

October 25, 2022

RE: UGA amendment on parcel 017904002002.

Dear Commissioners Swope, Pollock and Grose:

I am Nikki Ely.

I write in support of Chehalis Urban Growth Area (UGA) amendment that brings my grandparents' property into the Chehalis UGA. I am Harvey Breen's daughter. I am one of the beneficiaries of my grandmother Virginia's will. I have an interest in the property. I have read my uncle Sterling's letter of 10/24/22, and I agree with his position. I want to add a few points of my own.

I have lived in Lewis County all my life. It is changing. It is growing. There are positive and negative things about growth, but it's like the tide coming in: none of us can stop it. However, we can plan for it.

Regardless of how you feel about the Growth Management Act (GMA), it forces local governments to plan for future population pressure. The state Office of Financial Management (OFM) is charged with predicting the extent of growth, and local jurisdictions are charged with planning to accommodate that predicted growth. An elaborate process exists for that planning effort. Local government must have a Comprehensive Plan, and other Development Regulations which protect the environment. Critical Areas must be identified and protected. Here OFM has done its job and predicted future growth. The City of Chehalis and Lewis County have done their jobs, and consistent with the codes they enacted to follow the GMA process, they have made a plan to accommodate, in part, that predicted growth.

I have reviewed the Staff Reports from the Chehalis Community Development Department and from Lewis County Community Development, and from the Lewis County Planning Commission workshop, as well as all public comments submitted in writing. It is clear the elaborate process required by the GMA has been followed. In following the GMA planning process, a Mitigated Determination of No significance (MDNA) has been issued by Lewis County Community Development. The mitigation part of the MDNS is that the greatest part of my grandparents' property will have to be permanently protected by a conservation easement.

I was surprised to see the extent of this set aside. My grandfather ran a hobby farm. He raised cattle and made hay. It was a fun place to visit as a child. I knew the river ran past the farm, and that there were ponds, but I had no idea that a strict application of the County development regulations enacted in conformance with the requirements of the GMA would characterize 70% of the property as critical Areas. But that is how this process works. As I look into the future for myself and my own kids, I appreciate this protection. Fish, frogs, trees, bushes, reeds and sedges will be forever protected. In the spring the frogs will sing. In the fall the salmon will run. It's a good result from a thoughtful process.

The other side of that process is that the remaining upland area will be available for development to serve the human inhabitants of the county. It will also allow an economically beneficial use to the owners. Please approve this proposed amendment to the Chehalis UGA.

Very truly yours,

Nikki S Ely

October 24, 2022

FR: Sterling Breen

TO: Lewis County Commission

RE: Proposed UGA expansion to include Parcel 017904002002 in the Chehalis UGA

Dear Commissioners Swope, Pollock and Grose:

I am writing in support of the proposed UGA amendment which would incorporate the above tax parcel into the Chehalis UGA. This amendment is appropriate under the Growth Management Act, and is consistent with the County Comprehensive Plan and the development regulations. Lewis County is growing, and Chehalis is growing, and although the various parties writing in opposition to this amendment wish that was not true, it is true, and nothing any of us can do will stop that population growth. The best we can do is to plan for it in a manner that enhances our community and protects the environment. This amendment does both.

The proposed amendment to the UGA would not change the fundamental character of the zoning. Under the proposal before you the land which could be developed would remain zoned residential. In fact, 35% of the land would remain zoned residential, albeit at a higher density; while 62% of the land would be permanently protected by a conservation easement. This change would dramatically increase environmental protections for this site. That is why an MDNS has been issued. The condition which provides the mitigation is the 71 acres that would be placed in a conservation easement. The mixed use contemplated for the 38 developable acres, commercial and high density residential, would not have a significant impact on the environment. The critical areas functions and values would be permanently protected.

This proposal has been vetted thoroughly by staff, found to be compliant with law, targeted to respond to a demonstrated need, in the public interest and not spot zoning. I will not repeat the sound and thoughtful analysis done by staff in that regard, but instead I will respond to each and every criticism made in the written public comments in the record to date.

I grew up on this property. Although we did farm it, we never made a living doing so. In fact, my father stored his construction equipment in the equipment sheds. We repaired machinery there. It was really, from an economical perspective, productive as an industrial site supporting the family rock crushing and construction business. There is no evidence that my mother wished to impose the burden of farming this otherwise unproductive land upon subsequent generations. If she had so desired, she could have imposed a covenant running with the land requiring that it be used for farming, but she wisely did not. Any inter-family disputes regarding this are best left to the courts during the probate process, and are not properly before this Commission in reviewing the proposed amendment to the Chehalis UGA.

The Simpsons wrote on 7/26/22 that they had recently moved here from California and want to impose their vision of proper stewardship on the native population. No thank you. They do not know what my mother wanted. The proposal includes permanent protection for all critical areas. The Simpsons live across the Newaukum River to the south and given the 71 acres of protected critical area that borders the river on our side, they will never even know that the 38 acres of uplands far to the north have been developed. Their threats about bringing in a Seattle law firm are not well taken either. We have competent lawyers here in our own community who can defend this proposal from the Seattle lawyers if need be.

The Olsons write that they are concerned that their organic farm 1.5 miles to the SE, across I-5 and on the other side of the river and upstream will be negatively affected. There will be no impact on traffic on Kirkland Road. No pollution will be introduced into the river. The river will be buffered by over a quarter of a mile of permanently protected critical areas, whose functions and values will be forever protected. The UGA amendment bringing the Breen property into the Chehalis UGA presents no threat to the Olsons, and given the contemplated easement, actually adds protection to the environment.

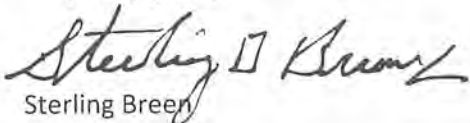
Likewise Mary B. Verner's concerns are well stated but misplaced. She lives across the river and nearly $\frac{3}{4}$ of a mile from the Breen's former residence. She acknowledges that the proposal doesn't change the residential zoning, only the density allowed. She fears "urban creep". She feels caught between Napavine, moving north and Chehalis moving south. She acknowledges that the current uses along Hamilton Road which parallels the freeway are industrial. In fact, the eastern and northern parts of the Breen property are already in the Chehalis UGA along the two Hamilton Road frontages. While this proposal brings more upland acreage into the UGA, it does so on the condition that the lions share of the 109 acre property be permanently protected by a conservation easement.

She is concerned that traffic impacts were not adequately addressed, but the proposal acknowledges that Hamilton Road connects the big I-5 interchange at Labree Road and the big I-5 interchange at Rush Road. She acknowledges this strip is presently in industrial use, defacto. Clearly WSDOT and Lewis County have contemplated the inevitable development that will be occurring on both sides of I-5 between these two intersections. Any future development will have to address the unique traffic impacts associated with such development, but it is clear that the traffic planners have long contemplated development in this area.

She speculates that the river may meander, that critical area functions and values may not be protected, that run off from the development may enter the river, that fish and wildlife corridors may be impacted, that the riverbank may be unstable, and based upon this speculative laundry list, asks for more analysis. But the river frontage will not be changed at all. The 71 acres of permanently protected critical area will forever protect the river, the riverbank, the flood plain, the wetlands, and the fish and wildlife habitats. Further, any specific development plan in the future will have to address these issues based upon that plan's specifics.

This is not the time to undertake envisioning all possible development plans and answering all possible questions about all possible impacts. This is the time to assure that the proposes of the GMA are fulfilled and that the proposed amendment to the Chehalis UGA is consistent with County's Comprehensive Plan and Development Regulations. Here the GMA is followed, and the GMA contemplates, and even requires, that UGA's be amended to accommodate future growth, while conforming to local development laws. This proposed amendment does that, and should be approved.

Very truly yours,


Sterling Breen

October 26, 2022

FR: Sterling Breen

TO: Lewis County Commission

RE: Proposed UGA expansion to include Parcel 017904002002 in the Chehalis UGA



Dear Commissioners Swope, Pollock and Grose:

At today's workshop at which staff presented the proposed UGA to the Commissioners there were some issues which arose which need to be addressed.

The staff presenter said the proposed use was residential 4/1. But the proposal itself and the MDNS says the proposal is for mixed use commercial and residential including multi-family residential.

The Planning Commission had voted 5 against and 2 for, and we were told that the single issue which caused the Commission to vote against the proposal was traffic associated with exit 72. Commissioner Swope hit the nail on the head when he asked if the LaBree Road exit had been considered. The presenter from staff said it had not. This is an egregious omission. The La Bree Road exit is the largest exit in the area, capable of handling much traffic, and presently underutilized. It is a short drive from that exit along Hamilton Road, which parallels I-5, to reach the Breen property. It is the first exit which traffic from the north would hit enroute to the Breen property.

The reason traffic is an issue is because staff has calculated that maybe 452 units could be put on this buildable site. Clearly such a conclusion is not driven by a 4/1 zoning. It contemplates 12 units per acre to reach this number. But putting that aside for a moment, the surrounding area, in fact 100% of the frontage of Hamilton Road paralleling the freeway from Labree Road to Rush Road, is industrial. An industrial use would result in a much smaller traffic impact.

I urge the Commission to approve the proposed UGA amendment, but to do so at the higher residential density and including commercial uses for a mixed-use designation, as contemplated in the proposal and stated in the MDNS.

Alternatively, the Commission should grant the UGA amendment but for an industrial usage. This make most sense, impacts traffic least, and is compatible with the other uses along Hamilton Road.

