened to consider that

issue.

XI. Tree protection.

58. The proposed street tree design generally complies with applicable standards. The potential problems with species selection and spacing set out on p. 28 of Ex. 1 may be resolved at the preliminary subdivision, land use approval or other permit stage.

59. Olympia's Tree Protection and Replacement Ordinance, Chap. 16.60 OMC, and its Critical Area Ordinance, Chap. 14.10 OMC, impose a number of tree retention requirements on this proposal. First, OMC 16.60.080 A. requires that a minimum density of 30 tree units per acre be present on the site's buildable area. This requirement is met. See Ex. 20.

60. The Critical Area Ordinance prohibits conversion forest practices in Class II wetlands and their buffers. OMC Table 14.10.303. The Central Kettle contains such a wetland. Therefore, the removal of trees as part of converting to the urban village is prohibited within the Central Kettle wetland and its buffer.

61. OMC 16.60.070 B. states that the "approval authority shall restrict activities and/or impose conditions as warranted, to protect critical areas and their associated buffers . . ." As found above, the kettle wetlands and their buffers have been degraded over the years by nursery activities. Retention of the remaining trees in the kettle wetlands and their buffers will help prevent further degradation and will better protect these areas. Therefore, under OMC 16.60.070 B. the removal of trees should be prohibited in all kettle wetlands and their buffers. To insure compliance with other regulations, three exceptions should be recognized to this prohibition. First, trees may be removed from the Central Kettle if, in the opinion of the Urban Forester, the removal is necessary for proper restoration of the Kettle wetland. Second, trees may be removed if, in the opinion of the Community Planning and Development Department, the removal is necessary for proper functioning of the approved stormwater system. Third, trees may be removed if the Urban Forester deems them hazardous or believes they should be removed for the health of the stand.

62. Independently of the 30 tree unit standard, OMC 16.60.070 D. 2 requires that

> "[p]reservation and conservation of wooded areas and trees shall have priority over development when there are feasible and prudent location alternatives on site for proposed building structures or other site improvements, as identified by the Site Plan Review Committee, as applicable."

63. As found above, there are feasible and prudent alternatives on site for proposed structures or improvements which would enable the large fir tree to be retained. The City's Urban Forester testified that the large fir tree is not hazardous. For these reasons, OMC 16.60.070 D. 2 requires that it not be removed.

64. The Staff asks that the stand of trees around and behind the large fir tree, as shown on Ex. 1, Att. L, be preserved. The evidence is not sufficient to determine whether there are feasible and prudent alternatives which would allow this to be required by OMC 16.60.070 D. 2. Therefore, that determination should be made at the preliminary subdivision stage. To insure greatest flexibility, that determination should be made in conjunction with the first preliminary subdivision application made, whether or not that involves the West Residential phase. Until that determination is made, no trees shall be removed from the area around and behind the large fir tree, as shown on Ex. 1, Att. L.

65. The Staff also asks that a stand of large fir trees south of the Central Kettle be preserved. This area is outlined and labeled "Hawk Nest Site" on Ex. 1, Att. L. Part of this area will be part of the neighborhood park to be owned by the City. No trees should be cut in that area, unless authorized by the Olympia Parks, Arts and Recreation Department. For the remainder of the outlined area, the evidence is not sufficient to determine whether there are feasible and prudent alternatives which would allow preservation to be required by OMC 16.60.070 D. 2. Therefore, that determination should be made as described in the immediately preceding Conclusion. Until that determination is made, no trees shall be removed from this area.

66. The Applicant proposes that tree removal in the Arboretum be limited to the creation of view corridors and as needed to maintain the health of the trees and assure the safety of residents. However, allowing trees to be removed simply to create better views could easily result in cuts that violate both the terms and the purposes of OMC 16.60.070 D. 2. On the other hand, the policy of providing access to Ward Lake requires at least that trees be removed which interfere with the view from the public overlook. Therefore, trees should not be removed from the Arboretum to create better views, unless needed to assure a clear view from the public overlook.

