

ORDINANCE NO. 2021-10

AN ORDINANCE APPROVING THE PROPOSED CASTLE ROCK LANDING ON THE COWLITZ DEVELOPMENT AS A MIXED-USE MASTER PLANNED DEVELOPMENT SUBJECT TO CONDITIONS, AUTHORIZING THE PREPARATION OF A DEVELOPMENT AGREEMENT, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, Castle Rock Municipal Code Chapter 17.100 authorizes the approval of mixed-use, master planned developments in all zoning districts in the City; and

WHEREAS, Compass Group, LLC has submitted an application for a mixed-use, master planned development on approximately 118 acres in southern Castle Rock, generally located between the BNSF rail line and Salmon Creek to the east, the Cowlitz River to the west, and Timberline Church to the north; and

WHEREAS, the proposed site is designated Industrial on the Future Land Use Map and is zoned Industrial; and

WHEREAS, the Industrial zoning would permit a variety of manufacturing, construction oriented, and industrial uses on this site; and

WHEREAS, the proposed mix of uses proposed for this master planned development includes:

- 624,000 square feet of light industrial and flex/office space on 58.7 acres.
- 98,000 square feet of retail and commercial/professional services on 11 acres.
- 200 multi-family residential units on 7.8 acres.
- A 200-unit RV park, as well as a rustic boat/kayak launch, public shoreline access, and recreational trails on 18 acres; and

WHEREAS, the City has determined that this proposed project is eligible for consideration and a master planned development in accordance with the provisions of the Castle Rock Municipal Code; and

WHEREAS, a Notice of Application was distributed that provided the public with an opportunity to provide initial comments on the proposed development; and

WHEREAS, the City Development Review Team considered these comments and reviewed the application materials for consistency with the City's Development Regulation; and

WHEREAS, the City made a SEPA Threshold Determination that the proposed project would not have a probably significant impact on the environment and that an EIS was not required; and

WHEREAS, the City issued a Mitigated Determination of Non-Significance and distributed it for public review and comment along with the staff report and public hearing announcement; and

WHEREAS, the City accepted written comments on the SEPA Threshold determination and the Staff Recommended Conditions of Approval prior to the public hearing conducted by the City Hearings Examiner that were included in the record; and

WHEREAS, the City Hearings Examiner conducted the required public hearing on the Staff Recommendation to approve the Mixed-Use Master Planned Development subject to conditions; and

WHEREAS, the City Hearings Examiner held the public comment period open for an additional week following the public hearing; and

WHEREAS, the Hearings Examiner reviewed the application materials, the Staff Report, and the public comments received and prepared a written report dated September 14<sup>th</sup>, 2021, that includes Findings of Fact, Conclusions of Law, and a Recommendation to the City Council to approve the Master Planned Development subject to conditions; and

WHEREAS, the City subsequently issued a revised MDNS to address a question raised by the Hearings Examiner; and

WHEREAS, the Mayor and the City Development Review Team have continued to meet with the Project Sponsor to clarify and further refine the proposed development and the recommended conditions of approval; and

WHEREAS, a Special Study Session was conducted to provide the City Council with an opportunity to learn more about the proposed Master Planned Development directly from the Project Sponsor; and

WHEREAS, the approval of the proposed Master Planned Development would enable the Project Sponsor to proceed with the preparation of more detailed plans and to apply for the permits and approvals necessary to implement the approved Master Plan in phases; and

WHEREAS, a SEPA Checklist will be submitted with the application for each phase of the approved Master Planned Development; and

WHEREAS, the City may require additional mitigation and/or conditions of approval based on an analysis of these subsequent application materials.

NOW, THEREFORE, the City Council of the City of Castle Rock do ordain as follows:

**Section 1 – Master Plan Approved.** The Castle Rock Landing on the Cowlitz Master Plan, as depicted on the attached Exhibit A and incorporated herein by this reference, is hereby approved subject to conditions.

**Section 2 – Conditions of Approval Adopted.** The Conditions of Approval in the attached Exhibit B and incorporated herein by this reference, is hereby adopted.

**Section 3 – Findings of Fact and Conclusions of Law Adopted.** The Findings of Fact and Conclusions of Law contained in the Hearings Examiner Report to the City Council dated September 14, 2021, attached as Exhibit C, and incorporated herein by this reference, are hereby adopted.

**Section 4 – Preparation of Draft Development Agreement Authorized.** The Mayor and his/her designees are hereby authorized to prepare a draft Development Agreement in accordance with the provisions of the Laws of Washington State to guide the implementation of the Master Plan and Conditions of Approval, provided that a duly noticed public hearing will be conducted on the draft Development Agreement prior to action by the City Council.

**Section 5 – Severability.** Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulations, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**Section 6 – Effective Date.** This Ordinance shall be in full force and effect five days after its passage and posting as required by law.

ADOPTED by the City Council and signed by the Mayor on this \_\_\_\_ day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Mayor

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney

Effective Date: \_\_\_\_\_

Exhibit A: Castle Rock Landing on the Cowlitz – City Council Review Master Site Plan.

Exhibit B: Castle Rock Landing on the Cowlitz – Conditions of Master Plan Approval.

Exhibit C: Castle Rock Landing on the Cowlitz – Hearing Examiner Recommendation.

**Exhibit B**  
**Castle Rock Landing on the Cowlitz**  
**Conditions of Master Site Plan Approval**  
**October 22, 2021**

1. The approved Castle Rock Landing on the Cowlitz Master Site Plan shall consist of the following parcels totaling approximately 118 acres:
  - a. Parcel #30812 (20.83-acres), 2542 Larsen Lane SW.
  - b. Parcel #308100100 (1.06-acres), 1955 Huntington Avenue S.
  - c. Parcel #30813 (4.33-acres).
  - d. Parcel #30864 (78.34-acres).
  - e. Parcel #6143802 (6.44-acres).
  - f. Parcel# 308640100 (.34-acres).
  - g. Parcel #308640200 (7.8-acres).
2. All subsequent project specific development activities shall comply with the applicable provisions of the Castle Rock Municipal Code except as modified by these Conditions of Approval or a Development Agreement.
  - a. Development activities in the Employment Land Use Area shall comply with the provisions of the Industrial (I) zoning district except as modified by these Conditions of Approval.
  - b. Development activities in the Commercial Land Use Area shall comply with the provisions of the Highway Business (C-2) zoning district except as modified by these Conditions of Approval.
  - c. Development activities in the Residential Land Use Area shall comply with the provisions of the High Density Residential (R-2) zoning district except as modified by these Conditions of Approval.
3. The Project Sponsor shall be responsible for obtaining all local, state, and federal permits and approvals that may be required to implement the approved Master Planned Development.
4. Permitted uses in each land use area as depicted on the approved Master Site Plan may include the following, provided that the City may approve other uses based on a finding that they are similar in nature and compatible with the permitted uses.
  - a. Employment Land Use Area: Uses identified as permitted (P) or permitted through the

issuance of a conditional use permit (C) or permitted through a special use permit (S) in the Table of Permitted Land Uses CRMC 17.26.010 in the Industrial (I) zoning district are permitted (P).

- b. Commercial Land Use Area: The following uses and categories of uses identified as permitted (P) or permitted through the issuance of a conditional use permit (C), or permitted through a special use permit (S) in the Table of Permitted Uses CRMC 17.26.010 in the Highway Business (C-2) zoning district are permitted (P).

- (1) Accessory buildings.
- (2) Accessory uses.
- (3) Retail sales
- (4) Professional offices.
- (5) Bank.
- (6) Printing.
- (7) Animal grooming.
- (8) Bakery.
- (9) Beauty/barber shop.
- (10) Convenience store.
- (11) Kennel (indoor).
- (12) Laundry/dry cleaners.
- (13) Liquor Store.
- (14) Marijuana retail sales.
- (15) Microbrewery.
- (16) Child day care.
- (17) Hotels/motels.
- (18) Food cart/Mobile sales.
- (19) Restaurants/coffee shops/drive-through restaurants and the like.
- (20) Brew pub, tavern, cocktail lounge, wine tasting room and the like.
- (21) Health care providers and facilities.
- (22) Outdoor storage, displays, and sales.
- (23) Farmer's market, fruit stand.
- (24) Farm tool sales/rental.
- (25) Wireless communication facilities.
- (26) Public facilities.
- (27) Vehicle and boat sales and services.
- (28) Temporary uses.
- (29) Arcade.
- (30) Gallery/museum
- (31) Movie theater.
- (32) Performing arts theater.
- (33) Recreation, commercial (indoor).

- c. Residential Land Use Area: The following uses as identified as permitted (P) or permitted through a conditional use permit (C) or permitted through a special use permit (S) in the Table of Permitted Uses (CRMC 17.26) in the High Density

Residential (R-2) zoning district, are permitted (P).

- (1) Single Family Dwelling Units.
- (2) Duplexes.
- (3) Multi-Family Dwelling Units.
- (4) Accessory Buildings.
- (5) Accessory Dwelling Units.
- (6) Bed and Breakfast Inn.
- (7) Child Day Care.
- (8) Home Business.
- (9) Public Park.
- (10) Temporary Uses.

- d. Recreational Land Use Area: This area will be developed primarily as an RV Park, and may include day use only facilities and full-service, overnight RV pads designed and constructed in accordance with the applicable provisions of the Castle Rock Municipal Code including but not limited to CRMC Chapter 17.63 Recreational Vehicles.
  - e. Critical Areas/Open Space Tracts: This shall include a wetland and buffer to be placed in an open space tract(s) that shall not be developed, provided that low impact recreational uses such as trails may be permitted in accordance with local, state, and federal laws, regulations, and standards. Jurisdictional shoreline areas and their buffers may also be placed in an open space tract(s).
5. The following development standards shall apply within the Master Planned Development unless otherwise authorized and approved in accordance with the provisions of these Conditions of Approval.
- a. There are no minimum or maximum lot size or width requirements provided that applicable lot coverage, parking, loading, stormwater management , and landscaping requirements as well as the provisions of the International Building Codes, as adopted and implemented by the City are met.
  - b. There are no minimum front, side, or rear yard building setbacks, within the interior of the master planned development, provided that:
    - (1) There shall be a minimum landscape buffer of 20' along the external boundary of the master planned development that abuts privately owned properties not a part of the Master Planned Development. This requirement may be modified by mutual written agreement of the adjoining property owners and subject to City review and approval.
    - (2) All buildings must be setback at least 5' from the required 20' landscaped buffer.
    - (3) All buildings shall comply with the provisions of the International Building Codes as adopted and implemented by the City.

- c. The maximum building and structure heights are as follows:
    - (1) Employment Land Use Area: 50 feet.
    - (2) Commercial Land Use Area: 40 feet.
    - (3) Residential Land Use Area: 40 feet.
    - (4) Recreation Land Use Area: 35 feet.
    - (5) The maximum height of wireless communication facilities shall be determined in accordance with the provisions of CRMC Title 11 Communication Antennas and Towers.
    - (6) The Project Sponsor may propose to increase the maximum building height up to 25% provided that the City may limit the number of stories within the building and/or require additional mitigation in order to comply with the provisions of the International Fire Code and as may be necessary to protect the public health, safety, and welfare.
  - d. There is no minimum or maximum residential density requirement, provided that no more than 200 dwelling units shall be developed on 7.8 acres in the Residential Land Use Area.
6. There shall be no net loss of function or value of wetlands, streams, or rivers as a result of project related activities.
- a. A Critical Areas Report shall be submitted for all development activities that may impact environmentally sensitive areas on or near the site and a Critical Areas Permit or similar authorization shall be required for all non-exempt development activities.
  - b. All critical areas and their buffers shall be delineated and placed in an open space tract(s).
  - c. All development activities within 200' of a river or a stream and their associated wetlands under the jurisdiction of the Washington State Shoreline Management Act shall comply with the provisions of the Castle Rock Shoreline Master Program.
7. All development activities shall comply with the City Flood Hazard Prevention regulations including the elevation of buildings at least one foot above base flood elevations.
8. Prior to the initiation of any clearing and grading activities the Project Sponsor shall submit for City review and approval a Master Clearing, Fill, and Grading Plan that is integrated with a Stormwater Management Plan that includes an analysis of the impacts of the proposed development to adjacent properties and measures to ensure that stormwater or flood waters will not adversely affect neighboring properties.