Finally, the MDNS says the mitigation comes by way of a conservation easement protecting the Critical Areas. An estimate of 71 acres was developed by staff, but there has never been an actual delineation of the wetland and flood plane by a wetland biologist or a hydrologist. I have no objection for the mitigation to be as stated in the MDNS: a generic easement over the critical areas. It is improper, and in fact impossible, to state the acreage that would fall within that category before a delineation is done. We reserve the right to insist on such a delineation at project submittal time.

Very truly yours,


Sterling Breen

10/28/2022

To: Lewis County Board of County Commissioners

Re: City of Chehalis Breen UGA / Sep22-032

I am Virginia Breen's grandson, and I am writing this letter to **oppose the Breen UGA expansion**. I am going to take this time to write this letter not about what every other person is writing about and talk about flooding or traffic which is a very big reason for not wanting this to go through but the most important thing to me is doing what is right. My great grandma was very well-known person around the community and there was not one person who met her or had a conversation with her that could tell you that she was not the most loving and down to earth person. My grandma would never have wanted this to go through not only for the fact of everything else like traffic or flooding but because of the memories that were made! I remember as a young kid sitting there listening to all her stories about what they used to do on the farm like play basketball in the barn with all the neighbor kids or when they would go fishing out back. The smile she had on her face when she would tell these stories was priceless.

This property was not just a farm that was used for me and my family. I have many friends who didn't grow up with the opportunity to live on a farm and when they would come over it was like a vacation to get to come out and ride quads or fish. The number of smiles and "first" fishes that we caught on the lake is unbelievable. I have many pictures of friends that never caught a fish before, that had the best time and without the pond and farm it wouldn't be possible. Not every kid wants to be born and raised in a paved housing development locked inside playing video games all day long.

These are just some of the small things that happen on a farm that not many people get to experience anymore and the fact that my grandma allowed me to share that with many of my friends and myself is a gift that I would never be able to repay. Yes all the other things that are talked about in everyone else's letter is very important but I think this is the biggest thing my grandma would want and I know that emotional attachment isn't a good reason in your guys eyes to make a difference but all I want is what my great grandma would want and that is that this property is used as a farm for my family or another family to enjoy as much as we did!

Colton Baker
592 Newaukum Valley Road
Chehalis WA 98532

From: [Jenny Baker](#)
To: [Mindy Brooks](#)
Cc: bakerkodie@aol.com
Subject: Chehalis Breen UGA
Date: Friday, October 28, 2022 8:51:42 PM

Please include the below letter in the Chehalis Breen UGA written comments.

Thank you,
Jenny Baker

----- Forwarded message -----

From: Susan Gonzales <susanbetterproperties@gmail.com>
Date: Wed, Sep 21, 2022, 8:23 AM
Subject: Virginia Breen Property
To: <kodie.kb@gmail.com>

Virginia Breen Property

I was born in Chehalis raised mostly in Huntington Beach, California. Every Easter Break, summer vacation and Christmas Vacation, I came to be with all of our relatives in Lewis County. We had many relatives in Lewis County because I am a Daughter of the Washington State pioneers. My great, great, great grandfather and grandmother, arrived on the Oregon Trail, original settlers of Toledo and Bucoda.

I spent many, many hours with Bud and Virginia. They were like grandparents to me even though they were the parents of my Uncle Harvey, who was related by marriage to my Mother's Sister, Judy Breen. Bud and Virginia also had a place in Palm Springs. Every time they came south on vacation, we would spend time with them, driving over from Huntington Beach.

When I visited Washington State, a minimum of three times per year, I spent many days on the Breen farm. I spent a lot of fun hours in the barn, with all the animals, fishing in the back pond, feeding the swans that they raised commercially, and even learned to swim in their indoor pool. It was my first opportunity to ever view a Bald Eagle live and in person!! I couldn't believe how beautiful and majestic those birds were, right there in their back part of the property, raising many generations, in the huge Eagle nests in the Bud and Virginia's trees!!

I also made summer money! That was such a big deal. We pulled Tansy for \$.10 per plant. If you didn't get the roots, you didn't get your dime!! I loved working for Bud and Virginia because they always ended our work day with an ice cream and a swim in the pool.

The last few years of Virginia's life, before passing away at an amazing age and still had it together at 104 years old, I spent at least two days per week visiting with her! In fact the morning of the Kobe Bryant helicopter crash, I was right there in Virginia's family room sitting on the couch next to her, when the TV announced the very sad news. We talked a lot about that tragedy and how life was so short. Her years of longevity were blessed beyond any of our wildest dreams!

Virginia and I had lots of great conversations about her ancestors being the original pioneers at Exit 72, Rush Road. Virginia was born where the current McDonald's is, as a member of the Bond family. The last few years while I visited, she had me working on her family history so I put together picture books for her of her parents, family members and census records, their wedding certificate, etc. Some items I found in the county records and some I found on [ancestry.com](https://www.ancestry.com). Virginia's history was rich and full of life and amazing stories as pioneers of the original Lewis County! She was so proud of her deep roots!

One of my favorite activities being on the Breen Farm was all of the birds that they fed. There were always tons of birdfeeders, hummingbird feeders, etc. Her hummingbird feeder looked like a beehive. As you know, when migrating birds return, they bring their young back with them to enjoy the same EXACT safe spot. Virginia and Bud's place was an amazing sanctuary for all types of birds. Once I moved to Chehalis, every house of my own, has always had hummingbird feeders and regular birdfeeders. Birds bring such happiness as they did to Virginia right out her window. When Virginia gave us gifts at Christmas and birthdays, often it was birdfeeders and bird houses!!

Speaking of birds, five years ago, I was down in Oregon at a wedding and someone asked me where I lived. I told them Chehalis. Another person that I did not know piped up and said "Chehalis, I think that's where I bought my swans all the time from the Breen's!! Do you know them? They were super famous. We sure miss their excellent swan production!" He was right, they had a large swan farm, the pond was always filled with all types of happy, water birds. You may notice that their Breen sign on Interstate 5 has two swans. That is because it was a major swan farm. I also might like to add that when I got married, in 1983, the topper on my cake had, of course, two swans to show how much I loved Bud and Virginia in my life!

Their farm offered many happy memories while on vacation over the years until I moved back to Chehalis to raise my own family in 1990. At that time, I then started bringing my own young children over the years to visit the Breen farm. When our father-in-law came to visit from California, Virginia was the first to offer him a day of fishing on the pond. He was at his happiest time!!

FLASH FORWARD 40 YEARS: Not only have I become a science and SpEd teacher, Foster Visitation Supervisor for the State of Washington, I am also a real estate agent. Part of my housing adventure was to work with the Tiny House industry. It just so happened that my boss rented the property across the road on North Hamilton, from Virginia's place. As I was growing up, this was Sterling Breen's office, Virginias other son. My tiny house boss wanted to open a tiny house village and was looking for the perfect location. When they found out that my Aunt/Grandma Virginia lived across the road from our office, they asked if I could talk to Virginia and ask her if she would like to sell off a piece of the front section where the Christmas trees were.

A few days later, while I was visiting, I asked Virginia about the possibility of that front few acres. Virginia responded "I don't want any industry on my property. Bud and I purchased this property as a farm and it's staying as an intact farm. It's not just the memories, it's what is meant to be for the integrity of the State of Washington and Lewis County, it's a historical farm from original pioneers of the State of Washington. I do not want it to ever change to something else. "

It saddens me as a Daughter of the Lewis County and Washington State Pioneers that

“someone” would come in and try to take away a large piece of history just for a money making development. If Virginia had wanted to sell her place for industry or development, she could’ve done it many times over. Instead, she chose to keep her farm intact, just like she told me she wanted, when the Tiny House industry wanted just a tiny piece of the large farm. She did not want her farm to be broken up.

If someone really wanted to push for this development, why didn’t they do this while Virginia was alive and she could speak her opinions? It seems very mean, and sneaky, to me that whoever is trying to take this land, was just waiting like a vulture to take Virginia’s property after she passed away, when she had no more voice.

Susan M (Wood)Gonzales
PO Box 74
Chehalis, WA, 98532

3603049609 susanbetterproperties@gmail.com

External Email - Remember to think before you click!

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10/28/2022

To: Lewis County Board of County Commissioners

Re: City of Chehalis Breen UGA Expansion

I am opposed to this expansion. This property is my grandmother-in-law's property, Virginia Breen. Prior to her passing, she was opposed to this expansion and fought against it for many years.

The future of this property within the family has not been determined, therefore this application was premature, as this property could potentially continue to be farmed and not sold. The estate is being managed by Security State Bank, who submitted the application. I cannot speak for the other 2 beneficiaries of the property, but my husband and mother-in-law were not consulted prior to this and would not have been in agreement to submitting this application.

Virginia's wishes were for her property to be continued to be used as a farm as it had for many generations. Her and her husband raised their children there and she lived there until she passed at 104 years old. My husband Kodie, her grandchild, and my children, her great-grandchildren have worked this land, farmed this land and enjoyed this land for many, many years. Her wished were for this to continue after her passing. Being a part of a farm like this is something that cannot be taken for granted, and we want to continue to have this property stay in its current state for future generations.