XII. Critical areas.

67. The revision of the Applicant's stormwater plan described above will reduce the amount of water routed into the South Kettle and the consequent damage to its wetland. However, the elimination of irrigation return flows and the more proportionate routing of stormwater into the kettles will still likely affect their wetlands in an adverse way.

68. Even though the FEIS assumes the prior stormwater plan, its discussion discloses some adverse effects which may be expected under the new approach. As described on p. 4-5 of the FEIS, the size of the wetlands could change, the depth of inundation could change, their margins could become drier in the summer, the margins could be inundated for a shorter period of time, and the wetland plants in the margins are likely to shift from facultative wetland to a mixture of facultative wetland, facultative upland and facultative.

69. The elimination of the nutrient-rich, sediment laden irrigation flows will improve the

water quality of the wetlands. FEIS, p. 4-6. New residential development, though, is likely to increase the adverse effects on wetland water quality from fertilizers, pesticides, household chemicals and petroleum products. Id.[3]

70. The requirements of Olympia's Critical Area ordinance for wetlands are set out in Ex. 1, p. 8, et seq. The key provisions are

(a) the purpose of achieving no overall net loss in wetland acreage and functions, OMC 14.10.105;

(b) the requirement that new discharges to wetlands from stormwater facilities not increase the rate of flow or decrease water quality, OMC 14.10.339 B. 52;

(c) the requirement to compensate for losses from altering wetlands by restoring or creating new wetlands according to adopted replacement ratios, OMC 14.10.1425; and

(d) the requirement of Sec. 4.13 in the Critical Area Ordinance Administrator's Manual that discharges to wetlands maintain the hydroperiod and flows needed to preserve existing functions and values.[4]

71. With the new stormwater approach, the evidence does not allow the determination at this point of precisely how much and what kind of mitigation may be required under these standards. The restoration program which the Applicant proposes for the Central Kettle, though, will go far in meeting the required mitigation, will mitigate losses to native vegetation and habitat, and will enhance the value of the village open space. For these reasons, the Central Kettle restoration described in Ex. 1, Att. A and Att. J should be carried out.

72. Wetland restoration and compensation, however, is not always successful. When it fails, so do the purposes of the mitigation. To increase the chances of success, the following changes should be made to the monitoring program described in Ex. 1, Att. J:

(a) City staff should have the opportunity to participate in development of recommendations by the LCLA monitoring team;

(b) the recommendations by the monitoring team should be designed to reach the acceptable ranges for hydrology, water quality, plant community maintenance, and faunal

---

[3]For ease of reference, these factual findings are recited in these Conclusions.

[4]The testimony did not indicate whether this Manual has been adopted or incorporated into law. If not, its provisions may still be viewed as guidance in maintaining wetland functions and values.

habitat support set out in Ex. 1, Att. J; and

(c) the Applicant should be required to carry out the recommendations of the monitoring team.

73. All natural slopes with grades of over 40% or which otherwise meet the definition of landslide hazard areas in OMC 14.10.200 51. are subject to the buffer and other requirements of Chap. 14.10 OMC for such areas. These include at least the sides of each kettle and the shore of Ward Lake.

74. The areas shown as steep slopes on Map 6 of Ex. 1, Att. B. which result from past grading to create protected areas for plant cultivation are stable and are capable of meeting Uniform Building Code requirements for grading and structural fill. Thus, they are excluded from definition of landslide hazard area pursuant to OMC 14.10.200 51 (d).

XIII. Schools.

75. At present, the Olympia School District does not have capacity for the children expected to be added by this project. Under RCW 58.17.110 no subdivisions for the proposed residential phases may be approved, unless appropriate provisions for schools are made. Thus, the preliminary subdivision process for each residential phase will examine school facilities and capacity. If adequate facilities and capacity are not available, the subdivision at issue will either be conditioned to provide adequate school facilities or it will be denied.