- a. Each application to implement a phase of development shall include a more detailed plan with Civil Drawings.
9. The Project Sponsor shall be responsible for the design, construction, and maintenance of such improvements as may be required to connect to the City water system, unless otherwise agreed to by the parties, provided that:
    - a. Prior to preparing design plans, the Project Sponsor shall provide the City with an estimate of anticipated water demand for each phase of development including anticipated fire flow needs.
    - b. The Project Sponsor may submit for City review and approval plans for a separate irrigation system.
    - c. The City has received a grant and loan from the Washington State Community Economic Revitalization Board (CERB) to extend a water main to the site. As a result, the City shall be responsible for the design and construction of this water main extension in accordance with the conditions of the grant and loan approval.
  10. The Project Sponsor shall be responsible for the design, construction, and maintenance of such improvements as may be required to connect to the City sewer system, unless otherwise agreed to by the parties, provided that:
    - a. Prior to preparing design plans, the Project Sponsor shall provide the City with an estimate of anticipated treatment capacity and flows for each phase of development.
  11. The primary route of ingress and egress shall be from Huntington Avenue S as depicted on the Master Site Plan approved by the City.
    - a. All internal access roads, alleys, and driveways shall be designed and constructed by the Project Sponsor to the appropriate City road standards unless a modification is approved by the City.
    - b. The Project Sponsor may propose to dedicate roads to the City, provided that the acceptance shall be at the sole discretion of the City.
    - c. No Certificates of Occupancy for any new construction shall be issued prior to the completion of the required access improvements, including but not limited to the primary access road from Huntington Avenue S.
  12. Larsen Lane SW is a public right-of-way and in its existing condition the use of Larsen Lane SW to access the Master Planned Development shall be limited to:
    - a. Emergency ingress and egress, provided that:
      - (1) The Project Sponsor shall be responsible for the design and construction of such

improvements to Larsen Lane SW within the existing right-of-way from the Master Planned Development to and including the intersection with Huntington Avenue S that may be required by the City to maintain emergency access to the Master Planned Development in accordance with the provisions of the International Fire Code as adopted and implemented by the City.

- (2) It is understood by the parties that if the required emergency access cannot be provided within the existing right-of-way that a different route for emergency access may be required.
- b. Interim access by the Project Sponsor, and their employees, subcontractors, and suppliers pending the construction of a temporary access road at the primary access point from Huntington Avenue S near the Timberlake Church driveway, provided that:
- (1) The Project Sponsor shall provide the City with documentation of the existing condition of Larsen Lane SW and shall be responsible for the repair of any damages caused by the Project Sponsor or its employees, subcontractors, and suppliers to the roadway during this interim period.
  - (2) The City will require a bond or financial guarantee sufficient to restore Larsen Lane SW in its sole discretion.
  - (3) The Project Sponsor shall design and construct, subject to City review and approval, a temporary access road at the primary point of access from Huntington Avenue S near the church driveway no later than June 30, 2022, provided that this deadline may be extended with cause by the City.
  - (4) The City will make a good faith effort to expedite the review and approval of this temporary access road.
13. The City may install reasonable measures to prevent the use of Larsen Lane SW in its existing condition to access the Master Planned Development. This may include, but is not limited to, signage, a gate or bollards with a lock box, and a cul-de-sac or turnaround for vehicles attempting to enter the Master Planned Development.
14. The Project Sponsor may propose, subject to City review and approval, to improve Larsen Lane SW as a two-lane, secondary access road. This shall include the submittal of a traffic and engineering study, a SEPA Checklist, and proposed mitigation measures, for City review, provided that:
- a. All improvements shall be designed and constructed to City standards unless a modification is approved by the City.
  - b. The improvements shall include the intersection of Larsen Lane SW with Huntington Avenue S.

- c. The Project Sponsor shall be responsible for the design, construction, and all reasonable costs associated with these improvements to Larsen Lane SW.
15. With the applications to implement each phase of development, the Project Sponsor shall include a Parking Study that identifies the parking requirements for each use and demonstrates how this parking need can reasonably be met. This Parking Study shall utilize the standards in the most recent edition of the Institute of Traffic Engineers (ITE) manual unless project specific data from similar projects is provided and accepted by the City.
- a. All parking shall be on-site unless on-street parking is included in approved street plans.
  - b. The Project Sponsor may propose shared or joint use parking.
  - c. All loading, pick-up, and delivery areas shall be on site and shall include sufficient area for the queuing of vehicles.
  - d. Barrier free parking shall be provided in accordance with the provisions of federal, state, and local laws/regulations.
  - e. Designated of "No Parking" areas necessary to preserve emergency vehicle access, provide safe vehicular and non-vehicular access and circulation, and to provide access to public utilities shall be clearly identified, maintained, and strictly enforced by the Project Sponsor.
16. All exterior lighting shall be shielded and downward facing in accordance with applicable provisions of state and local regulations.
17. The Project Sponsor shall prepare and submit with the first implementing application a Master Signage Plan to guide the design and location of signs throughout the site.
- a. The standards in this plan shall meet or exceed the standards in Castle Rock Municipal Code.
  - b. All subsequent implementing applications shall include signs consistent with the approved Master Signage Plan.
18. The Project Sponsor shall prepare and submit with the first implementing application a Conceptual Parks, Recreation, and Open Space Master Plan to guide the development and use of pedestrian and bicycle facilities, parks, and open spaces open to the public. This Conceptual Master Plan should include, but is not limited to:
- a. The standards for the development of trails, sidewalks, bike paths and lanes.
  - b. Potential areas for the development of public parks and open spaces.
  - c. Potential areas to view and access shorelines.

- d. Areas to be maintained by a private management entity, homeowner' s association, or the like.
  - e. Areas proposed for dedication and maintenance by the City or other public agency, provided that areas proposed for dedication to the City shall be accepted at the sole discretion of the City.
19. A proposed Phasing Plan shall be submitted with the first implementing application that identifies the projected target date for the construction of Phase 1 and an estimated timeline of subsequent phases of development. It is understood by the parties that the phasing plan may revised to respond to changes in market conditions, provided that:
- a. Each proposed phase of development shall include all infrastructure improvements necessary to support the use and continued operations of the development independentof future phases of development.
  - b. The City may impose additional conditions of approval that may be necessary to ensurethat the public health, safety, and welfare of the community is not adversely affected by the phasing plan.
20. The City and the Project Sponsor shall jointly consult with the Cowlitz Indian Tribe to determine the scope of a cultural and archaeological survey that shall be conducted prior to initiating any clearing, grading, filling, or excavation activities.
- a. Upon discovery of any human remains, artifacts, or evidence of potential archaeological, historical, or cultural resources all construction activities or uses authorized shall be suspended pending authorization to proceed from the City, and/or the Washington State Department of Archaeology and Historic Preservation, in accordance with the provisions of state and federal law, including, but not limited to RCWs 68.50.645, 27.44.055, and 68.60.055.
  - b. If ground disturbing activities encounter human skeletal remains during construction, then all activity shall cease that may cause further disturbance to those remains. The area of the find will be secured and protected from further disturbance until the Washington State Department of Archaeology and Historic Preservation (DAHP) provides notice to proceed. The finding of human skeletal remains shall be reported to the Castle Rock Police Department and the Cowlitz County Coroner in the most expeditious manner possible. The remains will not be touched, moved, or further disturbed. The County Coroner will assume jurisdiction over the human skeletal remains and decide of whether those remains are forensic or non-forensic. If the County Coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that findingto any appropriate cemeteries and the Cowlitz Indian Tribe. The DAHP will then

handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.

- c. If ground disturbing activities encounter artifacts, or evidence of potential archaeological, historical, or cultural resources during construction, then all activity shall cease that may cause further disturbance to those items. The Project Sponsor shall immediately contact the Castle Rock Public Works Department to determine how best to secure the site and to consult with the Cowlitz Indian Tribe and the DAHP.
21. Applications to implement the approved Master Site Plan and subsequent Development Agreement shall be processed in accordance with the provisions of CRMC 17.77, in effect at the time a complete application is submitted and accepted for processing, or as subsequently amended by the City, and as modified by CRMC 17.100, unless otherwise provided in these Conditions of Approval or a Development Agreement.
  22. The Project Sponsor shall submit with the application to implement each phase of the approved Master Planned Development:
    - a. An updated SEPA Checklist.
    - a. An updated traffic report that identifies the number of trips to be generated, assesses existing conditions, identifies proposed mitigation measures to meet City standards, and that identifies when the mitigation is required.
    - b. Other technical studies and reports that may be required by the City to fully evaluate and mitigate potential adverse impacts.
    - c. A Landscaping Plan prepared in accordance with the provisions of Castle Rock Municipal Code and as modified by these Conditions of Approval.
    - d. A Parking Plan prepared in accordance with the provisions of Castle Rock Municipal Code and as modified by these Conditions of Approval.
    - e. An updated Parks, Recreation, and Open Space Master Plan.
    - f. The applications shall also address the status of applicable conditions of approval of previous phases.
    - g. An updated Phasing Plan.
  23. The City may require additional mitigation and/or conditions of approval based on an analysis of the application materials submitted to implement each subsequent phase of development.
  24. The Project Sponsor may propose adjustments to the boundaries of the land use areas depicted on the Master Site Plan or to the applicable development standards in accordance

with the following provisions governing Minor and Major Modifications.

- a. Minor Modifications shall include revisions to the Master Site Plan that do not reduce the amount of open space or adversely affect environmentally sensitive areas or jurisdictional shoreline areas and do not trigger the need for a new SEPA Threshold Determination. Proposed Minor Modifications are subject to administrative review and approval by the Mayor or his/her designee and shall include a Notice of Application and an opportunity for the public to submit written comments.
  - b. Examples of Minor Modifications include, but are not limited to:
    - (1) An alternative development standard that is determined by the City to be functionally equivalent to, or superior to, the original standard or requirement in fulfilling the intent and purpose of that original standard or requirement.
    - (2) Approval of uses determined to be similar in nature and compatible with permitted uses in a land use area.
    - (3) Mutual written agreements between abutting property owners to modify the 20' landscaping requirement.
    - (4) Revisions to the shape of development areas.
    - (5) Increases in a proposed use that is offset by a corresponding decrease of another use that results in no net increase in trips.
    - (6) The realignment of internal road corridors provided that there is no decrease in functionality as determined by the City.
  - c. Major Modifications shall include those revisions that do not meet the criteria for a Minor Modification as determined by the City. Major Modifications shall be reviewed by City Development Review Team and upon preparation and distribution of a Staff Report the City Land Use Hearings Examiner shall conduct a public hearing and shall make a recommendation on the proposed modification to the City Council.
  - d. Examples of a Major Modification include, but are not limited to:
    - (1) The proposed use of Larsen Lane SW to provide a second access to the Master Planned Development.
    - (2) Proposed uses that are not similar in nature and/or that may not be compatible with approved uses.
25. The Project Sponsor and the City may execute a Development Agreement further clarifying these conditions and/or to provide more detailed guidance on how these conditions shall be implemented.

26. In the event of a question about the applicability of the Conditions of Approval or a potential conflict between standards or provisions, the Mayor or his/her designee shall make an administrative code interpretation, provided that such administrative determination may be appealed to the City's Land Use Hearings Examiner.
27. The Project Sponsor shall reimburse the City for all expenses incurred in the implementation of the approved Master Site Plan and Development Agreement including but not limited to the costs associated with the review and approval of implementing applications and construction plans, public notices, City consultants, peer reviews, construction monitoring, and enforcement.
28. Prior to any additional filling or grading of the project site, City staff and Department of Ecology shall undertake wetland boundary verification necessary to ensure that critical areas have been properly identified and rated and that the proposed buffers are adequate to protect the resources from the impacts related to future on-site developments.
29. The mitigation measures set forth in the revised SEPA MDNS of September 8, 2021, are incorporated herein as additional conditions of project approval. In the event of any conflict between the SEPA MDNS mitigation measures and these Conditions of Approval, the more stringent shall apply.

BEFORE THE CITY OF CASTLE ROCK HEARINGS EXAMINER

|                            |   |                     |
|----------------------------|---|---------------------|
| IN RE:                     | ) | HEARING NO. _____   |
|                            | ) |                     |
| CASTLE ROCK LANDING ON THE | ) | FINDINGS OF FACT,   |
| COWLITZ - PROPOSED MASTER  | ) | CONCLUSIONS OF LAW  |
| PLAN DEVELOPMENT,          | ) | AND RECOMMENDATIONS |

**APPLICANT:**                      Compass Group, LLC

**REPRESENTATIVES:**

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**SUMMARY OF REQUEST:**

The Applicant seeks Master Planned Development approval for a mixed-use development on approximately 118 acres in southern Castle Rock. The proposed uses include 624,000 square feet of light industrial and/or flex/office space on 58.7 acres; 98,000 square feet of retail and commercial/professional services on 11 acres; 200 multi-family residential units on 7.8 acres; and a 200 unit RV park together with boat launch, shoreline access and recreational trails on 18 acres, as well as connecting streets and extension of water and sewer along with stormwater facilities.

The matter comes to the newly appointed City Hearing Examiner for the purpose of conducting a public hearing and providing a recommendation to the City Council on whether to approve the proposed development and, if so, on what conditions.

*Findings of Fact, Conclusions  
of Law and Recommendations - 1*

**CITY OF CASTLE ROCK HEARING EXAMINER**  
299 NW CENTER ST. / P.O. BOX 939  
CHEHALIS, WASHINGTON 98532  
Phone: 360-748-3386/Fax: 748-3387

1 **LOCATION OF PROPOSAL:**

2 2542 Larsen Lane S.W., 1955 Huntington Avenue S, as well as Tax Parcel Nos. 30813, 30864,  
3 6143802, 308640100, and 308640200. The site is generally located between the BNSF rail line  
4 and Salmon Creek to the east, the Cowlitz River to the west, and the Timberline  
Church/Huntington Avenue to the north.