Aside from personal reasons to why I am opposed to this expansion, there are many other reasons as well:

- **Traffic** – This property is accessed via Exit 72. This exit already cannot handle the amount of traffic that currently flows through there each day. Potentially adding 456 new homes or a big commercial development would cause the traffic problem to grow immensely. Currently, the traffic at this exit is a major accident waiting to happen – either a multicar/semi-truck accident or a pedestrian/vehicle accident as there are not enough sidewalks/crossing for people going from one business to the other.
- **Flooding** – Some of this property is in a designated flood plain. It borders the Newaukum River and floodwaters have come within inches of the home and barns in previous floods. Filling the flood plain, or adding homes or commercial buildings to this property will cause floodwaters to be diverted down river to neighboring home and farms.
- **Farm Land** – This property is currently being used for farmland, and has been for over 100 years. My husband has farmed this property for hay crops for many years, and also this farm has been used for raising our cattle at times.
- **Environment** – There is a bald eagle nest on this property that has been there for many years. Deer, ducks, geese, swans, salmon and other fish would be impacted as they currently live on this property.
- **Fire/Police** – Adding 456 new homes or big development would be a burden on the current fire and police systems. Currently it can take significant time for fire and police to respond to a call in this area, this will only get worse with the increased number of people to serve and the increased traffic.

Please take the time to review all of the letters that have been submitted re: this property throughout this process. There are hundreds of letters from neighbors of this property and other community members OPPOSING this expansion.

Please take into consideration all of these issues when making your decisions. Again, I am opposed to this expansion.

Jennifer Baker
592 Newaukum Valley Road, Chehalis, WA 98532
360.269.7011

10/28/2022

To: Lewis County Board of County Commissioners

Re: Chehalis Breen UGA Expansion

The property that is being reviewed for this expansion is my grandma Virginia Breen's property. **I am opposed to this expansion**. Prior to her passing, my grandma was opposed to this expansion and fought against it for many years. The UGA application was turned in by the Breen Estate (Security State Bank). The executor of the estate is not a member of the family and I was unaware of this application until after it had been turned in. The future of this property within the family has not been determined, therefore this application was premature, as this property could potentially continue to be farmed and not sold. **I would not have approved turning in this application to Urban Growth**. I became 1/4 owner of this property when my grandma passed away in December 2020. Her wishes were for her property to be continued to be used as a farm as it had for many generations. Her and her husband raised their children there and she lived there until she passed at 104 years old.

Below are the reasons for the opposition:

- **Traffic** – This property is accessed via Exit 72. This exit already cannot handle the amount of traffic that currently flows through there each day. Potentially adding 456 new homes or a big commercial development would cause the traffic problem to grow immensely. The City of Napavine has shown in the past that do not address the issues with traffic when adding new businesses and houses to this exit. There is no faith that this situation would be any different.
- **Flooding** – Some of this property is in a designated flood plain. It borders the Newaukum River and floodwaters have come within inches of the home and barns in previous floods. Filling the flood plain, or adding homes or commercial buildings to this property will cause floodwaters to be diverted down river to neighboring home and farms. The map that was presented by the City of Chehalis during the Planning Commission Meeting did not represent the flooding of the property accurately. I am attaching a map (*Exhibit A*) that shows the 2007 Flood Zone, this map shows the flooding on the property more accurately, but even this map is not 100% correct. 80% of this 109.8 acres floods or is in wetlands. I am attaching a map (*Exhibit B*) that show the wetlands on the property and the multiple ponds, which were left off of the map presented at the Planning Commission Meeting by the City of Chehalis.
- **Farm Land** – This property is currently being used for farmland, and has been for over 100 years. It has been designated as Agriculture land since 1977 (See Exhibit C). I personally have farmed this land as hay crops for years. I have used this land for raising my herd of cattle in previous years.
- **Environment** – There is a bald eagle nest on this property that has been there for many years. Deer, ducks, geese, swans, salmon and other fish would be impacted as they currently live on this property.
- **Fire/Police** – Adding 456 new homes or big development would be a burden on the current fire and police systems. Currently it can take significant time for fire and police to respond to a call in this area, this will only get worse with the increased number of people to serve and the increased traffic.

Per the Lewis County Agriculture and Farmland Enhancement Plan April 2021 – Lewis County's overall vision is that agriculture will continue to thrive and play an essential role as the most important industry in the region's economy; that farms will be environmentally and economically sustainable and profitable; that a local food system will mature to support the health and security of our residents; and that farmland will remain available for farming activities.

Again, I am opposed to this expansion.

Kodie Baker
592 Newaukum Valley Road, Chehalis, WA 98532
360.269.7617



9/8/2022, 4:01:54 PM

0 412.5 825 1,650 ft

NAD 1983 StatePlane Washington South FIPS 4602 Feet

Waterbody

- Shoreline, Fish
- Shoreline, Fish
- Non-Fish
- Unclassified

Watercourse

- Other
- Shoreline, Fish
- Non-Fish
- Unclassified

County

- County
- City
- Private
- USFS
- Out of County

2007 Water Elevation (NAVD88)

- 2007 Flood Inundation
- Parcels
- Roads

State

- State



Lewis County does not guarantee the accuracy of the information shown on this map and is not responsible for any use or misuse by others regarding this material. It is provided for general informational purposes only. This map does not meet legal, engineering, or survey standards. Please practice due diligence and consult with licensed experts before making decisions.



9/8/2022, 4:01:06 PM

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0 412.5 825 1,650 ft
NAD 1983 StatePlane Washington South FIPS 4602 Feet

- | | | | | | | | | | |
|--|----------|--|---------|--|-----------------|--|-----------------|--|-----------------|
| | Wetlands | | County | | Out of County | | Non-Fish | | Non-Fish |
| | Parcels | | City | | Other | | Unclassified | | Unclassified |
| | Roads | | Private | | Watercourse | | Waterbody | | Shoreline, Fish |
| | State | | USFS | | Shoreline, Fish | | Shoreline, Fish | | Shoreline, Fish |



Lewis County does not guarantee the accuracy of the information shown on this map and is not responsible for any use or misuse by others regarding this material. It is provided for general informational purposes only. This map does not meet legal, engineering, or survey standards. Please practice due diligence and consult with licensed experts before making decisions.

Exhibit C.

AFN

831697

6/22/77

831697

NOTICE OF APPROVAL OR DENIAL OF APPLICATION
FOR CLASSIFICATION AS FARM AND AGRICULTURAL LAND

RCW 84.34

TO: Sterling Chester Breen
259 Hamilton Road
Chehalis, Washington 98532

☒ Approved in whole
☒ Approved in part
☐ Denied in whole

APPROVAL: The following land has been approved for classification as farm and agricultural land.
Assessor's parcel or account number: 17094-2 18057-1
Legal description: SE4 SW4 & W2 SE4 Ex H/W Road & Part N of H/W
Section 15 Township 13 Range 2 West; TL 5, 8, 9, 10-1, 11, 11-1, 11-2 & 11-3,
W2 SW4 E of /W, NE4 SW4 W2 NW4 Ex. Road Section 22 Township 13 Range 2 West
Except that part in Classified Land

DENIAL: The following land has been denied classification as farm and agricultural land.

Assessor's parcel or account number: 18057-1
Legal description: That part of above that is Classified Forest Land

APPEAL: A denial of an application for classification as farm and agricultural land may be appealed to the Board of County Commissioners or other county legislative authority.

ASSESSOR: In accordance with the provisions of RCW 84.34.035 "...the assessor shall submit notification of such approval to the county auditor for recording in the place and manner provided for public recording of state tax liens on real property."

Prepare in duplicate. If denial, send original to land owner. If approval, file original with auditor and have auditor return original to land owner. Duplicate is to be retained by the assessor.

Laurence Shiner
Assessor or Deputy

Lewis
County

July 26, 2022

Re: *Estate of Virginia Breen*
Lewis County Superior Court Cause No. 20-4-00390-21
Agricultural Property

Dear Sir or Madam:

I represent Kodie Baker (“Kodie”) and Tamara Baker (“Tammy”) regarding the above-referenced estate. There is a piece of real property which was owned by Virginia Breen at the time of her passing located at 259 Hamilton Road, Chehalis, WA 98532. Hamilton Appraisals, LLC provided an opinion of value as of December 7, 2020 which placed a value of \$1,750,000.00 on the property.

The property itself is approximately 109.83 acres and according to the opinion of value referenced above, the northerly portion of the property (approximately 10.8 acres) along Hamilton road “is included in the Chehalis Urban Growth Area. That 10.8 acres is zoned for commercial use but the remainder of the property is zoned RDD-20. As you are likely aware, the RDD designation is pursuant to Chapter 17.100 of the Lewis County Code (“LCC”).

Virginia Breen did not want her property included in the Chehalis Urban Growth Area. Before her death, Mrs. Breen was subject to a guardianship. In that Guardianship proceeding, a local attorney – Angela Carlson Whitney – was appointed as the Guardian ad Litem for Mrs. Breen. Ms. Carlson-Whitney, whose job it was to represent the interests of Mrs. Breen and support her desires, filed a Public Document Summary with the Guardianship Court to summarize her investigation, conclusions and recommendations.

In relevant part, Ms. Carlson-Whitney reviewed correspondence from Larry Fagerness (attorney) to Mrs. Breen regarding “the farm lease/open space agricultural tax exemption issue.” In her conclusions and recommendations section of the report, Ms. Carlson-Whitney recommended that Mrs. Breen’s right to buy, sell, own, mortgage or lease property be revoked. She also recommended that Security State Bank (the current Personal Representative of Mrs. Breen’s estate) be appointed as the limited guardian of Mrs. Breen’s estate with the following authority:

To manage the farm lease to ensure that Virginia’s real property remains in the Open Space Farm and Agricultural land program.