XIV. Swimming access.

76. The Applicant does not propose to afford access to Ward Lake for swimming. The City staff agrees with this, due to the steep shoreline and lack of parking. The DRB agreed with this conclusion.

77. Numerous individuals testified or submitted letters in support of swimming access to Ward Lake. Mr. Ridgway and Ms. Ray pointed out that Ward Lake is the largest lake in the City and its best opportunity for freshwater swimming. Ms. Ray and Mr. Lazar stated that there a number of appropriate access points for swimming on the project shoreline. Several described a need for lake swimming opportunities in Olympia.

78. Most of those supporting swimming access also took the position that OMC 18.05A.020 requires the provision of swimming access, if possible. OMC 18.05A.020, however, does not require that. Instead, it states

"Public access shall be provided to water bodies that fall within the jurisdiction of the Shoreline Management Act. (Examples of such access may be an arboretum or swimming, if possible). Public access types include: UV, NV, COSC, UC)

1. Type I: Provides direct physical connection to the water's edge including floats, docks, and boat launches. Access itself is located either up to the shoreline or floating over-the-water.

2. Type II: Provides immediate proximity to the water's edge, but does not provide the physical ability to touch the water.

3. Type III: Provides unobstructed and proximate (very near) view of waterward side of the project.

4. Type IV: Provides visual access to the waterfront (but not the waterside of the project) and shoreline interpretation."

79. The reference to "swimming, if possible" in this provision is only to its presence as an example of public access. The four types of authorized access make clear that swimming access is not necessarily required, even if it is possible.

80. More to the point, OMC 18.05A.020 is a design guideline. In the master plan review of an urban village, those guidelines are reviewed by the DRB, which then makes a recommendation to the City Council. OMC 18.57.080 B. The Hearing Examiner's review does not extend to the provisions of Chap. 18.05A OMC. Therefore, I lack the authority to make a recommendation on whether OMC 18.05A.020
requires swimming access to Ward Lake. That decision will be made by the City Council, after recommendation by the DRB.

RECOMMENDATION

The proposed Briggs Village Master Plan as described in Conclusion 10, above, is recommended to be approved, subject to the following conditions:

I. **Compliance by future phases and developments.**

1. All phases and developments of the urban village, including preliminary and final subdivision approvals, land use approvals and all other permits or approvals, shall comply with the approved Master Plan and conditions and with all applicable standards and requirements of law. For each such phase or approval, the applicant shall submit all plans and information required by law.

2. Any subdivision that would increase density beyond the maximum density allowed or decrease density below the minimum density required is prohibited. Any subdivision or development that would result in violation of any use or development standard or any other applicable standard is prohibited.

II. **Phasing.**

3. The urban village shall be developed in compliance with the phasing requirements of OMC 18.05.050 F.

4. Each phase of the Master Plan will be reviewed on its own merits for compliance with applicable City codes and for compliance with the Master Plan, when that phase is submitted for approval.

5. The Town Square shall be constructed before more than 50% of the commercial space is under construction.

6. The neighborhood park shall be constructed by the end of the second phase of development, whether or not that is the West Residential phase as now proposed.

7. Restoration of the Central Kettle, as described above, shall be completed and post-construction monitoring initiated by the end of the second phase of development, whether or not that is the West Residential phase as now proposed.

8. The Arboretum facility, associated parking and final trail network shall be completed by the third phase, whether or not that is the Central Residential phase.

III. **Hazardous substances.**

9. Thallium, DDE, DDT, Dieldrin and Aroclor 1254 (PCB) shall be removed from the site, so that those substances are below state and federal cleanup levels.