5 **SUMMARY OF DECISION:**

6 The proposed Master Planned Development should be **approved** subject to modified conditions.

7 **BACKGROUND**

8 The Applicant, the Compass Group, LLC, seeks Master Planned Development approval  
9 for a large scale industrial/commercial/residential/recreational mixed-use development located  
10 on approximately 118 acres in the southern portion of the City. It proposes 624,000 square feet  
11 of light industrial and/or flex/office space on 58.7 acres; 98,000 square feet of neighborhood,  
12 retail and commercial/professional services on 11 acres; 200 multi-family residential units on 7.8  
13 acres; and a 200 unit RV park, boat launch, shoreline access and recreational trails on 18 acres,  
14 all on property with a current zoning designation of Industrial.

15 The application has several "firsts": It is the first such application under the City's new  
16 regulations for Master Planned Developments; and it is the first matter to involve the City's  
17 newly appointed Hearing Examiner for the purpose of providing a recommendation to City  
18 Council.

19 The application is not without controversy. The owners of residential properties along  
20 Larsen Lane are universally opposed to any use of Larsen Lane by the project except as may be  
21 required for initial construction or for emergency services. These same neighbors are also  
22 concerned about potential impacts to floodwater levels during flood events. An additional, late  
23 developing issue is whether the property has undisclosed wetlands that must be delineated and  
24 accounted for.

1           There has been a steady receipt of information before, during and after the public hearing,  
2 all of which will be identified and discussed in a largely chronological fashion in order for the  
3 reader to better understand how the application has progressed and, in particular, how the  
4 proposed conditions of project approval by City Staff have evolved. Staff continues to  
5 recommend approval of the Master Plan subject to a number of conditions but those conditions,  
6 especially with respect to the use of Larsen Lane, have seen significant modification.

7           **INFORMATION RECEIVED IN ADVANCE OF THE PUBLIC HEARING**

8           The following are key events as well as public comments received in advance of the  
9 public hearing:

10           ●       On or about July 22, 2021, the proposed Master Plan Development Notice of  
11 Application is issued for the development with a posted deadline for written comments of July 7.

12           ●       In response to the Notice of Application, the City received letters from more than  
13 twenty nearby residents expressing concerns. Most of these letters come from residents along  
14 Larsen lane and urge the City to prohibit its use by the project except for emergency access.  
15 These letters also address other issues including the project's impact on quality of life, property  
16 values, and flooding. A more complete description of these letters can be found in the Staff  
17 Report at pages 6 and 7.

18           ●       The Notice of Application also generated responses from several agencies  
19 including the Washington State Department of Archaeology and Historic Preservation (DAHP),  
20 the Southwest Clean Air Agency (SWCAA), Washington State Department of Fish and Wildlife  
21 (WDFW), Washington State Department of Ecology (Ecology), and the Cowlitz County Noxious  
22 Weed  
23  
24  
25

1 Control Board. These agency comments are identified and summarized in the Staff Report age  
2 pages 4 and 5. Most of these agency comments are fairly generic with the exception of the  
3 comments from DAHP. DAHP notes that the project area has the potential to contain  
4 archaeological resources and that the scale of the proposed ground disturbing actions would  
5 destroy any archaeological resources present. DAHP therefore recommends a professional  
6 archaeological survey of the project area prior to ground disturbing activities and also  
7 recommends consultation with the concerned tribes, cultural committees and staff regarding  
8 cultural resource issues.  
9

10 ● On July 28, 2021, the City's Planner, Mr. Dohrn, issued the City Staff Report. His  
11 report incorporates a SEPA Mitigated Determination of Non-Significance (MDNS) issued by the  
12 City as Lead Agency. Commencing at page 8 of the Staff Report, Mr. Dohrn recommends 11  
13 mitigating measures to be included as conditions of Master Plan approval. These mitigating  
14 measures address a variety of environmental issues, most notable among them are provisions for  
15 protecting wetlands and other critical areas (Measure No. 3); stormwater management (Measure  
16 No. 5); primary access from Huntington Avenue by way of a new access road in the immediate  
17 vicinity of the existing Timberlake Church access road, and with updated traffic reports for each  
18 phase of development (Measure No. 6); significant limitations on the use of Larsen Lane S.W.  
19 for emergency ingress and egress only but with the possibility of its use being expanded in the  
20 future (Measure No. 7); and the project's sponsor shall consult with the Cowlitz Tribe to  
21 determine the likely potential for cultural resources to be found on the site, with appropriate  
22 actions to take in the event resources are located (Measure No. 11).  
23  
24  
25

1 In addition to these 11 mitigating measures per SEPA, City Staff recommends approval  
2 of the Master Plan subject to an additional 25 conditions identified on pages 12-22 of the Staff  
3 Report. These additional conditions incorporate the 11 SEPA mitigation measures, often using  
4 the same language for both.

5 The Report gives notice that those wishing to comment on the SEPA MDNS or the  
6 proposed conditions of approval must submit their comments no later than Monday, August 15,  
7 2021.

8  
9 • The Staff Report/MDNS elicited a second round of public comments, once again  
10 mostly in opposition, especially to any expanded use of Larsen Lane. These comments included:

11 1. An August 10 memo from Melvin Larsen expressing concerns regarding  
12 stormwaters and/or flood waters on neighboring properties as well as concerns over the possible  
13 use of Larsen Lane.

14 2. An August 10 memo from Kris Hoffman expressing opposition to the project in  
15 general on the belief that the development is not needed.

16 3. An August 12 memo from Roy and Linda Henson expressing concern over  
17 stormwater issues.

18 4. An email dated August 12 from Terry Badley expressing concerns regarding the  
19 project's impacts to the neighborhood's rural quality; concerns over the use of Larsen Lane;  
20 stormwater runoff concerns; and general concerns about the project's impacts to schools, the City  
21 and local traffic.

22  
23 • A few days prior to the hearing, on August 12, the Applicant submitted a lengthy  
24 response to the Staff Report. The Applicant requests changes to proposed Condition Nos. 4(a),  
25

1 4(b), 4(c) and 11(a), all as more fully explained in the Applicant's response. These proposed  
2 changes are largely of a technical nature dealing with the types of allowed uses as well as the  
3 procedures for approving them. The Applicant then turns to proposed Condition No. 12 relating  
4 to the use of Larsen Lane. The Applicant acknowledges that, in its current condition, Larsen  
5 Lane should be limited to emergency vehicle access, but argues that its use should not be so  
6 limited in the future and that the Applicant should be allowed the opportunity to more fully  
7 develop it. The Applicant therefore proposes to strike the Staff's proposed Condition No. 12 and  
8 replace it with an alternate version of Condition No. 12 allowing for potential future  
9 development of Larsen Lane.  
10

11 • Just prior to the public hearing on August 16, several additional agency comments  
12 were received:

13 1. The Lower Columbia Fish Recovery Board (LCFRB) issued a detailed, three-  
14 page letter expressing a number of concerns. The LCFRB was established by the State in 1998  
15 in an effort to restore salmon, steelhead and other fish species in the Columbia River. The  
16 LCFRB is concerned that the project lacks any discussion of appropriate mitigation and fails to  
17 abide by the City's promise to aid in promoting salmon recovering along the Cowlitz.

18 2. By email dated August 16 the Cowlitz Indian Tribe requests Formal Consultation  
19 on the project due to its potential for serious impact on cultural resources.

20 3. By email dated August 16, Miranda Adams, Shorelines/Wetlands Specialist for  
21 Ecology, shared the concerns earlier expressed by Roy Henson that the project appears to have  
22 additional wetlands which may have been recently plowed under by the Applicant's contractor  
23 while the application was pending. Ms. Adams shares these concerns after having reviewed  
24

1 aerial imagery of the site which suggests the existence of these historical wetlands as described  
2 by Mr. Henson. Ecology would therefore like copies of all Critical Areas Reports and asks for  
3 the opportunity to follow-up with a site visit to ensure that all wetlands on the property have  
4 been accounted for and that any impacts to those wetlands will be fully compensated. Ms.  
5 Adams' email arrived with a letter from Ecology formally stating these concerns and again  
6 requesting that Ecology be involved in providing wetland boundary verification and other  
7 technical assistance necessary to ensure that critical areas have been properly identified and  
8 rated, and that proposed buffers are adequate to protect the resources from development.

10 ● Just prior to the hearing the Applicant submitted several proposed changes to the  
11 project's design through the introduction of a revised Conceptual Master Plan; a revised Mobility  
12 Plan; and a revised Road Diagram. The revised Conceptual Master Plan would relocate  
13 residential and commercial activities toward the front of the project and move industrial  
14 activities toward the rear. The other revised plans are intended to relocate roads, trails, etc. in  
15 keeping with the revised Master Plan.

16 ● On August 14, several residents along Larsen Lane asked that the hearing be  
17 postponed until it could be held in person. While I sympathize with the neighbor's preference to  
18 have the hearing held in-person, remote hearings are a well-recognized form of hearings during  
19 the current pandemic, especially as due process requires that applications be heard in a timely  
20 way and it is unclear when Covid conditions may sufficiently improve to return to in-person  
21 hearings. But recognizing that a remote hearing may deprive certain neighbors of an opportunity  
22 to participate, I granted an extended period of time for the public to participate by allowing  
23 additional written comment through the following Monday, August 23, 2021.

1 **PUBLIC HEARING**

2 Prior to the public hearing I undertook an independent site inspection that included an  
3 examination of the site from Huntington Avenue, Larsen Lane and the adjoining church  
4 property.

5 As noted earlier, the purpose of the public hearing was for the purpose of providing the  
6 public with an opportunity to offer testimony to the Hearing Examiner who, in turn, is to provide  
7 a recommendation to the City Council.

8 The matter was scheduled for public hearing at 6:00 p.m. on August 16, 2021. The  
9 hearing was originally scheduled for both in-person and remote testimony but, due to COVID-  
10 related issues, the in-person portion of the hearing was canceled, leaving only the remote  
11 hearing. The City Clerk, Carie Cuttanaro, served as host of the hearing. The City appeared  
12 through Greg Dohrn, Planning Consultant. The Applicant, Compass Group, LLC, appeared  
13 through Tim Schauer and Marty Snell of MacKay & Sposito together with their attorney, E.  
14 Bronson Potter. Several members of the public participated including several who testified. A  
15 verbatim recording was made of the public hearing and all testimony was taken under oath.  
16

17 The City's Planner, Gregg Dohrn, testified on behalf of the City and reviewed the  
18 highlights of his extensive Staff Report. Mr. Dohrn noted that this application is the first of  
19 its kind under the City's new regulations for Master Planned Developments with the intent being  
20 to undertake master planning for larger sites with phased developments and mixed uses, thus  
21 allowing greater flexibility as well as greater certainty for the benefit of the developer.

22 Mr. Dohrn explained that the site, containing 118 acres, is largely undeveloped and  
23 presently zoned Industrial, with the same designation on the City's Land Use Map. The site is,  
24 in effect, a peninsula with the only reasonable means of access being from the north via either  
25

1 Huntington Avenue or Larsen Lane. The site is proposed for a mix of uses including light  
2 industrial/flex; retail/commercial; multi-family and recreational including RV's, all as noted in  
3 the earlier Background Section.

4 Mr. Dohrn then briefly reviewed the SEPA MDNS and the conditions being imposed on  
5 the project under the City's SEPA regulatory authority. As noted earlier, the City, as Lead  
6 Agency, has proposed 11 mitigation measures, found at Page 8 of the Staff Report, to mitigate  
7 the project's impacts on the environment. These are in addition to the 25 conditions of Master  
8 Plan Approval found at pages 12-22 of the Staff Report. The 25 conditions of plan approval  
9 incorporate many of the SEPA mitigation measures while also addressing a number of other  
10 conditions relating to the project's development and its allowed uses.

12 Mr. Dohrn then reviewed the Applicant's recently proposed changes and confirmed that  
13 the City was willing to accept the Applicant's proposed changes to Condition Nos. 4(a), 4(b),  
14 4(c), and 11(a). The City also accepts the Applicant's updated maps with the exception of the  
15 updated road cross sections, noting that the City would need additional time to review before  
16 accepting.

17 Mr. Dohrn confirmed that the City has adequate water and sewer capacity to provide for  
18 the project. Sewer is already extended to the site and the City has received a grant which would  
19 allow extension of the water main to the site.