Mr. Mark C. Sheibmeir

July 19, 2022

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There is no doubt that the action now being taken by the Personal Representative of Virginia's estate is not what Virginia wanted. Virginia's daughter Tammy and Virginia's grandson Kodie who make up 50% of the beneficiaries of Virginia's estate and, therefore, 50% of the beneficiaries of the subject property oppose the attempts to include the property in the Chehalis Urban Growth Area. This was not their mother's/grandmother's wish and it is not their wish.

RCW 11.04.250 addresses when real estate vests and the rights of heirs to real estate. That RCW states:

When a person dies seized of lands, tenements or hereditaments, or any right thereto or entitled to any interest therein in fee or for the life of another, **his or her title shall vest immediately in his or her heirs or devisees**, subject to his or her debts, family allowance, expenses of administration, and any other charges for which such real estate is liable under existing laws. **No administration of the estate of such decedent, and no decree of distribution or other finding or order of any court shall be necessary in any case to vest such title in the heirs or devisees, but the same shall vest in the heirs or devisees instantly upon the death of such decedent**: PROVIDED, That no person shall be deemed a devisee until the will has been probated. The title and right to possession of such lands, tenements, or hereditaments so vested in such heirs or devisees, together with the rents, issues, and profits thereof, shall be good and valid against all persons claiming adversely to the claims of any such heirs, or devisees, excepting only the personal representative when appointed, and persons lawfully claiming under such personal representative; and any one or more of such heirs or devisees, or their grantees, jointly or severally, may sue for and recover their respective shares or interests in any such lands, tenements, or hereditaments and the rents, issues, and profits thereof, whether letters testamentary or of administration be granted or not, from any person except the personal representative and those lawfully claiming under such personal representative.

Kodie and Tammy are the heirs of Virginia Breen and they oppose this attempt to designate the above-referenced property as anything but what it is already designated.

Sincerely,

LEDGER SQUARE LAW, P.S.

s/ Stuart C. Morgan

Stuart C. Morgan

cc: Kodie Baker
Tammy Baker

Date: 10/28/2022

To: Lewis County Board of County Commissioners

Re: Chehalis Breen UGA

I am writing this letter to OPPOSE to the Chehalis Breen UGA Expansion.

My name is Tamara “Tammy” Baker. I am seventy-five years old and I grew up on the above referenced property. Virginia Breen was my mother. Today I own and live on an adjacent farm and I also am part owner to the above referenced property. My son, Kodie Baker and I each own 25% of the subject property so together we own 50%. Both Kodie and I do not want the property re-classified. It started out as farmland and that is what my mother wanted it to stay as. She fought for many years to keep her property out of the UGA and to keep it classified as agricultural land. In fact, the subject property was classified in 1977 as agricultural land (*See Exhibit A – Notice of Approval or Denial of Application for Classification as Farm and Agricultural Land*). My mother expressed her wishes to keep this farmland for as long as I can remember and she again expressed to me her desire to keep her land as a farm and forest, right before she passed away in December 2020.

My mother and my father, Sterling Chester Breen, taught me so many wonderful things including love of the land which I have passed on to my son and grandchildren. They taught me how to raise cattle and show cattle beginning with 4-H and going on later to open shows. They also raised horses and sheep. Besides livestock, my mom and dad had a business raising and selling swans and other birds. They grew crops of wheat, oats, and hay on their farm too. I believe they even received a “Farmer of the Year” award. Furthermore, my parents had a huge garden each year, and they would share their food with anyone in need. They even stocked the lakes with fish. I helped with all of this, and like them I love working on the land. This land has been farmed for over 100 years. My deceased brother Harvey Breen, my son Kodie, and I have all been a part of farming this land. My parents passed down a love of this land for us, as I mentioned before and we want to preserve it, keeping it for its intended use (*see Exhibit B – Letter from Stuart C. Morgan*). This land continues to be farmed to this day.

We are opposed to this amendment for other reasons as well. Incorporating the subject land would have an adverse effect on the environment. It should never have been mitigated non-significant. Filling of this land, and development, will cause river bed and river bank erosion and damage to wildlife habitat, as well as damage to private property along the Newaukum River (*See Exhibit C – Letter from Montgomery Water Group, Inc.*

and Exhibit C-1 – Letter from Jo Sohneronne, Washington State Department of Ecology). Worst of all, development will have significant devastating effects on the diverse wildlife, including species protected under Washington State Law and federal law, including but not limited to fall chinook, coho salmon, steelhead, cutthroat trout, bald eagles, osprey, and owls. Filling a flood plain displaces water and can adversely impact fish life and habitat for wildlife by altering stream channel configuration and flow dynamics. Even building near this area will have significant adverse consequences on wildlife habitat, fish, and wetland and shoreline negation due to uncontrolled discharge of stormwater from impervious surfaces (ex. parking lots, rooftops, etc.) *(See Exhibit D – Letter from Andy Carlson, Washington State Department of Fish and Wildlife and Exhibit E – Letter from Michael Barber, Washington State Department of Fish and Wildlife).*

The proponents for this amendment argue the environmental impact is inconsequential, but that is not true. Water quality is degraded by oils, heavy metals, sediments, and other substances which are an inevitable part of any development, roads, parking lots, and residential housing. This land would suffer irreputable harm if it was zoned for anything other than agriculture with one house per twenty acres *(See Exhibit E – Letter from Michael Barber, Washington State Department of Fish and Wildlife).*

Furthermore, this is a frequently flooded area, not suited for incorporating into the UGA. Ignoring flooding issues in frequently flooded areas is negligent as this causes serious problems to the property, existing roads, Interstate 5, wildlife and most significantly creates dire and even fatal injuries to people. *(See Exhibit F – Letter from Martin Best and Timothy D’Acci, Washington State Military Department of Emergency Management Division and Exhibit G – Letter from WSDOT).* The flooding extends beyond the areas already designated as floodways and floodplain. *(See Exhibit H, Exhibit I, and Exhibit J).*

In addition to environmental hazards and flooding hazards, this amendment does not conform to the requirements of the Growth Management Act. As stated before, this site is designated agricultural land *(See Exhibit A – Notice of Approval or Denial of Application for Classification as Farm and Agricultural Land)* and is still being farmed to date. Furthermore, this land includes the Newaukum River, shorelines, wetlands, a lake and a stream, two ponds, forest and mineral rights. The Lewis County Agricultural and Farmland Enhancement Plan from April 2021 states: “Lewis County’s overall vision is that agriculture will continue to thrive and play an essential role as the most important industry in the region’s economy; that farms will be environmentally and economically sustainable and profitable; that a local food system will mature to support the health

and security of our residents; and that farmland will remain available for farming activities.”

This land is not suited for development because it does not have the infrastructure for this. Public interest will not be served, rather this amendment would be degrading to the health of citizens of Lewis County. This amendment would cause hazardous traffic conditions (discussed in the next paragraph), air pollution, water pollution, noise pollution, and light pollution. Not to mention the crime and the burden on firefighters, law enforcement and schools. There are not enough resources in this rural area to accommodate urban growth.

The traffic off Exit 72 is already a significant problem. It is a dangerous area to drive in with congestion from big rigs, unclear turn lanes, and other hazardous road conditions. There have been no steps taken by the City of Napavine to address the existing traffic problems. Any expansion would make these problems much worse and not serve public interest. The City of Napavine said they would use the Washington State Traffic manual to address traffic problems that are a consequence of development, but nothing has been done. Nothing is ever remedied and we are paying the price for their negligence.

Spot zoning is illegal. A small area is singled out and specifically zoned for use classification totally different and inconsistent with classification of surrounding land indistinguishable from it in character, thus creating a mere island or “spot” within the larger use zone with a resulting new rating that disturbs the tenor of the neighborhood.

There are plenty of other properties that are much more suitable to be developed without causing significant adverse effects.

Thank you for your time,

Tammy Baker
575 Newaukum Valley Road
Chehalis, WA 98532



State of Washington
DEPARTMENT OF FISH AND WILDLIFE

Mailing Address: 600 Capitol Way N, Olympia, WA 98501-1091 - (206) 902-2200; TDD (206) 902-2200

Main Office Location: Natural Resources Building, 1111 Washington Street SE, Olympia, WA

April 28, 1994

Lewis County Department of Public Services
ATTENTION: Mike Zengel, Planning Manager
350 North Market
Chehalis, Washington 98532

**SUBJECT: Mitigated Determination of Non-Significance - Construction of a
200,000 sq. ft. Retail Outlet Mall on 28 Acres - Tanager Factory
Outlet Centers, Inc. - Newaukum River, Tributary to Chehalis
River, Section 23, Township 13 North, Range 02 West, Lewis County,
WRIA 23.0882, WDFW SEPA Log No. 25476**

Dear Mr. Zengel:

The Newaukum River and its riparian corridor support a wide variety of fish and wildlife species. The Newaukum River provides spawning and rearing habitat for spring and fall chinook and coho salmon and steelhead and cutthroat trout. Spring and fall chinook spawn on riffles adjacent to the proposed project and juvenile salmon and trout can be found rearing in the area year-round. Adult spring chinook salmon can be found holding in pools in the area during the summer.

The Newaukum River at the site of the proposed development provides foraging habitat for several fish-eating species, including bald eagles and osprey. Bald eagles are federally and state listed as threatened species and, along with osprey, are listed as a priority species by Washington Department of Fish and Wildlife's (WDFW) Priority Habitats and Species (PHS) Division. Both species have active nest sites near the proposed development and the proposed development falls within the foraging area of both territories. The adjacent forested habitat provides suitable structure for perching and currently acts as a minimal screen between the river and nearby farming activities.