10. The risk assessment methodologies described in the Findings by Washington and the EPA to determine site-specific cleanup levels for dioxin/furan compounds shall be carried out for the urban village property. All dioxin/furan compounds shall be cleaned up to comply with those levels. The City shall select an impartial expert to examine the property and determine whether cleaning up dioxin/furan compounds to these site-specific levels will adequately protect human health. This analysis will be paid for by the Applicant. If the expert determines it will not adequately protect human health, this master plan approval shall be reopened to consider that issue.

11. All cleanup required by these conditions or through reopening master plan approval, as just discussed, shall be completed prior to the start of construction of any of the project phases.

IV. **Stormwater and erosion control.**

12. The South, Central, Northwest and North kettles may be used for storage and

infiltration of stormwater. The stormwater flow to each shall mimic natural drainage flow. The diversion device proposed by the Staff (Ex. 1, pp. 7-8) shall be installed to regulate water levels of the South and Central kettles.

13. Stormwater shall not be routed to the Northeast Kettle.

14. Stormwater shall not be routed to the Southeast Kettle, unless all contamination in it, including Dieldrin and Arochlor 1254, has been cleaned up consistently with all applicable standards.

15. The Applicant shall file an agreement with the City, including an approved Performance Verification/Mitigation Plan, to assure the performance of the storm drainage facilities. This guarantee, through the appropriate surety, shall be in place and approved by the City before final plat approval of each phase. The guarantee shall remain in effect for two years or until performance verification/mitigation is complete, whichever occurs later. The amount of the bonding will be 125 percent of the probable mitigation cost which shall include testing, engineering, construction (system modification), and construction permits.

16. As part of the preliminary subdivision or land use approval for the first phase or subphase presented for approval, the Applicant shall present evidence as to how often water would flow out of the Central Kettle and drain to the west, what volume of water would be discharged, and what effect it would have on property to the west. Preliminary subdivision or land use approval may be granted only if the evidence shows that the overflow will not flood or damage nearby property.

17. Erosion control measures complying with applicable state and local requirements shall be in place prior to any clearing, grading or construction.

18. Initial clearing and grading for each phase shall be limited to the minimum areas necessary.

19. Native vegetation shall be retained to control erosion and sedimentation in all critical areas and buffers and in all open space areas, except the Town Square, the neighborhood park, and the commons areas.

V. <u>Tree retention</u>.

20. The removal of trees is prohibited in all kettle wetlands and their buffers, except (1) trees may be removed from the Central Kettle if, in the opinion of the Urban Forester, the removal is necessary for proper restoration of the Kettle wetland, (2) trees may be removed if, in the opinion of the Community Planning and Development Department, the removal is necessary for proper functioning of the approved stormwater system, and (3) trees may be removed if, in the opinion of the Urban Forester, the removal is necessary for the health of the

stand or to abate a hazard.

21. The large Douglas fir tree near Yelm Highway across from the entrance to the Farm subdivision, as pictured in the photographs attached to Ex. 20, shall not be removed. If the Applicant or any affected individual develops new evidence that the tree is or is likely to become hazardous, it may request an amendment of these conditions.

22. No trees shall be removed from the area around and behind the large fir tree, as shown on Ex. 1, Att. L, unless authorized as described in the Conclusions, above. If the Applicant decides to abandon the full vehicular access to Yelm Highway from the West Residential phase due to the requirement to keep the large fir tree, the Applicant shall either relocate this street connection further west or, if this is not feasible, eliminate the street connection and provide a public cross-block pedestrian, bicycle, and emergency access connection to Yelm Highway further to the west. The trees in this area required to be preserved and their critical root zones shall be placed in a separate deeded tree tract as part of the formal platting process for the property.

23. No trees shall be removed from the area outlined in Ex. 1, Att. L and labeled "Hawk Nest Site", unless authorized as described in the Conclusions, above. The mitigation measures to protect the hawk nest on p. 1-11 of the FEIS shall be followed. Trees in this area which are required to be preserved and which are outside the City park shall be placed in a separate deeded tree tract as part of the West Residential phase or at any time prior to that as necessary to protect the trees.