21 Mr. Dohrn then turned to the controversial issue of access. The project abuts Huntington  
22 Avenue which is proposed as the primary means of access, but the Fire Code requires a  
23 secondary access for emergency purposes should the primary access be blocked. The City  
24 therefore proposes Larsen Lane to be used as a secondary access for emergency purposes. Mr.  
25

1 Dohrn explains that Larsen is a country lane. It was not built to City standards nor does it  
2 currently meet City standards. Nonetheless, it is capable of providing access for emergency  
3 purposes but is only suitable for this limited purpose. The City therefore proposes that the  
4 project only be allowed access on Larsen Lane for emergency purposes except that, for the short  
5 term, it be used for development purposes until access from Huntington Avenue can be  
6 established. This would allow temporary use of Larsen by the Applicant, its agents and  
7 contractors, subject to the Applicant being responsible for any damage caused to the roadway. In  
8 order to enforce these restrictions it may become necessary to impose signage and perhaps  
9 barricades to prohibit any other use of Larsen.  
10

11 Mr. Dohrn added that there may be a time when the project requires a more complete  
12 second access, perhaps via Larsen Lane. At that time the Applicant will need to design and  
13 construct an appropriate roadway subject to SEPA review and appropriate mitigation.

14 Mr. Dohrn completed his testimony by addressing some of the other agency comments.  
15 He acknowledged that DAHP had earlier *recommended* that a professional archeological survey  
16 of the project area be conducted prior to ground disturbing activities as well as consultation with  
17 concerned tribes, but is now *requesting* that these steps be undertaken, just as the Cowlitz Tribe  
18 has requested. The City agrees with DAHP and the Tribe and also agrees to assume the lead in  
19 consulting with the Cowlitz Tribe.  
20

21 Mr. Dohrn also responded briefly to the recommendations of the LCFRB and said that  
22 the City would work to address the Board's concerns.

23 Mr. Dohrn concluded his testimony by confirming that City Staff recommends approval  
24 of the Master Plan subject to the SEPA mitigation measures as well as the conditions of plan  
25

1 approval set forth in the Staff Report with the exception of agreed changes to proposed  
2 Condition Nos. 4(a), 4(b), 4(c) and 11.

3           Following Mr. Dohrn's presentation, the Applicant's representative, Tim Schauer,  
4 testified on its behalf. Mr. Schauer explained that the project is modeled after a similar project  
5 found at the Port of Camas which has proven to be highly successful. He confirmed that the  
6 Applicant had recently revised its Master Plan and had shifted several of the intended uses to  
7 improve compatibility among uses, with multi-family/commercial being moved closer to the  
8 front (north) and industrial being moved further away, with the goal of holding the industrial  
9 property in large tracts for as long as possible to encourage more significant developments. Mr.  
10 Schauer concluded his testimony by noting that the Applicant agrees that Larsen Lane is  
11 currently only usable for emergency purposes but that the Applicant seeks the opportunity to  
12 improve it in the future if necessary for the development of the project. The Applicant envisions  
13 that the project has the potential to create six to nine hundred new jobs while providing two  
14 hundred new residences, but with future access to Larsen being critical to some of this  
15 development.  
16

17           Following Mr. Schauer's testimony the Applicant's legal counsel, E. Bronson Potter  
18 confirmed that the Applicant acknowledges that Larsen Lane can only be used currently for  
19 emergency purposes. The Applicant will document its condition and abide by any weight limits  
20 and agrees to be responsible for any damage it may cause to Larsen during construction. The  
21 Applicant objects, however, to proposed conditions of approval that would prohibit future use of  
22 Larsen. Instead, the Applicant proposes that the opportunity to develop Larsen in the future be  
23 subject to further analysis and design and, of course, proper environmental review and  
24 mitigation.  
25

1 At the conclusion of the Applicant's presentation the hearing was opened to public  
2 testimony. Approximately six members of the public asked to testify. The following is a brief  
3 synopsis of their testimony:

4 Cheryl Adams said that she was assured by City Staff that the project would never be  
5 allowed to use Larsen. She notes that the street used to be a private lane and was not developed  
6 to public standards. All of the residents along Larsen will be significantly affected if the street is  
7 widened as this would eliminate most yards. Most of the residents along the road have lived  
8 there their whole lives and none of them want the road improved or widened. Ms. Adams feels  
9 that any use of Larsen will destroy property values along the road as well as the residents' quiet  
10 enjoyment.  
11

12 Jennifer Walling is opposed for many of the reasons expressed by Ms. Adams. She is  
13 worried that the project will increase traffic at a time when the City is ill-prepared for it. If  
14 Larsen is widened she will lose twenty feet of her front yard with a corresponding decrease in  
15 her property value.

16 Ted Sprague, Director of the Cowlitz County Economic Development Council (EDC),  
17 expressed his support for the project. He noted that this application is the first significant  
18 proposal for the site in the past twenty years and that when the application was presented to  
19 CERB it was declared to be one of the best projects the Board had seen.  
20

21 Roy Henson expressed his appreciation to City Staff for their efforts in reviewing the  
22 application and recommended that the proposal be accepted but also noted that the project could  
23 have significant adverse effects on stormwater if not properly designed.  
24  
25

1 Terry Badley is opposed to the project. He is a disabled veteran living on Larsen and  
2 purchased his property for peace and serenity during his retirement years. He believes that the  
3 project will interfere with the enjoyment of his property and will bring crime and other problems  
4 into the neighborhood. Mr. Badley is also concerned that elevating of the site will displace flood  
5 waters and worsen flooding on adjoining properties along Larsen.

6 Cathie Erickson is strongly opposed to the project, especially any potential use of Larsen,  
7 as the road was never meant for any type of commercial activity. Any widening of the road will  
8 have dramatic impacts upon the residences along Larsen, depriving them of their yards and  
9 reducing their value. Ms. Erickson also shares the concerns of others that the proposed road  
10 elevation of the project site will result in greater flooding on surrounding properties.

11 Following the public testimony the City and Applicant were allowed an opportunity to  
12 respond. The City merely confirmed a few details regarding Larsen Lane: There is an eight-inch  
13 water main in the Larsen right-of-way but there is no sewer service along Larsen. The right-of-  
14 way for Larsen varies in width from 60 feet to 40 feet to 25 five feet to as little as 20 feet. As  
15 such, there are segments of Larsen that cannot be widened unless additional right-of-way is  
16 acquired.

17  
18 **INFORMATION RECEIVED FOLLOWING THE PUBLIC HEARING**

19 After the public hearing on August 16, the public was allowed an additional week to  
20 Monday, August 23, to provide additional written comment. Several additional comments were  
21 received:

22  
23 ● An August 16 email from Melvin Larsen to the Mayor was forwarded to the Clerk  
24 on August 17. Mr. Larsen reiterates several of the points made in his prior comments while  
25

1 adding several others: That the Applicant's contractor had come onto the property during the  
2 spring and double-disced the wetland areas and then reseeded in pasture grass, thus eliminating  
3 evidence of historical wetlands on site. Mr. Larsen also described a tribal ceremony having  
4 taken place fifteen to twenty years ago on the site at the base of the large fir tree in the field  
5 directly south of the church property. It is believed that this ceremony was videotaped by several  
6 members of the Cowlitz Tribe. Mr. Larsen has alerted the Cowlitz Tribal Heritage and Cultural  
7 Resource Center and they are attempting to locate the video.  
8

9 ● On August 18, Roy Henson submitted a letter asserting that the Applicant's  
10 current use of Larsen Lane is predicated on the property's existing zoning and its current use.  
11 Mr. Henson believes that the Applicant is seeking a zoning change. If so, it is not entitled to  
12 impose a new use on the public roadway. Mr. Henson therefore recommends that the City deny  
13 the Applicant's request for a zoning change. [NOTE: The Applicant is not seeking a zoning  
14 change but rather a Master Plan approval based upon the property's existing zoning.]

15 ● On August 19, Cathie Erickson sent a letter reiterating her opposition to the  
16 project, and that any access for the project should come from the property the Applicant  
17 purchased from Mr. Henson along Huntington Avenue, not Larsen Lane. Ms. Erickson also  
18 expressed concerns about stormwater/flood water as well as more generalized concerns  
19 regarding negative impacts to the neighborhood resulting from the project.  
20

21 ● On August 20, Washington State Department of Transportation (WSDOT)  
22 submitted a letter noting that the project is likely to cause significant adverse impacts to the  
23 Interstate 5/Huntington Avenue interchange. As a result, at time of future land use applications  
24 WSDOT may seek mitigation for these impacts.  
25

1           ●       On August 22, Melvin Larsen submitted an additional comment that the carrying  
2 capacity of the Cowlitz River has been greatly reduced since the Mt. St. Helens eruption,  
3 resulting in significantly greater flooding at several locations near Salmon Creek. Mr. Larsen  
4 notes that, while the project may be elevated to avoid this flooding, its raised elevation is likely  
5 to have significant adverse impacts to the surrounding properties. Mr. Larsen suggests deferring  
6 any decision until the Corps of Engineers has determined the river's carrying capacity.  
7

8           ●       On August 22, Terry Badley submitted a letter reiterating many of his earlier  
9 written and oral comments. He also expresses concern that there was no discussion during the  
10 public hearing of security barriers and other means of traffic control on Larsen, and very little  
11 discussion of stormwater management. Mr. Badley asks that appropriate consideration be given  
12 to the people along Larsen who purchased their properties seeking a quiet and peaceful rural  
13 lifestyle. Mr. Badley also believes that the project will have a significantly adverse impact  
14 upon property values along Larsen.

15           ●       On August 23, Ashley Helenberg submitted a letter expressing concerns about  
16 perceived gaps in the SEPA MDNS. Ms. Helenberg believes that the project's traffic impacts  
17 should be analyzed globally at this stage rather than in a fragmented manner during later stages  
18 of development. She is also concerned that the MDNS fails to fully recognize the impacts the  
19 project will have upon the City's public services, and fails to provide any mitigation for the  
20 impacts to those services. She recognizes that the project may bring great benefits to the  
21 community but that its environmental impacts should be more closely examined and that an  
22 Environmental Impact Statement (EIS) should be required.  
23  
24  
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1 No further public comments were received and the public comment period closed on  
2 Monday, August 23. It initially appeared that this would bring all testimony to an end only to  
3 discover that the City and Applicant were not in full agreement as to several matters. This was  
4 not immediately clear and took several communications with the parties to fully understand:

- 5 • At the end of the day on August 23, City Staff issued an email:

6 1. Stating that the City has no objection to the additional maps and drawings  
7 submitted by the Applicant but that proposed road cross sections are still subject to ongoing  
8 discussions.

9 2. The City will assume the lead responsibility for consultation with the Cowlitz  
10 Tribe.

11 3. The City and the Applicant have agreed to modify Condition Nos. 11 and 12  
12 relating to the use of Larsen Lane as set forth more fully in the City's email.

13 • The next day, August 24, the Applicant sent an email stating that there was **no**  
14 agreement with the City for proposed changes to Condition Nos. 11 and 12. The Applicant  
15 explained that there had been discussions between legal counsel for the City and the Applicant  
16 for proposed changes but that the City had ultimately not agreed to these proposals. The  
17 Applicant therefore is unwilling to agree to changes to proposed Condition Nos. 11 and 12 as  
18 suggested by the City unless a new Condition No. 13 is added, all as described in the Applicant's  
19 email of August 24.

20 • Also on August 24, the Applicant asked for additional time to respond to some of  
21 the final public comment, including that made by Mr. Henson. The Hearing Examiner granted  
22 the Applicant's request and allowed it to Thursday, August 26, to respond.  
23  
24  
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1           ●       As allowed, the Applicant's attorney, Mr. Potter, submitted a memo on August 26  
2 challenging Mr. Henson's earlier assertions that the Applicant was without legal authority to  
3 make use of Larsen Lane. Mr. Potter's memo concludes that the Applicant acknowledges the  
4 current conditions of Larsen Lane make it unsuitable for a secondary access to the project site  
5 without improvements but, nonetheless, any conditions which would deny the Applicant access  
6 to Larsen Lane altogether would be a "taking" and would be compensable. The Applicant  
7 therefore requests that the opportunity to improve Larsen Lane in the future be maintained  
8 subject to requiring the performance of a traffic study and environmental review to identify the  
9 necessary road improvements and mitigation, and impose those measures at such time as there is  
10 a proposal to improve Larsen Lane as a secondary access.  
11

12           ●       Following the receipt of Mr. Potter's letter on August 26, it appeared that all input  
13 into this matter was complete and therefore ready for the Hearing Examiner to prepare his  
14 recommendation. But in reviewing the City's email of August 23 (suggesting the City was  
15 willing to accept changes to the conditions imposed on the use of Larsen Lane) the Hearing  
16 Examiner noted that the City's proposed changes in conditions appeared to be inconsistent with  
17 the SEPA mitigation measures earlier imposed by the City as Lead Agency. This is not  
18 allowable as final conditions of project approval cannot reduce the SEPA mitigation imposed by  
19 the Lead Agency. Stated slightly differently, final conditions of approval can add to, but cannot  
20 subtract from, mitigations imposed by the Lead Agency to protect the environment. Thus, if City  
21 Staff wishes to recommend final conditions which lessen the requirements imposed under SEPA,  
22 the City must first revise its SEPA Determination in order to eliminate any conflict.  
23  
24  
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1           ●       On August 31, the Hearing Examiner issued a letter to the parties explaining the  
2 apparent conflict and asking the City to clarify its proposed conditions and whether it wished to  
3 revise its SEPA Determination to be consistent.