Of the several factors identified by research as critical to eagle and osprey productivity and survival, the one of greatest importance in the area of the proposed development is prey accessibility as it relates to disturbance from humans. While these particular birds clearly are acclimated to a moderate level of human activity, development of this project will dramatically change the scale and intensity of human use. This will likely result in reduced utilization by the birds of that stretch of the river for foraging. Increased public access to the shoreline will further reduce the birds' foraging in this area. To protect perching and feeding areas, buffer zones of up to 1,000 feet are needed when little screening cover is present as is the case at this site. In areas where screening cover is abundant, buffers of 325 feet may be adequate.

The proximity of the proposed project to the active eagle nest may trigger the state's Bald Eagle Protection Rules (WAC 232-12-292), which were enacted to provide a means of protecting important eagle habitat in nesting territories as well as roosting and foraging areas. These rules require WDFW to develop a Site Management Plan to protect those habitat components within a nesting territory which may be impacted by land use changes. The project proponent should contact Lou Bender, WDFW Region 5 Wildlife Biologist, at (206) 696-6211 to determine if a Bald Eagle Site Management Plan is needed.

WDFW has conducted an extensive review of the scientific literature and has developed management recommendations for riparian habitat. We recommend that along Type 1 and 1+ waters, a minimum 325-foot vegetated buffer be established to protect fish and wildlife habitat. Riparian habitat is utilized by approximately 90 percent of Washington wildlife and supports a high fish and wildlife diversity by providing essential food, cover, water, and space needs during all times of the year. Riparian habitat is important as wildlife breeding habitat. It is important seasonal habitat because of its moist and mild microclimate, and it provides movement corridors between ecosystem types.

Riparian habitat is of limited availability, is highly vulnerable to habitat alteration, and provides habitat for unique and dependent species. Riparian areas are essential to healthy, productive fish habitat and aquatic systems and enhance the value and utility of upland habitats for wildlife. Riparian areas also have important social values, including water purification, flood control, recreation, and aesthetics.

The 50-foot buffer that is indicated on the site plan is not adequate for the protection of fish and wildlife habitat nor is it sufficient to provide reasonable protection against stream bank erosion. The river bank along the proposed project site is currently stable, however, changes to the river upstream or downstream of the site could result in the river cutting into the bank along the site. This would necessitate a costly bank stabilization project that could be detrimental to fish and wildlife.

The uncontrolled discharge of stormwater from impervious surfaces, such as parking lots and roof tops, can have significant impacts on fish life and habitat in the receiving waters. The morphology (size, shape) and habitat features (riffles, pools, large organic debris) of a stream are largely a function of the range of flows that naturally occur in the stream. When run-off is increased above the natural level, the channel begins to deteriorate. Gravel and large organic debris (LOD) are washed out, the bed begins to degrade, and the stream banks are destabilized. These changes impact fish life by the direct loss of habitat and destruction of the incubating eggs in the gravel. Juvenile fish are displaced and exposed to increased levels of suspended sediment. Rearing habitat is affected by the loss of LOD and the subsequent loss of pools. Finally, the degradation of the stream channel results in the loss of the benthic macroinvertebrate community upon which the fish feed.

Water quality is also degraded by the oils, heavy metals, sediments, and other substances, which can be introduced to a storm drain from parking lots and residential streets. These substances, if not contained and treated, can result in the direct mortality of fish, increased stress, increased susceptibility to disease, and decreased growth and survival. Toxicants present in stormwater run-off can also have negative impacts on other aquatic life and wildlife.

By proper stormwater management, the impacts to fish life and habitat may be reduced. The attached Washington Department of Fish and Wildlife (WDFW) guidelines were designed using the best available information on how the above impacts can be minimized. This project will require a Hydraulic Project Approval (HPA) from the WDFW for the detention and treatment of stormwater prior to its discharge to the stream.

*note
his* } The placement of 50,000 cubic yards of fill in the floodplain of the Newaukum River will have off-site impacts. Filling within the flood plain displaces water and can increase the extent and duration of flooding elsewhere. This transfer of flooding effects can impact fish life and habitat by altering stream channel configuration and flow dynamics. This can also lead to an increase in bank and flood protection projects which may have negative impacts on fish life and habitat.

In summary, WDFW offers the following recommendations and comments.

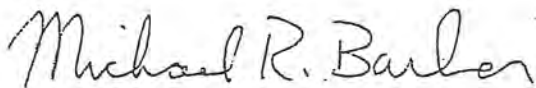
1. The Newaukum River along the proposed development provides essential habitat to several species of salmon and trout.
2. The Newaukum River along the proposed development is important foraging habitat for bald eagles and osprey.
3. The proponent should contact the WDFW biologist Lou Bender (206 696-6211) to determine if a Bald Eagle Site Management Plan is necessary.
4. A minimum 325-foot buffer should be established along the Newaukum River to protect fish and wildlife habitat.
5. The buffer should be planted with native trees and shrubs to enhance its value as riparian habitat.
6. Public access to the river should not be developed.
7. An HPA from the WDFW will be required for the discharge of stormwater to the Newaukum River.

Mike Zengel
April 28, 1994
Page 4

- 7 8. WDFW does not support development and filling within the flood plain due to the detrimental impacts on flooding and fish and wildlife habitat.

Thank you for the opportunity to comment on this proposal. If you have any questions regarding my comments, feel free to contact me at (206) 902-2572.

Sincerely,



Michael R. Barber
Regional Habitat Manager
Habitat Management Program

MB:lt:04.14

Enclosure, Stormwater Guidelines

cc: Anna Bruce, WDFW
Lou Bender, WDFW
Jo Sohneronne, DOE Shorelines
Steven D. Hatton, Howard Godat and Associates, Inc.

MONTGOMERY WATER GROUP, INC.

Water Resources • Environmental • Civil Engineering

Tammy Baker
575 Newaukum Valley Road
Chehalis, WA 98532

November 9, 1998

RE: TRI MOUNTAIN RESOURCES RUSH ROAD PROPERTY - COMMENTS ON SEPA
DETERMINATION

Dear Ms. Baker:

We have reviewed the Mitigated Determination of Non-Significance (MDNS) prepared by Lewis County and the SEPA Checklist used to support the MDNS. Our opinion is the SEPA Checklist does not adequately characterize the impacts on flooding from the proposed development and the MDNS does not contain adequate protection or mitigation to prevent significant adverse environmental impacts. It is our opinion additional studies or preparation of an Environmental Impact Statement is required to adequately address flooding impacts. In particular, it is our opinion the development is likely located within a FEMA regulatory floodway where development is prohibited. We offer the following comments on the MDNS and the SEPA Checklist.

SEPA Checklist

Section A.3.

7 This paragraph describes reports that were prepared for the proposed action and for the placement of fill on the site. The drainage, erosion and flood impact study were referenced without reference to documents that directly disputed the findings of those studies. The documents we are referring to are a letter addressed to Tammy Baker from ourselves dated January 5, 1998 and a letter from the State of Washington Department of Fish and Wildlife dated January 4, 1998. No response to those letters from the applicants were prepared and the questions and comments on the application are still relevant and unanswered. In fact, we had requested from the applicants agents (NHC and Cairncross & Hempelmann) a copy of their hydraulic model and supporting documentation they used to support their conclusions and were refused a copy. The issues raised in those letters should be addressed through this SEPA process. Copies of the comment letters prepared by ourselves and the Department of Fish & Wildlife are attached to this letter.

Section B.4.

7 The potential for erosion of the Newaukum River bed and banks adjacent and downstream from the site will increase as a result of development on the Tri-Mountain site. Our January 5, 1998 letter (attached) discusses those impacts. The applicants hydraulic model used in their analyses predict an 18% increase in velocity during floods similar to that occurred in February 1996. That increase is significant and will cause additional river bed and river bank erosion, causing damage to private properties along the Newaukum River.

Letter to Tammy Baker
November 9, 1998
Page 2

Section 3 Water

7 The hydraulic analyses performed for the placement of fill on the Tri-Mountain site are deficient and flawed. Our January 5, 1998 letter discussed some of those deficiencies. Furthermore, the hydraulic analyses did not address or acknowledge that the Tri-Mountain site is likely within the FEMA regulatory floodway and fill and development should not be allowed.

The NHC flood study does not address that issue because their analyses only consider fill that occurs on the Tri-Mountain site and not on other properties within the Newaukum River floodplain that may also increase flood levels in the Newaukum River. FEMA did not review or recalculate floodway boundaries when the Flood Insurance Rate Map for the site was changed in 1996. Floodways are normally calculated using a method called the "equal conveyance" method. That method assures floodway boundaries are drawn fairly along a river corridor. To calculate a floodway, encroachments are made on both sides of the river the full length of the river to determine how close the encroachments can go to the river without increasing 100-year flood levels more than one foot in elevation anywhere along the river. The floodway calculations have to balance the effect of filling along the whole length of the river, not just at one site.