24. Trees in the Arboretum may be removed only to maintain the health of the trees, assure the safety of residents, or to assure a clear view from the public overlook. They may not be removed for any other purpose.

25. For each subdivision, a tree tract or tracts shall be identified that meet 75% of the required minimum tree density for that subdivision. This does not require, though, that the tree tract required for each subdivision be located in that subdivision. Specific individual trees and tree tracts, pursuant to OMC 16.60.070 D. 4, will be identified at the preliminary plat stage of each development phase. In removing trees, the Applicant shall preserve trees in the order of priority set in OMC 16.60.070 D. 5.

VI. <u>Transportation impacts, street improvements, and street connections</u>.

26. The transportation impacts of all development in the urban village shall be mitigated. Each preliminary subdivision and each land use approval will require a traffic impact analysis that includes a mitigation plan. This requirement does not apply to land use approvals the traffic impacts of which are analyzed through another permit or approval.

27. Mitigation for traffic and transportation impacts will be imposed at the specific

development approval stage: preliminary subdivision, land use approval or, if neither is required, at construction approval.

28. At such specific development approval stages, the Applicant shall examine transportation impacts to the intersections of northbound Henderson to southbound Interstate 5 and Cain Road and North Street, as well as the intersections analyzed in the FEIS. The City Staff shall consider whether intersections such as Boulevard Road and Yelm Highway and Rich Road and Yelm Highway should also be examined at those stages.

29. The traffic analyses at the preliminary subdivision stages shall specifically analyze each walking route which students are likely to take to public schools. This shall include at a minimum

(a) Pifer Street to North Street and the crossing of North Street at that point,

(b) Pifer Street to North Street, hence to Henderson, and then north on Henderson to Pioneer Elementary, Washington Middle School and Olympia High School,

(c) Henderson Boulevard to Carlyon and then to Pioneer Elementary, Washington Middle School and Olympia High School

(d) routes to Centennial Elementary, if any residential area in the urban village remains in its attendance area.

30. At the preliminary subdivision stages, the Applicant, in consultation with the City, shall project the percentage of eligible students who in fact use school buses. The City decisionmaker shall consider that, as well as the condition of the likely routes, in deciding whether safe walking conditions for schoolchildren are present to each public school with an attendance area that includes any part of the urban village. No permit or approval for any residential construction may be given, unless such safe walking conditions are present for students.

31. Each preliminary subdivision review shall address the potential problems from vehicle queuing at Pioneer Elementary and the other schools and shall consider whether trips by students and their drivers will cause unacceptable traffic congestion at those schools or along their routes.

32. Each preliminary subdivision review shall examine whether urban village traffic affects the safety of the crosswalk across Henderson Boulevard at Carlyon.

33. If transportation mitigation is offered in the form of impact fee payments, those payments shall be used to finance improvements or measures which will address traffic increases from this urban village.

34. At each preliminary subdivision stage, City staff shall examine and recommend measures to reduce commute auto use by residents of the urban village. Each preliminary subdivision approval shall require specific measures to reduce commute auto use by residents, unless it is specifically found that such measures are not reasonable. Examples of such measures include, but are not limited to, ride match services, preferential parking for carpools and vanpools, subsidized bus passes, promotional and educational programs and bicycle routes to employment centers.

35. The short entry drive to the Town Square from Henderson Boulevard, the streets surrounding the Town Square, and the three radial streets extending to the north, northwest, and southwest from the Square shall be public. The remaining streets shall be public or private as proposed. For all private streets, the Applicant is subject to the conditions described on Ex. 1, p. 22.

36. Henderson Boulevard shall be improved to the adopted two/three-lane Major Collector standard from the north boundary of the site south to the intersection of Briggs Boulevard. Henderson Boulevard shall be improved to the adopted two/three-lane Major Commercial standard from Briggs Boulevard south to Yelm Highway, unless a future phase Traffic Impact Analysis shows that the five-lane configuration will better serve the Village Center Phase.