4           ●       City Staff responded on Friday, September 3 by a letter explaining the City's  
5 desire to provide for flexibility with possible future development of Larsen Lane. As a result, the  
6 City is issuing a Modified MDNS to reflect its agreement with the Applicant regarding Larsen  
7 Lane, as well as its discussions with the Cowlitz Indian Tribe. Staff also asks that the following  
8 language be included as a preface to its proposed conditions of approval:  
9

10                    "It is recommended that the following mitigating measures be referenced as an  
11 appendix to the approved Master Site Plan and used as the basis for establishing  
and implementing the conditions of Master Plan approval."

12                    With the September 3 letter advising of the changes, the City also issued a "Notice of  
13 Modification to the Mitigated Determination of Non-Significance" bearing the date of  
14 September 8, 2021. The principal changes to the MDNS are as follows:  
15

16           1.       Whereas the original MDNS addressed the current and future use of Larsen Lane  
17 in Measure No. 7, the revised SEPA MDNS addresses its use in three mitigating measures,  
18 Measures Nos. 7, 8 and 9. New Measure No. 7 addresses the temporary use of Larsen Lane and  
19 establishes a deadline of June 30, 2022, for establishment of a primary point of access from  
20 Huntington Avenue. New Measure No. 8 recognizes the City's right to install reasonable  
21 measures to prevent the use of Larsen Lane to access the Master Plan Development. New  
22 Measure No. 9 allows the Applicant to propose the future use of Larsen Lane to provide a second  
23 access route to the Master Plan Development, if required, with the Applicant responsible for the  
24  
25



1           2.       The Applicant seeks approval of a Master Plan mixed-use development on  
2 approximately 118 acres in southern Castle Rock as identified on Exhibit 1, Vicinity Map, to the  
3 Staff Report of July 28, 2021 (the "Staff Report").

4           3.       The application is being reviewed under the City's recently enacted regulations for  
5 Master Plan developments in all zoning districts. Chapter 17.100 Castle Rock Municipal Code  
6 (CRMC).

7           4.       The Applicant proposes a mix of uses including: 624,000 square feet of light  
8 industrial and/or flex/office space on 58.7 acres; 98,000 square feet of retail and commercial  
9 professional services on 11 acres; 200 multi-family residential units on 7.8 acres; and a 200 unit  
10 RV park along with boat/kayak launch, public shoreline access and recreational trails on 18  
11 acres.

12           5.       The proposed allocation of the project site among these uses has recently been  
13 amended as reflected in a revised Master Plan submitted August 16, 2021. As revised, proposed  
14 residential and commercial uses have been relocated toward the front (north) end of the project  
15 while industrial uses have been moved to the rear (south).

16           6.       The project site has a zoning designation of Industrial.

17           7.       The proposed site is designated as Industrial on the Future Land Use Map in the  
18 City's Comprehensive Plan.

19           8.       The project site is generally flat and is largely undeveloped with the exception of  
20 an older residence/outbuildings as well as stockpiles of dredge soils removed from the Cowlitz  
21 River following the eruption of Mt. St. Helens.

22           9.       The project site is generally isolated from adjoining properties due to being  
23 bordered by the BNSF rail line and Cedar Creek to the east, the Cowlitz River to the west and the  
24 Timberline Church/Huntington Avenue to the north. Except for its boundary with the church  
25

1 property, the project site has only a few other common boundaries with residential properties on  
2 or near Larsen Lane.

3 10. The project site currently has very limited access via Larsen Lane, a country lane  
4 running south from Huntington Avenue through a small rural residential neighborhood and  
5 connecting to the project site along its west boundary. The Master Plan calls for the  
6 establishment of a new primary access at or near the location of the existing Timberline Church  
7 access along Huntington Avenue. This proposed access has not yet been developed and the  
8 Applicant seeks the temporary use of Larsen Lane until the primary access on Huntington  
9 Avenue has been constructed.

10 Findings Relating to SEPA

11 11. On July 28, 2021, the City, as Lead Agency, issued a SEPA Mitigated  
12 Determination of Non-Significance (MDNS). The MDNS establishes 11 mitigation measures set  
13 forth on pages 8-11 of the Staff Report.

14 12. The public comment for the SEPA MDNS expired August 15, 2021. Several  
15 public and agency comments were received as noted earlier along with suggested changes by the  
16 Applicant.

17 13. In response to comments received from the Cowlitz Indian Tribe and the  
18 Applicant, the City revised the SEPA MDNS per notice issued September 3, 2021. The revised  
19 MDNS replaces the original Mitigating Measure No. 7 with three new measures (7, 8 and 9)  
20 relating to the present and future use of Larsen Lane, and replaces Condition 11 (now  
21 Condition 13) with new requirements for consulting with the Cowlitz Tribe and the undertaking  
22 of a Cultural Resources Study and the proper protection of potential archaeological, historical or  
23 cultural resources.

1           Findings Relating to Wetlands and Other Critical Areas

2           14.     The Applicant has identified areas of wetlands east and south of the existing  
3 farm/residence as shown on the Master Plan Map. The identified wetlands have been delineated  
4 as Category 3 Wetlands and given a 120-foot buffer, all as shown on the map.

5           15.     As shown on the preliminary Master Plan Map, additional critical areas include  
6 200-foot shoreline buffers along Cedar Creek and the Cowlitz River, all of which are subject to  
7 the City's Shoreline Master Program and the State Shoreline Management Act.

8           16.     A nearby resident, Melvin Larsen, testifies that the Applicant's contractor plowed  
9 additional areas of wetlands earlier this year and reseeded in pasture grass. Mr. Larsen does not  
10 clearly identify the location of these potential additional wetlands other than being "most of the  
11 area covered by mudflow from May 18, 1980 eruption of Mt. St. Helens". It is unclear if this is a  
12 different area of wetlands than the Applicant has designated on its mapping but it appears to be.

13           17.     Miranda Adams, Shorelines/Wetlands Specialist for the Department of Ecology,  
14 agrees with Mr. Larsen that there is evidence of additional wetlands beyond those identified by  
15 the Applicant on the Master Plan Map. Ms. Adams bases this belief on historical aerial  
16 photography of the site suggesting wetland conditions.

17           18.     Ms. Adams and the Department of Ecology request copies of all Critical Areas  
18 Reports and ask that the agency be allowed to follow-up with a site visit to ensure that all  
19 wetlands on the property have been accounted for and that impacts to those wetlands have been  
20 fully compensated.

21           19.     Appropriate conditions need to be imposed on the project to ensure that all critical  
22 areas, including wetlands, have been fully identified, categorized and either fully protected or  
23 any impacts having been fully mitigated.

1           Findings Related to Archaeological Resources

2           20.     The Department of Archaeology and Historical Preservation (DAHP) has notified  
3 the City that the project site is in an area determined to be at very high risk of containing  
4 archaeological resources. The scale of the proposed ground disturbing actions would destroy any  
5 archaeological resources present. DAHP therefore requests a professional archaeological survey  
6 of the project area be conducted prior to ground disturbing activities. It also requests  
7 consultation with the Cowlitz Tribe Cultural Committees and staff regarding cultural resource  
8 issues.

9           21.     A nearby resident, Melvin Larsen, testifies to there having been historic tribal  
10 ceremonies on the site perhaps 15-20 years ago and that the ceremonies may have been recorded.  
11 Mr. Larsen has provided this information to the Cowlitz Indian Tribe and it is seeking evidence  
12 of the recording.

13           22.     The Cowlitz Tribe has requested formal consultation on any development of the  
14 project site.

15           23.     The City has agreed to assume responsibility for consulting with the Cowlitz  
16 Tribe in the preparation of a professional archaeological survey of the project area prior to any  
17 ground disturbing activities.

18           24.     The SEPA MDNS and the Staff's proposed conditions of plan approval have been  
19 modified accordingly.

20           Findings Relating to Stormwaters and Floodwaters

21           25.     As earlier noted, the property is fairly flat with the exception of elevated areas  
22 caused by the placement of dredge materials south of the existing farmhouse and pasture. Much  
23 of the property sits below the 100-year flood elevation. The Applicant proposes to elevate the  
24 project site one foot above the 100-year flood elevation.

1           26.     The owners of several nearby residential properties, as well as  
2 the Lower Columbia Fish Recovery Board (LCFRB), have express concern that raising the  
3 elevation of the project site will result in higher floodwater levels on adjoining properties,  
4 particularly the residential properties on or near Larsen Lane.

5           Findings Relating to Riparian and Shoreline Impacts

6           27.     By letter dated August 16, 2021, the Lower Columbia Fish Recovery Board  
7 (LCFRB) has expressed a number of concerns relating to the project's impacts on riparian and  
8 shoreline buffers. The LCFRB does not claim that the project violates any critical areas or other  
9 environmental regulations but instead expresses the belief that much of the development is  
10 inconsistent with the intent of the Lower Columbia River Salmon Recovery Plan as well as the  
11 Lower Cowlitz Subbasin Plan and the Lower Cowlitz River and Floodplain Habitat Restoration  
12 Project Siting and Design Report. More specifically, the Lower Cowlitz Strategy, page 42,  
13 identifies the project site as a restoration opportunity capable of reconnecting 1,000 feet of off  
14 channel habitat and restoring 2,000 feet of riparian habitat. The LCFRB believes that the Master  
15 Plan will impair or restrain floodplain restoration, with 93% of this site proposed for  
16 development and the remainder "encumbered by perfunctory regulatory buffers." The LCFRB  
17 notes that the City of Castle Rock is identifies as a key "recovery partner" in the recovery plan  
18 and has promised to "ensure standards in land use and environmental programs and plans  
19 affording adequate protection of ecologically important areas (stream channels, riparian zones,  
20 floodplains, CMZ, wetlands, unstable geology". The LCFRB suggests that the Master Plan is  
21 not in keeping with the City's promises. It therefore recommends among other things: (a) the  
22 relocation of Salmon Creek to its historic location on the project site; (b) creating and improving  
23 off channel, side channel and riparian habitat as recommended by the Lower Columbia Strategy;  
24 and (c) providing more detailed information as to proposed recreation areas and their impacts to  
25 the shoreline and other critical areas, and the possible elimination of the boat launch.

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**CITY OF CASTLE ROCK HEARING EXAMINER  
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1           Findings Relating to Larsen Lane

2           28.     As noted earlier, the Master Plan proposes the construction of a primary access  
3 along Huntington Avenue at or near the existing access to the Timberline Church.

4           29.     The only existing access into the project site is off of Huntington Avenue by way  
5 of Larsen Lane. Larsen Lane was originally constructed as a private lane and then later  
6 dedicated to the public. It is a paved but rural country lane with limited width and limited right-  
7 of-way. As noted earlier, portions of its right-of-way are only 20-25 feet in width, thus  
8 preventing its widening.

9           30.     Larsen Lane runs south from Huntington Avenue, passing several rural residential  
10 properties before terminating at the old farmhouse in the center of the project site.

11           31.     Residents along Larsen Lane are universally opposed to its use by the project.  
12 Residents cite to its limited width and right-of-way; its location within a quiet rural residential  
13 area; and the dramatic impact its widening would have upon the affected residences and their  
14 values.

15           32.     The applicable Fire Code requires the project to have a secondary access for  
16 emergency purposes. Currently, there is no other secondary access to the site other than Larsen  
17 Lane. The City therefore proposes to rely on Larsen Lane as the project site's secondary access  
18 for emergency purposes. The City also proposes to allow the Applicant to utilize Larsen Lane  
19 during initial construction until such time as the primary access off of Huntington Avenue has  
20 been constructed, but no later than June 30, 2022, provided that this deadline may be extended  
21 with cause by the City.

22           33.     The original Staff Report addresses proposed conditions for the use of Larsen  
23 Lane in both the MDNS (Mitigation Measure No. 7) as well as in the proposed conditions of  
24 Master Plan approval (Condition No. 12). As proposed in the Staff Report, use of Larsen Lane  
25

1 would be limited to emergency ingress and egress only although the Applicant could propose to  
2 use it to provide a second access if such is required by local, state or federal standards. If so, the  
3 Applicant would be responsible for the design, acquisition of right-of-way and construction of  
4 required improvements, all of which would be subject to environmental review and mitigation.

5 34. The Applicant has opposed the suggested limitations on the use of Larsen Lane  
6 and argues that it has a fundamental right to utilize the roadway as it currently provides access to  
7 the project site. The Applicant has therefore urged the City to revise its conditions relating to the  
8 use of Larsen Lane to allow the Applicant greater opportunity in the future to make use of it.

9 35. By correspondence dated September 3, 2021, City Staff has reached agreement  
10 with the Applicant on revised conditions for the use of Larsen Lane. These conditions are set  
11 forth in proposed Mitigation Measure Nos. 7, 8 and 9 in the City's revised SEPA MDNS. Due  
12 to their importance these revised measures are set forth herein in their entirety:

13 "7. Larsen Lane SW is a public right-of-way and in its existing condition the  
14 use of Larsen Lane SW to access the Master Planned Development shall  
be limited to:

15 a. Emergency ingress and egress, provided that:

16  
17 (1) The Project Sponsor shall be responsible for the design and  
18 construction of such improvements to Larsen Lane SW within the existing  
19 right-of-way from the site of the Master Planned Development to the  
20 intersection with Huntington Avenue South that may be required by the  
21 City to maintain emergency access to the Master Planned Development in  
22 accordance with the provisions of the International Fire Code as  
23 implemented and adopted by the City.