NHC did not perform a correct floodway analysis in their report. They reviewed the impact of filling at only the Tri-Mountain site. Even so they concluded the increase in flood levels resulting from the filling of the Tri-Mountain site alone for the February 1996 flood event would be 0.5 to 0.9 feet. The February 1996 flood event had a recurrence interval of approximately 100 years, according to the text of the NHC report and Figure 3 of the NHC report. If other areas downstream from the Tri-Mountain site were filled, the increase in flood levels will surely exceed 1.0 feet, as the Tri-Mountain fill already increases flood levels by 0.9 feet. This means the Tri-Mountain fill will be placed in a floodway. That floodway is not set by FEMA yet, but it is the responsibility of Lewis County to consider all relevant and updated information in the enforcement of floodplain regulations. It is also obvious the NHC study is not complete and is misleading when it states the site is outside of the FEMA regulatory floodway.

It is our opinion that Lewis County should not allow development at the Tri-Mountain site until a correct floodway analysis is performed which incorporates the information reflected in the 1996 Flood Insurance Rate Map of the site and information generated by others, including the hydraulic analysis performed by NHC.

Mitigated Determination of Non-Significance

Condition/Mitigating Measure 1

It is our opinion that Lewis County should require an updated analysis of the FEMA regulatory floodway before proceeding. The analysis should be performed by FEMA consultants or reviewed and approved by FEMA before allowing any fill or development on the site.

Letter to Tammy Baker

November 9, 1998

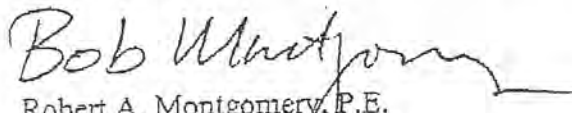
Page 3

Conclusions

> It is our opinion that the Tri-Mountain site is likely within the FEMA regulatory floodway. That conclusion is partly based upon hydraulic analyses performed by the applicants consultant. Lewis County should request of FEMA a review of their floodway boundaries along the Newaukum River before further review of this proposal. The findings of the SEPA Checklist and the MDNS are likely erroneous as the supporting documentation is not complete. It is our opinion the SEPA Checklist does not adequately characterize the impacts on flooding from the proposed development and the MDNS does not contain adequate protection or mitigation to prevent significant adverse environmental impacts. It is our opinion additional studies or preparation of an Environmental Impact Statement is required to adequately address flooding impacts.

Very truly yours,

MONTGOMERY WATER GROUP, INC.


Robert A. Montgomery, P.E.
Principal Engineer

enc.

R-D

03/13/00

11:56

DEPT OF ECOLOGY, PERSONNEL

002



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

P.O. Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

March 13, 2000

Mr. Steve Ashley
City of Napavine
PO Box 556
Napavine, WA 98565

Mr. Clyde W. Stricklin
City Planning Consultant
200 Taylor Street
Port Orchard, WA 98565

Dear Mr. Ashley and Mr. Stricklin:

We understand that the city has postponed their decision on this project until tomorrow. We hope you will consider these additional comments. They are based on our review of the draft FEMA maps, the Pacific International Engineering letter to Lewis County dated February 22, 2000, reviewing those maps, and pertinent chapters of the Washington Administrative Code and Revised Code of Washington.

The letter by Pacific International Engineering stresses the complex flood hydraulics on this stretch of the river. We concur that these factors may alter the final location of the floodplain and floodway boundaries to some extent. However, we believe that even when these factors are considered, the floodway and floodplain boundaries will be significantly larger than they are on the existing flood maps.

7 We consider the draft flood map controlling for the purpose of determining shoreline jurisdiction. Although it is still in draft form, it constitutes best available science. Much of the area proposed to be filled in this application is located in an area designated floodway on the draft map and therefore is in shoreline jurisdiction. Since the city does not have its own shoreline master program, it must use Lewis County's master program. The Lewis County Master Program extends shoreline jurisdiction 200 feet landward of the floodway. The master program prohibits fill in the floodway and requires a shoreline permit for any development in shoreline jurisdiction. Fill is included in the definition of development in the Shoreline Management Act. Any fill placed within 200 feet of the floodway boundary, as shown on the draft FEMA maps, without first obtaining a shoreline permit constitutes a violation of the Shoreline Management Act and may be subject to enforcement action.

We recommend that the city defer a decision on this application until the final revised flood maps have been adopted. If the city approves the application, we recommend that a condition be added prohibiting fill within the floodway shown on the draft map and requiring a shoreline permit for any fill within 200 feet of this boundary.

If you have any questions regarding this letter, please call me at (360) 407-6399.

Sincerely,

[Signature]
Jo Schuerone

Shoreline Compliance Specialist
Shorelands and Environmental Assistance Program

JO.d.

cc Al Wald
Dan Sokol

R-2



C. February 8, 1996 - 1:30 p.m.
Looking southeast from Rush Road
just north of old asphalt driveway



D. February 8, 1996 - 2:30 p.m.
Looking north on Rush Road toward
BP station

*Flooding
& filled &
developed
in floodways
of mainstem
of River -
Picture
after water
went down.*



C. February 8, 1996 - 1:30 p.m.
Looking southeast from Rush Road
just north of old asphalt driveway



D. February 8, 1996 - 2:30 p.m.
Looking north on Rush Road toward
BP station

*Flooding
& filled &
developed
in floodways
of runway
Ruin -
Picture
after water
went down.*



Community Development

2025 NE Kresky Avenue
Chehalis WA 98532

November 6, 2020

Dear Lewis County Resident:

Your property is located in or near a floodprone area. We want you to know about your flood hazard and what you can do about it.

First, note that flooding in Lewis County is a real hazard. We've seen it all too much. At the Centralia river gage, the Chehalis River has gone higher than flood stage 10 times in the last 25 years. The record flood was as recent as 2007.

At the Newaukum River gage, south of Chehalis, flood stage has been exceeded 9 times in the last 25 years. The Cowlitz River downstream of the Mayfield Dam had its highest recorded flood in 1995.

Attached is a brochure on things you can do to protect your family and property from flooding. If you don't read it now, please keep it to refer to when you hear of a flood warning.



Flooded home near Chehalis
– The Oregonian, Bruce Ely

Flood damage is more likely to occur to properties like yours. Therefore, I want to stress the importance of having a flood insurance policy to cover the costs of cleaning up, repairing and rebuilding after the next flood. Some key points about flood insurance are noted in the brochure.

The County Commissioners and I recommend that you talk to your insurance agent about getting flood insurance. If you have a policy, make sure you have enough coverage. See if you are "elevation rated" and how you can reduce your premiums.

Another concern is that different construction rules apply in the Special Flood Hazard Area. Call Lewis County Community Development at 360/740-2696 to determine if you are in that area and what that means if you want to build, remodel, regrade, or fill your property.

Please read the attached brochure, take steps to protect your family and your property, and call us if you have questions.

Sincerely,

Lee Napier, Director
Lewis County Community Development

Attachment



Exhibit # 9

STATE OF WASHINGTON
MILITARY DEPARTMENT
EMERGENCY MANAGEMENT DIVISION

MS: TA-20 Building 20
Camp Murray, Washington 98430-5122
Phone: (253) 512-7000 • FAX: (253) 512-7200

April 6, 1999

Mr. Mike Zengel, Planning Manager,
Lewis County Community Services Department
Lewis County Planning Commission
350 N. Market Blvd.
Chehalis, Washington 98532

Dear Mr. Zengel:

On behalf of the Flood Control Account Assistance Program (FCAAP) of Washington State Department of Ecology, and the State Hazard Mitigation Officer of State Emergency Management Division (EMD), below are responses to the *Draft Lewis County Comprehensive Plan & Environmental Impact Statement* (Comp Plan). The limited review period greatly restricted the extent and comprehensiveness of our comments.

Please forward the following responses to the Lewis County Planning Commission and the Board of County Commissioners.

RCW 36.70A.070(1), regarding the Land Use Element, states:

The land use element shall provide for protection of the quality and quantity of groundwater used for public water supplies. Where applicable, the land use element shall review drainage, flooding and storm water run-off in the area and nearby jurisdictions. . . (emphasis added)

The bulleted paragraph on Land Use Element (L.U.E.) page 4-1 of the Comp Plan begins by stating: "...the GMA requires the following be addressed." However, the requisite information listed in the bullets omits the two very important elements which plan for the protection of groundwater and public water supplies, and the review of drainage, flooding and stormwater runoff. The discussion of flooding (as well as groundwater and water supplies) is missing from this Draft, yet are legally required. Additionally, there is no map showing the frequently flooded areas in Lewis County, which is also required.

Mr. Mike Zengel
Lewis Co. Planning Commission
April 6, 1999
Page 2 of 4

RCW 36.70A.060(3), regarding Natural Resource Lands and Critical Areas, and their development regulations, states:

Such counties and cities shall review these designations and development regulations when adopting their comp plans.

A review of the regulations regarding Natural Resource Lands and Critical Areas is to be included in the draft Comp Plan. On L.U.E. page 4-80, the Comp Plan "incorporates" the Lewis County Resource Lands Ordinance "by reference." The Comp Plan does not include a "review of the regulations," nor even an attachment of the regulations. Of specific concern is that there is no discussion allowing the public to review the Critical Areas Ordinance, no copy is attached, and again, no map identifying the Frequently Flooded Areas.

Note > The *Natural Environment Sub-Element* includes the requisite discussion of Critical Areas. The section on Frequently Flooded Areas states simply: "Frequently flooded areas are floodways and associated floodplains designated by FEMA on the area flood hazard maps for Lewis County." However, the introduction to this Sub-Element states that: "Other sensitive areas, such as land prone to flooding and geologically hazardous areas are important because of the risk to lives and property posed by developing in them." Where are the designated Frequently Flooded Areas in Lewis County? Where is the discussion of how the community will plan for the future while addressing the issue of frequently flooded areas? Where is the discussion of reducing future flood hazards in Frequently Flooded Areas? Where is the discussion of avoiding inappropriate development in flood hazard areas?