37. A full vehicle connection shall be made with Pifer Street, as proposed in Ex. 1, p. 19, when the first building permits are issued for the North Residential phase. This may include right-of-way acquisition from the Tumwater residence at 1129 South Street to facilitate a "T" intersection design when the North Residential Phase develops. However, for any period of time in which the City of Tumwater refuses to allow a full vehicle connection at this point, only a connection for pedestrians and emergency vehicles is required.

38. A vehicular connection with Delta Lane is not required. An intervening public cross-block pedestrian-bicycle connection to Delta Lane should be constructed, as recommended on p. 20 of Ex. 1, when the West Residential Phase develops.

39. The future consideration of transportation impacts, including safe walking conditions for students, shall consider the cumulative impacts of the phase under consideration and already proposed or approved developments or phases of the urban village.

VII. <u>Miscellaneous</u>.

40. As part of City Council consideration, the Applicant shall present an analysis of maximum density showing that each of the four residential neighborhoods described in the Findings meets the maximum housing density of 24 units per acre.

41. The Applicant shall develop a landscape management plan to ensure the proper use

and application of fertilizers and pesticides and to minimize the use of chemicals for those purposes.

42. At the time of a specific development proposal that includes any impacts to critical areas, the applicant must supply all the information required by the Critical Areas Ordinance, including special reports and detailed plans, and must meet all the applicable requirements of that ordinance.

43. No work within the steep slope adjacent to Ward Lake or within the kettles is to commence without administrative approval.

44. The Applicant shall carry out the Central Kettle restoration as generally described in Ex. 1, Att. A and Att. J.

45. City staff shall have the opportunity to participate in development of recommendations by the LCLA monitoring team for the Central Kettle restoration as described in Ex. 1, Att. J.

46. The recommendations by the monitoring team described in Ex. 1, Att. J. shall be designed to reach the acceptable ranges for hydrology, water quality, plant community maintenance, and faunal habitat support set out in that document.

47. The Applicant shall carry out the recommendations of the monitoring team described in Ex. 1, Att. J for the Central Kettle restoration.

48. Any proposed development within the shoreline of Ward Lake shall comply with the Shoreline Management Act and the Shoreline Master Program for Thurston Region. Compliance will be determined at the time of preliminary plat or development proposal submittal. At that time, proposed residential lots shall be revised to comply with the minimum lot size and the required lot width for the Rural shoreline environment.

49. Utilities shall be located outside the site of the neighborhood park to be sold to the City. The Applicant shall give the City Parks, Arts and Recreation Department the opportunity to review and comment on all grading plans that could affect the park site.

50. The Henderson Boulevard sanitary sewer shall be constructed of 15-inch-diameter pipe from the current terminus of the City sanitary sewer system at the northeast corner of the site, south to Yelm Highway.

51. The Applicant shall relocate the proposed 12-inch water main loop serving the West Residential phase so that it is not within the neighborhood park or on private property. As stated on p. 25 of Ex. 1, additional design is required during the subdivision process to insure optimal performance of the water system.

Dated this 15th day of August, 2003.

Mailed 8/18/03 sj

Thomas R. Bjorgen
Olympia Hearing Examiner

OHE DECISION

TC Sheriff's Office
Administrative Captain

TC Environmental Health
Gary Duvall

The Olympian
111 Bethel Street NE
Olympia, WA 98506-4365

Larry Dibble
Olympia Fire Dept.