24  
25 (2) It is understood by the parties that if the required  
emergency access cannot be provided within the existing right-of-way that  
a different route for emergency access may be required.

1 b. Interim access by the Project Sponsor, and their employees,  
2 subcontractors, and suppliers pending the construction of a temporary  
3 access road at the primary access point from Huntington Avenue near the  
4 church driveway, provided that:

4 (1) The Project Sponsor shall provide the City with  
5 documentation of the existing condition of Larsen Lane SW and shall be  
6 responsible for the repair of any damages to the roadway during this  
7 interim period.

7 (2) The City will require a bond or financial guarantee  
8 sufficient to restore Larsen Lane SW in its sole discretion.

8 (3) The Project Sponsor shall design and construct, subject to City  
9 review and approval, a temporary access road at the primary point of  
10 access from Huntington Avenue near the church driveway no later than  
11 June 30, 2022, provided that this deadline may be extended with cause by  
12 the City.

12 (4) The City will make a good faith effort to expedite the review  
13 and approval of this temporary access road.

- 14 8. The City may install reasonable measures to prevent the use of Larsen  
15 Lane SW to access the Master Planned Development. This may include,  
16 but is not limited to, signage, a gate or bollards with a lock box, and a cul-  
17 de-sac or turnaround for vehicles attempting to enter the Master Planned  
18 Development.
- 18 9. The Project Sponsor may propose to use Larsen Lane SW to provide a  
19 second access route to the Master Planned Development if such is required  
20 in accordance with local, state, or federal standards. The Project Sponsor  
21 shall be responsible for the design, acquisition of right-of-way, and  
22 construction of any required improvements to Larsen Lane SW including  
23 the intersection with Huntington Avenue South in accordance with City  
24 standards. The proposed design and use of these improvements shall be  
25 subject to environmental review and mitigation."

23 36. Although the City has not asked that its conditions of Master Plan approval be  
24 modified consistent with these proposed changes to the MDNS, the logical conclusion to be  
25

1 drawn is that proposed Condition No. 12 is to be replaced with new Condition Nos. 12, 13 and  
2 14, consistent with revised MDNS Measure Nos. 7, 8 and 9.

3 Findings Relating to Proposed Conditions of Master Plan Approval

4 37. The Staff Report at pages 12-22, contains 25 proposed conditions of Master Plan  
5 approval. As earlier noted, the City agrees to modify proposed Condition No. 4 as requested by  
6 the Applicant. Similarly, the City has agreed to modify proposed Condition  
7 No. 11(a) as requested by the Applicant. As just noted, the City proposes to replace proposed  
8 Condition No. 12 with new Condition Nos. 12, 13 and 14 consistent with the revised MDNS  
9 Measure Nos. 7, 8 and 9. As a result, proposed Condition Nos. 13-25 would be renumbered  
10 15-27, with there now being a total of twenty-seven proposed conditions. Finally, proposed  
11 Condition No. 18 (now renumbered to Condition No. 20) would be revised to be consistent with  
12 the recent revision to MDNS Measure No. 13 relating to archaeological resources.

13 Findings Relating to the Application's Compliance with the Master Plan Development  
14 Ordinance, Chapter 17.100 CRMC

15 38. Master Plans must comply with the requirements of the recently enacted Chapter  
16 17.100 CRMC as well as other applicable development regulations, and must be consistent with  
17 the City's Comprehensive Plan.

18 39. On or about March 5, 2021, the Applicant submitted a "Project Narrative" in  
19 which it analyzes the proposed Master Plan in relation to the Master Plan Development  
20 Ordinance, other development regulations and the Comprehensive Plan. Unless otherwise noted,  
21 City Staff concurs with the Applicant's analysis.

22 The following is an examination of the project's compliance with each requirement of  
23 Chapter 17.100, other development regulations, and its consistency with the Comprehensive  
24 Plan:

1 Findings Relating to Compliance With CRMC 17.100.010.

2 40. The Applicant declares, and the City concurs, that the application meets the  
3 purpose of a Master Plan Development by providing a mix of uses, phased development in  
4 coordination with City services, protection of environmentally sensitive areas, and development  
5 of public uses and amenities.

6 41. The Applicant and City concur that that the Master Plan application, as  
7 conditioned, will:

8 1. Facilitate the development of large areas in an integrated manner by  
9 allowing for development of a 118-acre development area through a master planned mix  
10 of uses.

11 2. Support development in phases by implementing the proposed Master  
12 Plan in phases that will be timed with utility and road extensions.

13 3. Provide needed services and facilities in an orderly fiscally and  
14 responsible manner by coordinating with City services to provide logical and useful  
15 extension of services to the site.

16 4. Promote economic development, job creation, private investment and  
17 increased housing opportunities by developing the southern gateway to Castle Rock in an  
18 area that has long been envisioned for industrial and commercial development. The  
19 proposal will implement the City's vision and provide short term construction jobs, long  
20 term employment, and opportunities for private investment and business ownership. It  
21 will also expand the number of housing units as well as new opportunities for light  
22 industrial/flex properties.

23 5. Preserve or enhance natural amenities, features, shorelines and  
24 environmentally sensitive areas by identifying and protecting wetlands and their buffers  
25 and shorelines.

1           6.       Avoid and minimize to the greatest extent possible, adverse environmental  
2 impacts and ensure appropriate mitigation by analyzing the project's environmental  
3 impacts by appropriate specialists and, where needed, providing mitigation.

4           7.       Encourage environmentally sustainable development by preserving  
5 wetlands, avoiding impacts to fish habitat and shorelines, protecting waterways, treating  
6 and managing stormwater, designing buildings with energy efficient design elements, and  
7 adding beneficial landscaping.

8           8.       Provide certainty regarding the character, timing and conditions for  
9 developments while at the same time providing a degree of flexibility to respond to  
10 changes in market and economic conditions by preparing a phasing plan to propose  
11 implemental in stages with clear deadlines for development.

12           9.       Promote consistency with the goals, policies and objectives of the Castle  
13 Rock Comprehensive Plan.

14           42.       The Applicant and City therefore assert that the project, as conditioned, complies  
15 with all of the goals of Chapter 17.100 CRMC.

16           43.       The Hearing Examiner has reviewed the City and Applicant's Findings and adopts  
17 them as his own Findings and finds that the project, as conditioned, will comply with the goals of  
18 the Master Plan Development Ordinance.

19           Findings Relating to 17.100.020.

20           44.       All Master Plan Development Applications must comply with the requirements of  
21 CRMC 17.100.020 relating to the information contained in the application.

22           45.       The Applicant and the City concur that the Master Plan Application has satisfied  
23 all of the requirements of CRMC 17.100.020 with respect to the form of the application and its  
24 contents.

1           46.     The Hearing Examiner has revised the City and Applicant's proposed Findings  
2 and adopts them as his own Findings excepting, however, any Finding that wetlands have been  
3 fully identified.

4           Findings Relating to CRMC 17.100.030

5           47.     Pursuant to CRMC 17.100.030, proposed Master Plan Developments shall  
6 comply with all applicable use restrictions and development standards in the zoning district in  
7 which it is located. The City may approve additional uses based on a Finding that they are  
8 consistent with the City's Comprehensive Plan, or compatible with the uses permitted in the  
9 zoning district, and will not adversely affect the public health and safety.

10          48.     The City and Applicant assert that the proposed Master Plan will comply with the  
11 applicable use restrictions and development standards of the Industrial zoning district, or are  
12 consistent with the City's Comprehensive Plan, or compatible with the uses permitted in the  
13 Industrial zoning district, and will not adversely affect the public health and safety.

14          49.     The Hearing Examiner has revised the proposed Findings of the City and  
15 Applicant and concurs that the proposes uses are either permitted in the Industrial zoning district  
16 or, as conditioned, are consistent with the City's Comprehensive Plan, are compatible with the  
17 uses permitted in the Industrial zoning district, and will not adversely affect the public health and  
18 safety.

19           Findings Relating to CRMC 17.100.040

20          50.     Approval of a Master Plan Development must satisfy the 9 criteria set forth in  
21 CRMC 17.100.040.

22          51.     17.100.040.A.1. City Staff and the Applicant find that the project, as conditioned,  
23 demonstrates the economic and efficient use of land and provides for an integrated and consistent  
24 development plan for the site, and that its layout represents an efficient and coordinated use of  
25 land, with integrated uses that will increase the activation and desirability of the site.

1           52.     The Hearing Examiner has reviewed the City's Finding and adopts it as his own  
2 Finding.

3           53.     17.100.040.A.2. The City and Applicant find that the Applicant has identified  
4 development standards and uses that are consistent with the Master Plan and that the project has  
5 been designed in a manner that is compatible with adjacent land uses, after consideration of  
6 applicable mitigation and site design. They assert that the plan has been designed with existing  
7 residential uses in mind and that there are protections within existing development standards to  
8 protect uses on adjacent single-family residential properties.

9           54.     The Hearing Examiner has reviewed the City's Finding and concurs that the plan,  
10 as additionally conditioned by the Hearing Examiner, will be sufficiently compatible with  
11 adjacent land uses.

12           55.     17.100.040.A.3. The City and Applicant find that consideration has been given to  
13 "low impact development" stormwater concepts, including low impact biofiltration treatment  
14 solutions for stormwater from roads, parking lots and streets.

15           56.     The Hearing Examiner has reviewed the City's Findings and adopts them as his  
16 own Findings.

17           57.     17.100.040.A.4. The City and the Applicant find that there will be adequate  
18 infrastructure capacity available by the time each phase of development is completed. The  
19 Master Plan includes conceptual utility plans and a conceptual phasing plan. These plans will be  
20 developed in consultation with City services to ensure adequate capacity for each stage of the  
21 project and provide services to other in line users if needed.

22           58.     The Hearing Examiner has reviewed the City's Findings and adopts them as his  
23 own Findings.

24           59.     17.100.040.A.5. The City and Applicant find that the Master Plan Development  
25 contains design, landscaping, parking/traffic management, and use mixture and location that

1 limit or mitigate conflicts between the Master Plan Development and adjacent uses. The plan is  
2 designed with existing residential uses in mind; the transition of uses within the revised Master  
3 Plan are intended to improve compatibility between the project and the adjoining residential  
4 neighborhood; residential and commercial uses have been placed close to the major access point  
5 to provide efficient access; landscaping and screening requirements contained in the City's  
6 Development Regulations will help limit conflicts with adjacent uses; and the project's use of  
7 Larsen Lane has been minimized.

8         60. The Hearing Examiner has reviewed the City's proposed Findings and generally  
9 adopts them as his own Findings. The Master Plan is designed with existing residential uses in  
10 mind so long as the City retains control of any future improvements to Larsen Lane.

11         61. 17.100.040.A.6. The City and the Applicant find that potential significant off-site  
12 impacts including noise, shading, glare and traffic have been identified and mitigated to the  
13 extent reasonable and practical, with development occurring in phases and significant off-site  
14 impacts identified and mitigated at each stage through separate SEPA review.

15         62. The Hearing Examiner has reviewed the City's proposed Findings and generally  
16 adopts them as his own Findings except as noted in the Hearing Examiner's Findings Relating to  
17 17.100.040.A.5.

18         63. 17.100.040.A.7. The City and Applicant find that the project is designed and  
19 includes appropriate consideration of open spaces and transportation corridors, designs of streets  
20 and public open space amenities, and results in the functional and visual appearance of an  
21 integrated project; that it has been designed at a high level to create a cohesive and sensible  
22 layout of a mix of uses; that public open space amenities are shown and described and that  
23 various levels and types of transportation elements have been implemented.

24         64. The Hearing Examiner has reviewed these Findings and generally concurs with  
25 the exception as noted to 17.100.040.A.5.

1           65.    17.100.040.A.8. The City and the Applicant find that the proposed development  
2 is designed to be consistent with the provisions of the Shoreline Master Program and Critical  
3 Areas Ordinance. They find that no impacts to shorelines will result through approval of Master  
4 Plan and any future impacts to shorelines will be identified and managed in accordance with the  
5 Shoreline Master Program. The Applicant has noted wetlands along the eastern boundary of the  
6 site and has undertaken preliminary delineation of them. The Applicant asserts that no impacts  
7 will result through the approval of the Master Plan and that no impacts to the wetlands or  
8 wetland buffers are foreseen with future development. Future development adjacent to the  
9 wetland will include SEPA review and specialists reports delineating and classifying all wetlands  
10 and establishing required buffers.

11           66.    The Hearing Examiner has reviewed these Findings and does not fully adopt  
12 them. There is anecdotal evidence of additional wetlands on-site. The existence/nonexistence of  
13 these additional wetlands must be determined prior to further development. With this exception,  
14 the Hearing Examiner adopts the proposed Findings as his own Findings.