The *Introduction* of the Comp Plan provides a matrix identifying the "Major Topics of Concern" on page 1-13, and lists Critical Areas. However, Frequently Flooded Areas are not included. The discussion in this matrix of water supplies is incomplete, as the intent of the GMA is not to address a county's water supply needs in two sentences.

The general comments above illustrate that the *Draft Comprehensive Plan & Environmental Impact Statement of Lewis County* does not adequately address the requirements of the county in protecting its citizens from flood hazards now and in the future. However, below are additional, more specific concerns, all contained in the Land Use Element.

L.U.E. page 4-18:

Under the section "Planned Communities," it discusses a planned community called Birchfield, which is to be located West of Onalaska on the Middle Fork of the Newaukum River. According to the project drawing, which is Figure 4.12, there

will be houses built on the banks of the river, as well as "Cluster Housing" on the river. Please see the attached copy of the appropriate Flood Insurance Rate Map (FIRM), labeled (A), which illustrates the designation of flood hazard where the developers intend to site residences. How will these new residents, especially rural residents with limited emergency response resources, be protected from flood hazards? Did the public involvement and review process allow the critical issue of flood hazard to be known and discussed?

L.U.E. page 4-35, UGA Goals:

There are 5 UGA Land Use Goals, 9 Objectives, and 32 Policies. Out of this, only one item, Policy L.U. 8.1, mentions the word floodplain (or even wetlands). There is no discussion anywhere about identifying as a goal the discouragement of inappropriate development in Frequently Flooded Areas, or as an objective to protect the community from future hazards caused by inappropriate land use development. Actually, the one section that mentions floodplain, L.U. 8.1, is for designating industrial use, not for residential use – which are at much higher hazard in the floodplain than industrial uses. In other words, protecting citizens from flood hazard or inappropriate development is not addressed.

L.U.E. page 4-10. Urban Area Designations:

> The adjoining map, Figure 4.2a, shows that the entire land area along the I-5 corridor from the Napavine City Limits to the Chehalis City Limits has been designated as Urban Growth Area. Figure 4-1a, "Existing Land Use," illustrates that most of the land on the East side of I-5 is presently in urban use, and that much of the land on the West side of I-5 is in urban use. Both of these reviewers spend one or more days a month in this area, and don't agree that this much of this area is presently in urban use. At initial review, encouraging the infilling of these areas would seem to comply with the goals of the GMA. (The discussion of the encouragement of sprawl notwithstanding, which conflicts with the GMA.)

> However, designating the entire corridor from Napavine to Chehalis as UGA is inappropriate. This corridor is some of Western Washington's most Frequently Flooded Area, yearly accumulating depths measured in feet in some of these areas, not inches. Again, there are no Frequently Flooded Areas identified. As there are no Frequently Flooded Areas identified within the Comp Plan, enclosed are copies of the 4 consecutive FIRMS that illustrate the designated flood hazard zone along the I-5 corridor from Napavine to the City of Chehalis, labeled (B) through (E). Was there a public involvement process in Lewis County with the designation of these areas as UGA? How are future citizens, and future industries unfamiliar with the local flooding history, to be protected in this area, when it has been designated as

Mr. Mike Zengel
Lewis Co. Planning Commission
April 6, 1999
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the most appropriate place to site urban growth? How is the goal of inappropriate land use development addressed when this Comp Plan encourages the development of some of the most Frequently Flooded Areas along I-5 in Western Washington?

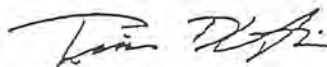
If Lewis County encourages the in-filling and further urban growth in the outlying areas along the I-5 corridor where it frequently floods, then the many federal and state agencies that have invested millions in this area, through the rebuilding of infrastructure as well as flood mitigation projects, will have no choice but to come back time and time again.

Through FCAAP and EMD, the State has invested substantially in Lewis County to help reduce flood hazards through a number of measures. Addressing flooding for communities where flooding is an issue within the Comp Plan is a legal requirement of the Growth Management Act. As you know, Washington State is considered a 'flooding' state, due to its many riverine systems and the mild and wet winters. Consequently, the demand for program dollars that assist communities is very high and the competition intense. Since 1990, \$20,000,000 in federal and state dollars, disbursed through these two agencies alone, has been invested in Lewis County. In the future, Lewis County and its local governments could be requesting even more taxpayer dollars from these agencies to pay for flood damage in Lewis County. This Comp Plan should reflect that the community is planning to help protect citizens in the future, at the least by including an element or sub-element on flooding, by including the designation of Frequently Flooded Areas in Lewis County, and by discouraging development in inappropriate areas.

Sincerely



Martin E. Best
State Hazard Mitigation Officer



Timothy D'Acci
Flood Control Account Assistance Program

Enclosures

ccw/enc: Jeannie Massingham, Manager,
Lewis County Division of Emergency Services
Holly Gadbaw, Growth Management Division,
State Dept. of Community, Trade & Economic Development
Gorge Currin, NFIP Compliance Officer,
Federal Emergency Management Agency

06-15-02 08:25 FAX
01-23 3:55 PM

FAX NO. 3606640562



State of Washington
DEPARTMENT OF FISH AND WILDLIFE

Mailing Address: 600 Capitol Way N • Olympia, WA 98501-1091 • (360) 902-2200, TDD (360) 902-2207
Main Office Location: Natural Resources Building • 1111 Washington Street SE • Olympia, WA

January 4, 1998

Mike Zengle
Lewis County Planning Manager
350 North Market Boulevard
Chehalis, WA 98532

Dear Mr. Zengle:

SUBJECT: Tri-Mountain Resources - Rush Road Landfill; Mitigated Determination of Non-Significance (MDNS), Adjacent to the Newaukum River, Tributary to the Chehalis River, Township 13 North, Range 02 West, Section 22 and 23, Lewis County.

7 Thank you for the opportunity to provide comments on the proposed Tri-Mountain floodplain fill project near Rush Road and Interstate 5. The Washington Department of Fish and Wildlife (WDFW) has reviewed the proposal and recommends that Lewis County reconsider the initial Mitigated Determination of Non-Significance (MDNS) and issue a Determination of Significance or place additional mitigation conditions on the proposal in order to address our concerns and comments. The following comments provide the basis for our recommendation.

Biological Impact:

The Newaukum River and its riparian corridor support a wide variety of fish and wildlife species. The Newaukum River provides spawning and rearing habitat for spring and fall chinook, coho salmon, steelhead, and cutthroat trout. Spring and fall chinook spawn on riffles adjacent to the proposed project and juvenile salmon and trout can be found rearing in the area year-round. Adult spring chinook salmon can be found holding in pools in the area during the summer. Winter steelhead use the Newaukum River adjacent to the proposed project to migrate upstream to access spawning areas.

Winter steelhead in the Newaukum drainage have been identified by the 1992 Washington State Salmon and Steelhead Stock Inventory (SASSI) as "Depressed". The definition of a Depressed Stock is a stock of fish whose production is below expected levels based on available habitat and natural variations in survival rates, but above the level where permanent damage to the stock is likely. The category of Depressed Stocks is used to identify those stocks that are experiencing difficulties that contribute to lower than expected numbers of returning fish. Depressed Stocks are vulnerable to negative impacts and can potentially change status very rapidly from Depressed to "Critical." The category of Critical Stocks is used to identify those stocks that are experiencing production levels that are so low that permanent damage to the stock is likely or has already occurred.

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Mike Zengle
January 4, 1998

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The Newaukum River at the site of the proposed development provides foraging habitat for several fish-eating species, including bald eagles and osprey. Bald eagles are a federal and state listed threatened species. Osprey are listed as a priority species by WDFW. Both species have active nest sites nearby and the proposed development falls within the foraging area of both nest sites. The forested riparian habitat along the Newaukum River at this site provides suitable structure for perching and currently acts as a minimal screen between the river and nearby farming activities.

Of the several factors identified by research as critical to bald eagle and osprey productivity and survival, the one of greatest importance in the area of the proposed development is prey accessibility as it relates to disturbance from humans. While these particular birds clearly are acclimated to a moderate level of human activity, development of this project will dramatically change the scale and intensity of human use at this site. This will likely result in this portion of the Newaukum River being used less for foraging activities.

The proximity of the proposed project to the active bald eagle nest may trigger the state's Bald Eagle Protection Rules (WAC 232-12-292), which were enacted to provide a means of protecting important habitat in nesting territories as well as roosting and foraging areas. These rules require WDFW to develop a Site Management Plan to protect those habitat components within a nesting territory which may be impacted by land use changes. The project proponent should contact Pat Miller, WDFW Wildlife Biologist, at (360) 577-0672 to determine if a Bald Eagle Site Management Plan is needed.

We recommend that along Type 1 waters, a minimum 250-foot vegetated buffer be established to protect fish and wildlife habitat. If the 100 year floodplain is greater than 250 feet then the riparian habitat area should extend to the edge of the 100 year floodplain. WDFW has conducted an extensive review of the scientific literature and has developed management recommendations for riparian habitat. Riparian habitat is utilized by approximately 90 percent of Washington wildlife and supports a high fish and wildlife diversity by providing essential food, cover, water, and space needs during all times of the year. Riparian habitat is an important habitat for wildlife breeding, it provides movement corridors between ecosystem types, and is an important seasonal habitat because of its moist and mild microclimate.