Tom Hill
CP&D

Don Cole
CP&D

Ric Bigler
Legion Court

Subir Mukerjee, Director
CP&D

City Council (10 copies of decision & staff report)
Mary Nolan
Olympia City Hall

Chron

Thurston County Assessor

John Vanek
CITY HALL

Olympia School District
Robert Wolpert
1113 Legion Way SE Rm 104
Olympia, WA 98501-1652

Gary Briggs, President
Briggs Development Company
4407 Henderson Boulevard SE
Olympia, WA 98501

Alexander W. Mackie
Perkings Coie, LLP
111 Market Street NE, Suite 200
Olympia, WA 98501-1008

Mark Blosser
Smith Bldg

Dave Smith
PW Plaza

Jim Lazar, Treasurer
Holiday Hills Recreation Assn
1907 Lakehurst Drive SE
Olympia, WA 98501

John Ridgway
1617 Legion Way SE
Olympia, WA 98501

Brenda Bulger
4215 Amber Court
Olympia, WA 98501

Roger Gellenbeck, Senior Planner
City of Tumwater
555 Israel Road SW
Tumwater, WA 98501

Chris Carlson, Senior Planner
City of Tumwater
555 Israel Road SW
Tumwater, WA 98501

Kim Selby
NBBJ
111 South Jackson Street
Seattle, WA 98104

Joe Ford, President
Cain Road Area Neighborhood Assn
1903 Eskridge Blvd SE
Olympia WA 98501

Ellen Langley, President
Wildwood Neighborhood Assn
2815 Otis Street SE
Olympia WA 98501

Karl Kirker, Vice President
Cain Road Area Neighborhood Ass
2707 Raintree Ct. SE
Olympia WA 98501

.urie Davis, President
Holiday Hills Recreation Association
1825 Lakehurst Drive SE
Olympia WA 98501

Janice Liechty, Board Member
Wildwood Neighborhood Assn
608 O'Farrell
Olympia WA 98501

Stephen A. Foster
The Farm Homeowners Assn
711 So. Capitol Way, Suite 701
Olympia, WA 98501

Prepared by: Sheila Beauchamp Customer Service Representative

Jim Pill, Treasurer
Nottingham Community Association
2425 Buckingham Dr. SE
Olympia WA 98501

Mary Jo Rogers Gonzalez
South End Neighbors Assn
1448 37th Avenue SE
Olympia, WA 98501

Prepared by: Sheila Beauchamp Customer Service Representative

Briggs Village MHE Decision - add'l mailing 8/20/03

Margaret McPhee
3512 Country Club Road NW
Olympia, WA 98502

Emily Ray
2622 Buker Street SE
Olympia, WA 98501

Bob Jacobs
720 Governor Stevens Avenue SE
Olympia, WA 98501

Niel Lawrence
3723 Holiday Drive SE
Olympia, WA 98501

Dennis Bloom
Intercity Transit
P.O. Box 659
Olympia, WA 98507-0659

Barry Lombard
Puget Sound Energy
3130 S. 38th Street
Tacoma, WA 98409

Ann Boeholt
Dept. of Ecology
PO Box 47600
Lacey, WA 98503

Michael Lamprecht
Army Corps of Engineers
PO Box 3755
Seattle, WA 98124-3755

Dale Severson
WA State Dept. of Transportation
PO Box 47440
Olympia, WA 98504-7440

Scott Davis, PE
Development Review Manager
Thurston County
2000 Lakeridge Drive SW
Olympia, WA 98502

Christie L.C. Kautsky, AICP
908 Delta Lane SE
Tumwater, WA 98501

Donald Fagerstrom
1114 South Street SE
Tumwater, WA 98501

Robert Wolpert
Olympia School District
1113 Legion Way SE Rm 104
Olympia, WA 98501-1652

Ingrid Jodziewicz
1106 South Street SE
Tumwater, WA 98501

Lisa Pearson, Environmental Engr
Dept. of Ecology
PO Box 47600
Lacey, WA 98503

Joe Kane
1318 Governor Stevens Avenue SE
Olympia, WA 98501

Jeri Berube, Admin Coordinator
Department of Ecology
PO Box 47775
Olympia, WA 98504-7775