15           67.    17.100.040.A.9. The City and Applicant find that the proposed development will  
16 not adversely affect the public health, safety or welfare; that the plan has been designed to  
17 consider the impacts on the surrounding environment and that it does not adversely affect the  
18 public health, safety or welfare; that the Master Plan itself will not result in any physical  
19 development and that any actual development will require additional land use and building  
20 applications with associated SEPA review, and any impacts will be detailed, studied, addressed,  
21 and mitigated to ensure that public health, safety and welfare are maintained.

22           68.    The Hearing Examiner has reviewed these Findings and generally adopts them  
23 except as previously noted with respect to wetland issues and the use of Larsen Lane.

24           69.    The Application is generally in compliance with CRMC 17.100.050. and .060.  
25

1           70.    The Applicant's Project Narrative, commencing at page 11, addresses the issue of  
2 proposed uses and their compatibility with existing zoning designations. As noted, proposed  
3 uses in the Master Plan are either permitted uses and, as such, are allowed.

4           71.    The Project Narrative, commencing at page 16, addresses development standards  
5 for high density residential, highway business and industrial development and finds that future  
6 development will comply with these various requirements. City Staff concurs. The Hearing  
7 Examiner has reviewed these Findings and adopts them as his own Findings.

8                   Findings Relating to Fish and Wildlife Habitat

9           72.    CRMC 18.10.130.D requires development activities to conform to the  
10 requirements of this ordinance and when impacts to fish and wildlife habitat cannot be avoided,  
11 the performance standards found in this chapter shall be used to develop plans. The Applicant  
12 responds to this requirement by noting that future applications for development in or near critical  
13 areas will include additional SEPA review with all necessary expert reports to delineate and  
14 protect critical areas. The Applicant asserts that any impacts to habitat will be beneficial, not  
15 harmful, with these proposed impacts to be detailed in future critical areas reports.

16           73.    The Applicant's assurances that all impacts to fish and wildlife habitat  
17 conservation areas will be beneficial is in conflict with the position taken by the Lower  
18 Columbia Fish Recovery Board (LCFRB) which has expressed concern that the project lacks any  
19 discussion over appropriate mitigation and does not make any attempt to enhance salmon  
20 recovery along the Cowlitz or Lower Columbia River.

21                   Findings Relating to Frequently Flooded Areas

22           74.    The majority of the property is within FEMA Special Hazard Area AE Zone and  
23 is designated as a frequently flooded area.

24           75.    All development within frequently flooded areas must comply with Chapter 15.24  
25 CRMC, Flood Damage Prevention.

1           76.    The Applicant acknowledges that much of the site is below the level of the 100-  
2 year floodplain and that the project calls for raising the site elevation to a minimum of 1 foot  
3 above the base flood elevation.

4           77.    Several residents along Larsen Lane, as well as the LCFRB, have expressed  
5 concern that raising the elevation of the project site to a minimum of 1 foot above the 100-year  
6 flood elevation level will displace floodwaters onto adjoining properties, especially properties  
7 along Larsen Lane.

8           78.    The City's Flood Damage Prevention Ordinance, Chapter 15.24 CRMC, does not  
9 prohibit the proposed elevation of the site.

10          79.    The Applicant acknowledges that future site development will comply with  
11 specific standards for frequently flooded areas.

12           Findings Related to Consistency with the City's Comprehensive Plan

13          80.    The Applicant and the City find that the project, as conditioned, is consistent  
14 with:

15           ●    The Residential Development Goals and Policies, especially Goal 2, by providing  
16 opportunity for a broad range of housing choices to meet the changing needs of the community.

17           ●    Several of the goals of the Land Development/Subdivision Goals and Policies by  
18 presenting an orderly, well-designed concept bringing economic development with long term  
19 benefit to the southern portion of the City and improved infrastructure.

20           ●    The Commercial/Industrial Goals by significantly increasing the amount of  
21 available commercial and industrial acreage with a mix of commercial uses for tourists and  
22 residents.

23           ●    The Urban Growth Goals and Policies by extending water and sewer lines as well  
24 as other utility and stormwater systems.

25           ●    The Housing Goals by providing 200 multi-family housing units.



1 Having said this, there remain several issues with the Application including:

- 2 1. Wetland issues;
- 3 2. Future use of Larsen Lane;
- 4 3. Floodwaters; and
- 5 4. Salmon recovery efforts.

6 Each of these issues will be analyzed more fully below.

7 Wetlands

8 Every project in the City, including this one, must properly identify all wetlands on site;  
9 categorize those wetlands; and provide appropriate protections for both the wetlands and their  
10 buffers. As part of its application the Applicant has identified several areas of wetlands roughly  
11 due east of the old farm house and outbuildings on the site. It has also categorized those  
12 wetlands and identified necessary buffers for them.

13 But it is not clear that the wetlands delineated by the Applicant are all of the wetlands on  
14 site. There is persuasive anecdotal evidence that the site contains additional wetlands which  
15 have yet to be properly recognized and protected. That anecdotal evidence comes from two  
16 independent sources: 1) A nearby resident who observed what appeared to be wetlands plowed  
17 over earlier this year and re-seeded in pasture grass and 2) an expert from Ecology whose  
18 examination of aerial photography reaches the same conclusion. This anecdotal evidence is not  
19 proof that additional wetlands exist on site but is credible enough to require further wetlands  
20 review before any additional grading or filling occurs that might harm critical areas.

21 The Department of Ecology has asked that Master Plan approval be conditioned upon  
22 Ecology having the opportunity to work with the City to determine whether any additional  
23 wetland areas exist before allowing any additional grading and filling. This is a reasonable,  
24 necessary suggestion. I therefore recommend that the following additional condition be imposed  
25 on Master Plan Development approval:

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**CITY OF CASTLE ROCK HEARING EXAMINER  
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1           **No. 28. Prior to any additional filling or grading of the project site, City staff**  
2           **and Department of Ecology shall undertake wetland boundary verification**  
3           **necessary to insure that critical areas have been properly identified and**  
4           **rated and that the proposed buffers are adequate to protect the resources**  
5           **from the impacts related to future on-site developments.**

6           Use of Larsen Lane

7           While all interested parties - the City, the Applicant, and the residents along Larsen Lane  
8 - are in agreement that the project should be allowed to use Larsen Lane for both emergency  
9 services as well as temporary construction needs, there is significant disagreement as to any  
10 future, expanded use. The neighborhood is united in asking that the Applicant be denied any  
11 expanded future use, while the Applicant argues that it has a fundamental right to use Larsen if  
12 the necessary right-of-way can be acquired and the street improved to accommodate greater use.

13           At the conclusion of the lengthy public hearing process the City and Applicant reached  
14 consensus on proposed conditions of approval to limit the current use of Larsen and ensure that  
15 any damage to it is reimbursed, while also providing for the opportunity to have it someday  
16 become a secondary access for the project.

17           I concur with the compromise reached between City staff and the Applicant with respect  
18 to the future use of Larsen Lane - with one notable exception. As written, Proposed Mitigation  
19 Measure 9 (the same as Proposed Condition No. 14) suggests that the Applicant will control the  
20 decision to improve Larsen Lane if it can acquire the necessary right-of-way and construct an  
21 improved street in accordance with City standards. If this is what the City Staff and Applicant  
22 are intending then I respectfully disagree. While the Applicant may be encouraged to acquire  
23 necessary right-of-way and propose its dedication to the City in order to improve the street, it is  
24 the *City* who will decide whether to accept the proposed dedication of additional right-of-way,  
25

1 and then decide whether to allow the street to be widened and improved. These are all decisions  
2 for a future City Council to make, not the Applicant.

3 It is unclear whether the City staff and Applicant were suggesting this but, to be safe, I  
4 recommend that Condition No. 14 (and Proposed Mitigation Measure No. 9) be revised as  
5 follows:

6 14. "The project sponsor may propose to use Larsen Lane S.W. to provide  
7 second access to the Master Plan Development if such is required in accordance  
8 with local, state or federal standards. The project sponsor shall be responsible for  
9 the design, acquisition of right-of-way, and construction of any required  
10 improvements to Larsen Lane S.W., including the intersection with Huntington  
11 Avenue S. in accordance with City standards, provided, however, that the City  
12 reserves the right to accept the proposed dedication of additional right-of-way and  
13 approve construction of the required improvements. Proposed design and use of  
14 these improvements shall be subjected to environmental review and mitigation."

15 At the risk of being repetitive, this City Council cannot bind future City Councils to  
16 accept, carte blanche, proposed dedications of right-of-way or future improvements to the City's  
17 streets. Those decisions must be reserved for future City Councils to make after determining  
18 them to be in the City's interest.

19 Floodwaters

20 A significant portion of the project site is below the 100-year flood elevation level. The  
21 Applicant has given clear notice that, in order for the property to be developed, it must be raised  
22 to a level at least one foot above the 100-year flood elevation. The City's ordinances allow for  
23 this.

24 What is beneficial for the project site will, of course, be burdensome to surrounding  
25 properties, as displaced floodwaters will seek a new location. Neighbors are naturally

1 concerned but, again, the proposed action is allowed by the City's ordinances.

2           Nonetheless, the Master Plan Development Ordinance allows the Council to: "Promote  
3 the planning and development of sites in a manner that avoids and minimizes potential adverse  
4 environmental impacts and that insures appropriate mitigation." Thus, the City Council has the  
5 authority to impose additional mitigation for any floodwater impacts arising from raising the  
6 elevation of the site. The Hearing Examiner has no recommendation in this regard but merely  
7 reminds the Council of its authority.

8           Salmon Recovery Efforts

9           The Lower Columbia Fish Recovery Board has expressed dismay over the fact that  
10 regional salmon recovery planning had envisioned the project site as a location for key  
11 restoration efforts and that the City had promised to support those efforts, and yet the Master  
12 Plan does not provide any mitigation or restoration devoted to salmon recovery. Again, the  
13 LCFRB is not claiming that the project violates any of the City's ordinances but rather is in  
14 conflict with the City's promises to aid in salmon recovery. This is a matter for the City Council  
15 to address at a policy level, with a reminder that the Council has the authority to condition  
16 approval in such a matter as to promote development that "avoids and minimizes potential  
17 adverse environmental impacts . . . insures appropriate mitigation . . . and encourages  
18 environmentally sustainable development." Again, the Hearing Examiner makes no  
19 recommendation but merely brings this to the Council's attention.

20           Additional Recommendations

21           Archaeological Resources

22           Project review and the public hearing process have helped identify the site as having  
23 potentially important archaeological resources which, by agreement of all parties including  
24 DAHP, the Cowlitz Tribe, the City and the Applicant, will be examined more carefully, with the  
25

1 agreement to undertake a professional survey before any grading and filling. All of the  
2 interested parties should be commended for arriving at a mutually satisfactory approach.

3 Proposed Added Language Regarding the Revised MDNS

4 As part of its revisions to the SEPA MDNS, City staff recommends the following  
5 language be added as a preface to the proposed conditions of approval:

6 "It is recommended that the following mitigating measures be referenced as an  
7 appendix to the approved Master Site Plan and be used as the basis for  
8 establishing and implementing the conditions of Master Plan Approval."

9 This language is somewhat confusing as it leaves a suggestion that the SEPA mitigating  
10 measures are intended as general guidelines and not as obligations. As was stated earlier, the  
11 mitigation measures imposed by the lead agency (the City) under SEPA must be followed and  
12 cannot be lessened by other conditions of project approval. I therefore recommend that instead  
13 of adding the proposed language as a preface to the Conditions of Approval the following  
14 additional Condition be added to the Conditions of Approval:

15 **"Condition 29. The mitigation measures set forth in the revised SEPA**  
16 **MDNS of September 8, 2021, are incorporated herein as additional**  
17 **conditions of project approval. In the event of any conflict between the**  
18 **SEPA MDNS mitigation measures and these Conditions of Approval, the**  
19 **more stringent shall apply."**

20 SUMMARY

21 In summary, I recommend that the Council **APPROVE** the proposed Master Plan  
22 Development subject to modified conditions of approval as I have suggested with possible  
23 additional conditions relating to floodwaters and salmon recovery at the Council's discretion.