Riparian habitat is of limited availability, is highly vulnerable to habitat alteration, and provides habitat for unique and dependent species. Riparian areas are essential to healthy, productive fish habitat and aquatic systems and enhance the value and utility of upland habitats for wildlife. Riparian areas also have important social values, including water purification, flood control, recreation, and aesthetics.

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Filling in the Floodplain:

The placement of 15,000 cubic yards of fill in the floodplain of the Newaukum River will have off-site impacts. Filling within the flood plain displaces water and can increase the extent and duration of flooding elsewhere. This transfer of flooding effects can impact fish life and habitat by altering stream channel configuration and flow dynamics. This can also lead to an increase in bank and flood protection projects which may have negative impacts on fish life and habitat.

Page five of the Hydrologic Assessment completed by Howard Godat and page eight of the Technical Analysis to Evaluate Impacts of Fill (Technical Analysis) completed by Northwest Hydraulic Consultants (NHC) state that the loss of flood water storage as a result of this fill is insignificant and negligible. How is insignificant and negligible defined? The exact, or near approximate, percentage of Newaukum River floodplain eliminated by this project should be provided to adequately assess if loss of floodplain storage is acceptable.

Page eight, last paragraph, of the Hydrologic Assessment completed by Howard Godat states that there will not be "...any increased cutting of either the north or south bank..." Northwest Hydraulic Consultants state on page four and five of the Technical Analysis that their modeling indicates that downstream impacts will be seen for the first 1000 feet below Rush Road. These statements contradict one another. Again, Howard Godat and NHC state that the changes are too small to be considered significant. How is significant defined?

The Evaluation of Modeling Results on page four and five of the Technical Analysis describe the anticipated increase of water elevation and velocity during the FEMA 100-yr event and the February 1996 event after filling has occurred. The report does not identify the existing water elevations and velocities during the FEMA 100-yr event or the February 1996 event prior to filling. Without comparison data of the water elevation and velocity under "fill" and "no fill" conditions you cannot evaluate whether the change is significant or not, therefore, the Technical Analysis statement that the changes are too small to be considered significant is not supportable. WDFW requests that water elevation and velocity measurements under the "no fill" condition for the FEMA 100-yr event and the February 1996 be provided. A topographic map showing where water will be displaced as a result of the fill during the FEMA 100-yr event and the February 1996 event should be provided to evaluate whether increased water elevations are acceptable.

Page six of the Technical Analysis mentions models other than the HEC-2 model that are used to predict the impact of fill projects. The report states that these models were not used because it was felt that the calculations of flow across the proposed fill site were reasonably accurate. Another reason given for not using these models was because the results would "not differ significantly" from the HEC-2 results. No evidence is provided by NHC to support the claim that these other models would provide similar results. The HEC-2 data provided by NHC has 12 cases where the model generated "Conveyance change outside of acceptable range" errors. These errors were not addressed or explained by NHC. Do these errors identify instances where the

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model assumptions were violated? If the assumptions were violated are the results and interpretations still valid? Would other models have provided more accurate results without error messages? Are the error messages significant? Answers to these questions should be provided prior to approval of the project.

There is not enough information to determine whether or not the chinook spawning riffle or riparian habitat along the property will be maintained. Mitigation measures to insure the maintenance of these habitats and/or their replacement should be required. Loss of spawning habitat will directly impact the production of spring and fall chinook. Loss of riparian habitat and increased bank erosion will negatively impact the survival of salmon and steelhead.

Land filling projects are currently being undertaken by neighboring property owners. These fill projects will most likely eliminate floodplain storage and flow. Were these filling projects taken into account by Howard Godat and NHC when they modeled flood water flow and storage on the Tri-Mountain property? It is possible that cross-sections one through four changed as a result of recent filling activity? According to the HEC-2 data cross-sections one, two, and three were interpolated from cross-section number four. Did these filling projects alter cross-sections one through four and thus change the HEC-2 model estimations of increased water elevation, velocity, and impact to downstream banks? The HEC-2 model results should be re-evaluated based on changes that occurred on neighboring property prior to approval.

Stormwater Impact:

The uncontrolled discharge of stormwater from impervious surfaces, such as parking lots and roof tops, can have significant impacts on fish life and habitat in the receiving waters. The morphology (size, shape) and habitat features (riffles, pools, large organic debris) of a stream are largely a function of the range of flows that naturally occur in the stream. When run-off is increased above the natural level, the channel begins to deteriorate. Gravel and large organic debris (LOD) are washed out, the bed begins to degrade, and the stream banks are destabilized. These changes impact fish life by the direct loss of habitat and destruction of the incubating eggs in the gravel. Juvenile fish are displaced and exposed to increased levels of suspended sediment. Rearing habitat is affected by the loss of LOD and the subsequent loss of pools. Finally, the degradation of the stream channel results in the loss of the benthic macro invertebrate community upon which the fish feed.

Water quality is also degraded by the oils, heavy metals, sediments, and other substances, which can be introduced to a storm drain from parking lots and residential streets. These substances, if not contained and treated, can result in the direct mortality of fish, increased stress, increased susceptibility to disease, and decreased growth and survival. Toxicants present in stormwater run-off can also have negative impacts on other aquatic life and wildlife. By proper stormwater management, the impacts to fish life and habitat may be reduced. Use of the Puget Sound Stormwater Management Manual to design stormwater retention facilities is recommended.

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Conditions/Mitigating Measures:

Condition #1 and #5 of the MDNS are conflicting. Condition #1 states that no landfill or other substantial development shall be placed within 200 feet of the FEMA floodway. Condition #5 states that there shall minimum setbacks of 50 feet and 100 feet, respectively, for low intensity use and high intensity use. Are the 50 and 100 foot setbacks in addition to the 200 feet? Are high and low intensity uses different than landfill or substantial development and allowable within the 200 foot setback identified in #1? No activity should be permitted within 250 feet of the Newaukum River water, or within the 100 year floodplain, which ever is greater.

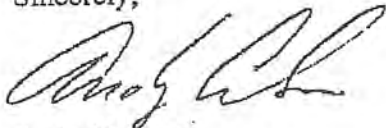
In summary, WDFW offers the following recommendations and comments.

1. The Newaukum River along the proposed development provides essential habitat to several species of salmon and trout. Winter steelhead, a Depressed Stock, use the Newaukum River adjacent to the proposed project to migrate upstream to access spawning areas.
2. The Newaukum River along the proposed development is important foraging habitat for bald eagles and osprey. The proponent should contact WDFW biologist Pat Miller at (360) 577-0672 to determine if a Bald Eagle Site Management Plan is necessary.
3. No activity should be permitted within 250 feet of the Newaukum River, or within the 100 year floodplain, which ever is greater, to protect fish and wildlife habitat. The buffer should be planted with native trees and shrubs to enhance its value as riparian habitat.
4. WDFW does not support development and filling within the floodplain due to the detrimental impacts on fish and wildlife habitat. The applicant has not demonstrated that the riparian habitat and spawning riffles currently on-site will be maintained. Loss of either of these habitats will negatively impact fish and wildlife.
5. The information provided does not give enough detail to adequately assess the impact of the proposed project. The HEC-2 model generated unexplained error messages and thus possibly incorrect interpretations. Information concerning the condition of Newaukum River water elevations and velocities prior to filling activity were not provided. The impact of recent fill projects on neighboring properties was not addressed. The project cannot be adequately evaluated without complete information.
6. Condition #1 and #5 of the MDNS are conflicting.

Mike Zengle
January 4, 1998
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Incidentally, the copy of the SEPA Checklist sent to WDFW for review was not signed or dated. Thank you for the opportunity to comment on this proposal. If you have any questions regarding my comments, feel free to contact me at (360) 664-4672.

Sincerely,



Andy Carlson
Area Habitat Biologist
Habitat Management Program

cc: Bryan Cowan, WDFW
Pat Miller, WDFW
Neil Rickard, WDFW SEPA Coordinator
Bob Barnard, WDFW Engineer

October 31, 2022

Board of County Commissioners
Lewis County Commissioners
351 NW North St.
Chehalis, WA 98532

RE: PLEASE VOTE NO ON THE ENBODY/WESTLUND UGA PROPOSAL

Dear Board of County Commissioners:

My neighbors and I want to be good neighbors but we can hardly see how building an additional 1220 homes in our area will help. NO ONE in the current Newaukum Village neighborhood wants to see houses built on the West 9. When someone buys a home on the golf course, they don't anticipate the greens being destroyed and a house development going in.

Please vote NO on the Enbody/Westlund UGA expansion because of the effects to surrounding neighborhoods. Not one of my neighbors is in favor of them doing away with the West 9 holes at the Newaukum Valley Golf Course.

I have already stated my opinion of the fiasco at the July 27th Planning Commission meeting. It was a SLAM/DUNK before the matter was even brought before the LCPC.

The LCPC used the "too much additional traffic at Exit 72" to vote against the Sterling Breen proposal. His land is closer to the LaBree Road interchange anyhow. However, when it came to the Enbody/Westlund proposal, the LCPC was not concerned with the traffic impacts that 1220 additional houses would cause. The same criteria should be used for both proposals....due to the appearance of fairness.

Thank you and I appreciate your consideration of my comments.

Sincerely,

A handwritten signature in cursive script that reads "Sheila Unger".

Sheila Unger
140 Newaukum Village Dr.
Chehalis, WA 98532