1 DATED this 17<sup>th</sup> day of September, 2021.

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4 \_\_\_\_\_  
5 Mark C. Scheibmeir  
6 City of Olympia Hearing Examiner  
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## CONDITIONS OF APPROVAL

1. The approved Master Site Plan shall consist of the following parcels totaling approximately 118 acres:
  - a. Parcel #30812 (20.83-acres), 2542 Larsen Lane SW.
  - b. Parcel #308100100 (1.06-acres), 1955 Huntington Avenue South.
  - c. Parcel #30813 (4.33-acres).
  - d. Parcel #30864 (78.34-acres).
  - e. Parcel #6143802 (6.44-acres).
  - f. Parcel # 308640100 (.34-acres).
  - g. Parcel #308640200 (7.81-acres).
2. All subsequent project specific development activities shall comply with the applicable provisions of the Castle Rock Municipal Code except as modified by these Conditions of Approval or the Development Agreement.
  - a. Development activities in the Employment Land Use Area shall comply with the provisions of the Industrial (I) zoning district except as modified by these Conditions of Approval.
  - b. Development activities in the Commercial Land Use Area shall comply with the provisions of the Highway Business (C-2) zoning district except as modified by these Conditions of Approval.
  - c. Development activities in the Residential Land Use Area shall comply with the provisions of the High Density Residential (R-2) zoning district except as modified by these Conditions of Approval.
3. The Project Sponsor shall be responsible for obtaining all local, state, and federal permits and approvals that may be required to implement the approved Master Planned Development.
4. Permitted uses in each land use area as depicted on the approved Master Site Plan may include the following, provided that the City may approve other uses based on a finding that they are similar in nature and compatible with the permitted uses.
  - a. Employment Land Use Area: Uses identified as permitted (P) or permitted through the issuance of a conditional use permit (C), or permitted through a special use permit (S) in the Table of Permitted Land Uses CRMC 17.26.010 in the Industrial (I) zoning

district are permitted (P).

- b. Commercial Land Use Area: The following uses and categories of uses identified as permitted (P) or permitted through the issuance of a conditional use permit (C), or permitted through a special use permit (S) in the Table of Permitted Uses CRMC 17.26.010 in the Highway Business (C-2) zoning district are permitted (P).

- (1) Accessory buildings.
- (2) Accessory uses.
- (3) Retail sales
- (4) Professional offices.
- (5) Bank.
- (6) Printing.
- (7) Animal grooming.
- (8) Bakery.
- (9) Beauty/barber shop.
- (10) Convenience store.
- (11) Kennel (indoor).
- (12) Laundry/dry cleaners.
- (13) Liquor Store.
- (14) Marijuana retail sales.
- (15) Microbrewery.
- (16) Child day care.
- (17) Hotels/motels.
- (18) Food cart/Mobile sales.
- (19) Restaurants/coffee shops/drive-through restaurants and the like.
- (20) Brew pub, tavern, cocktail lounge, wine tasting room and the like.
- (21) Health care providers and facilities.
- (22) Outdoor storage, displays, and sales.
- (23) Farmer's market, fruit stand.
- (24) Farm tool sales/rental.
- (25) Wireless communication facilities.
- (26) Public facilities.
- (27) Vehicle and boat sales and services.
- (28) Temporary uses.
- (29) Arcade.
- (30) Gallery/museum
- (31) Movie theater.
- (32) Performing arts theater.
- (33) Recreation, commercial (indoor).

- c. Residential Land Use Area: The following uses as identified as permitted (P) or permitted through a conditional use permit (C), or permitted through a special use permit (S) in the Table of Permitted Uses (CRMC 17.26) in the High Density Residential (R-2) zoning district, are permitted (P).

- (1) Single Family Dwelling Units.
- (2) Duplexes.
- (3) Multi-Family Dwelling Units.
- (4) Accessory Buildings.
- (5) Accessory Dwelling Units.
- (6) Bed and Breakfast Inn.
- (7) Child Day Care.
- (8) Home Business.
- (9) Public Park.
- (10) Temporary Uses.

d. Recreational Land Use Area: This area will be developed primarily as an RV Park, and may include day use only facilities and full-service, overnight RV pads designed and constructed in accordance with the applicable provisions of the Castle Rock Municipal Code including but not limited to CRMC Chapter 17.63 Recreational Vehicles.

e. Critical Areas/Open Space Tracts: This shall include a wetland and buffer to be placed in an open space tract(s) that shall not be developed, provided that low impact recreational uses such as trails may be permitted in accordance with local, state, and federal laws, regulations, and standards. Jurisdictional shoreline areas and their buffers may also be placed in an open space tract(s).

5. The following development standards shall apply within the Master Planned Development unless otherwise authorized and approved in accordance with the provisions of these Conditions of Approval.

a. There are no minimum or maximum lot size or width requirements provided that applicable lot coverage, parking, loading, stormwater management, and landscaping requirements as well as the provisions of the International Building Codes, as adopted and implemented by the City are met.

b. There are no minimum front, side, or rear yard building setbacks, within the interior of the master planned development, provided that:

(1) There shall be a minimum landscape buffer of 20' along the external boundary of the master planned development that abuts privately owned properties not a part of the Master Planned Development. This requirement may be modified by mutual written agreement of the adjoining property owners and subject to City review and approval.

(2) All buildings must be setback at least 5' from the required 20' landscaped buffer.

(3) All buildings shall comply with the provisions of the International Building Codes as adopted and implemented by the City.

c. The maximum building and structure heights are as follows:

- (1) Employment Land Use Area: 50 feet.
  - (2) Commercial Land Use Area: 40 feet.
  - (3) Residential Land Use Area: 40 feet.
  - (4) Recreation Land Use Area: 35 feet.
  - (5) The maximum height of wireless communication facilities shall be determined in accordance with the provisions of CRMC Title 11 Communication Antennas and Towers.
  - (6) The Project Sponsor may propose to increase the maximum building height up to 25% provided that the City may limit the number of stories within the building and/or require additional mitigation in order to comply with the provisions of the International Fire Code and as may be necessary to protect the public health, safety, and welfare.
- d. There is not minimum or maximum residential density requirement, provided that no more than 200 dwelling units shall be developed on 7.8 acres in the Residential Land Use Area.
6. There shall be no net loss of function or value of wetlands, streams, or rivers as a result of project related activities.
    - a. A Critical Areas Report shall be submitted for all development activities that may impact environmentally sensitive areas on or near the site and a Critical Areas Permit or similar authorization shall be required for all non-exempt development activities.
    - b. All critical areas and their buffers shall be delineated and placed in an open space tract(s).
    - c. All development activities within 200' of a river or stream and their associated wetlands under the jurisdiction of the Washington State Shoreline Management Act shall comply with the provisions of the Castle Rock Shoreline Master Program.
  7. All development activities shall comply with the City Flood Hazard Prevention regulations including the elevation of buildings at least one foot above base flood elevations.
  8. Prior to the initiation of any clearing and grading activities the Project Sponsor shall submit for City review and approval a Master Clearing, Fill, and Grading Plan that is integrated with a Stormwater Management Plan that includes an analysis of the impacts of the proposed development to adjacent properties and measures to ensure that stormwater or flood waters will not adversely affect neighboring properties.

- a. Each application to implement a Phase of Development shall include a more detailed plan with Civil Drawings.
9. The Project Sponsor shall be responsible for the design, construction, and maintenance of such improvements as may be required to connect to the City water system, unless otherwise agreed to by the parties, provided that:
    - a. Prior to preparing design plans, the Project Sponsor shall provide the City with an estimate of anticipated water demand for each phase of development including anticipated fire flow needs.
    - b. The Project Sponsor may submit, for City review and approval plans for a separate irrigation system.
    - c. The City has received a grant and loan from the Washington State Community Economic Revitalization Board (CERB) to extend a water main to the site. As a result, the City shall be responsible for the design and construction of this water main extension in accordance with the conditions of the grant and loan approval.
  10. The Project Sponsor shall be responsible for the design, construction, and maintenance of such improvements as may be required to connect to the City sewer system, unless otherwise agreed to by the parties, provided that:
    - a. Prior to preparing design plans, the Project Sponsor shall provide the City with an estimate of anticipated treatment capacity and flows for each phase of development.
  11. The primary route of ingress and egress shall be from Huntington Avenue South as depicted on the Master Site Plan approved by the City.
    - a. All internal access roads, alleys, and driveways shall be designed and constructed by the Project Sponsor to the appropriate City road standards unless a modification is approved by the City.
    - b. The Project Sponsor may propose to dedicate roads to the City, provided that the acceptance shall be at the sole discretion of the City.
  12. Larsen Lane SW is a public right-of-way and in its existing condition the use of Larsen Lane SW to access the Master Planned Development shall be limited to:
    - a. Emergency ingress and egress, provided that:
      - (1) The Project Sponsor shall be responsible for the design and construction of such improvements to Larsen Lane SW within the existing right-of-way from the site of the Master Planned Development to the intersection with Huntington Avenue South that may be required by the City to maintain emergency access to the Master Planned Development in accordance with the provisions of the

International Fire Code as implemented and adopted by the City.

(2) It is understood by the parties that if the required emergency access cannot be provided within the existing right-of-way that a different route for emergency access may be required.

b. Interim access by the Project Sponsor, and their employees, subcontractors, and suppliers pending the construction of a temporary access road at the primary access point from Huntington Avenue near the church driveway, provided that:

(1) The Project Sponsor shall provide the City with documentation of the existing condition of Larsen Lane SW and shall be responsible for the repair of any damages to the roadway during this interim period.

(2) The City will require a bond or financial guarantee sufficient to restore Larsen Lane SW in its sole discretion.

(3) The Project Sponsor shall design and construct, subject to City review and approval, a temporary access road at the primary point of access from Huntington Avenue near the church driveway no later than June 30, 2022, provided that this deadline may be extended with cause by the City.

(4) The City will make a good faith effort to expedite the review and approval of this temporary access road.

13. The City may install reasonable measures to prevent the use of Larsen Lane SW to access the Master Planned Development. This may include, but is not limited to, signage, a gate or bollards with a lock box, and a cul-de-sac or turnaround for vehicles attempting to enter the Master Planned Development.
14. The project sponsor may propose to use Larsen Lane S.W. to provide second access to the Master Plan Development if such is required in accordance with local, state or federal standards. The project sponsor shall be responsible for the design, acquisition of right-of-way, and construction of any required improvements to Larsen Lane S.W., including the intersection with Huntington Avenue S. in accordance with City standards, provided, however, that the City reserves the right to accept the proposed dedication of additional right-of-way and approve construction of the required improvements. Proposed design and use of these improvements shall be subjected to environmental review and mitigation.
15. With the applications to implement each phase of development, the Project Sponsor shall include a Parking Study that identifies the parking requirements for each use and demonstrates how this parking need can reasonably be met. This Parking Study shall utilize the standards in the most recent edition of the Institute of Traffic Engineers (ITE)

manual unless project specific data from similar projects is provided and accepted by the City.

- a. All parking shall be on-site unless on-street parking is included in approved street plans.
  - b. The Project Sponsor may propose shared or joint use parking.
  - c. All loading, pick-up, and delivery areas shall be on site and shall include sufficient area for the queuing of vehicles.
  - d. Barrier free parking shall be provided in accordance with the provisions of federal, state, and local laws/regulations.
  - e. Designated of “No Parking” areas necessary to preserve emergency vehicle access, provide safe vehicular and non-vehicular access and circulation, and to provide access to public utilities shall be clearly identified, maintained, and strictly enforced by the Project Sponsor.
16. All exterior lighting shall be shielded and downward facing in accordance with applicable provisions of state and local regulations.
17. The Project Sponsor shall prepare and submit with the first implementing application a Master Signage Plan to guide the design and location of signs throughout the site.
- a. The standards in this plan shall meet or exceed the standards in Castle Rock Municipal Code.
  - b. All subsequent implementing applications shall include signs consistent with the approved Master Signage Plan.
18. The Project Sponsor shall prepare and submit with the first implementing application a Conceptual Parks, Recreation, and Open Space Master Plan to guide the development and use of pedestrian and bicycle facilities, parks, and open spaces open to the public. This Conceptual Master Plan should include, but is not limited:
- a. The standards for the development of trails, sidewalks, bike paths and lanes.
  - b. Potential areas for the development of public parks and open spaces.
  - c. Potential areas to view and access shorelines.
  - d. Areas to be maintained by a private management entity, homeowner’s association, or the like.
  - e. Areas proposed for dedication and maintenance by the City or other public agency,

provided that areas proposed for dedication to the City shall be accepted at the sole discretion of the City.

19. A proposed Phasing Plan shall be submitted with the first implementing application that identifies the projected target date for the construction of Phase 1 and an estimated timeline of subsequent phases of development. It is understood by the parties that the phasing plan may be revised to respond to changes in market conditions, provided that:
  - a. Each proposed phase of development shall include all infrastructure improvements necessary to support the use and continued operations of the development independent of future phases of development.
  - b. The City may impose additional conditions of approval that may be necessary to ensure that the public health, safety, and welfare of the community is not adversely affected by the phasing plan.
  
20. The City and the Project Sponsor shall jointly consult with the Cowlitz Indian Tribe to determine the scope of a cultural and archaeological survey that shall be conducted prior to initiating any clearing, grading, filling, or excavation activities.
  - a. Upon discovery of any human remains, artifacts, or evidence of potential archaeological, historical, or cultural resources all construction activities or uses authorized shall be suspended pending authorization to proceed from the City, and/or the Washington State Department of Archaeology and Historic Preservation, in accordance with the provisions of state and federal law, including, but not limited to RCWs 68.50.645, 27.44.055, and 68.60.055.
  - b. If ground disturbing activities encounter human skeletal remains during construction, then all activity shall cease that may cause further disturbance to those remains. The area of the find will be secured and protected from further disturbance until the Washington State Department of Archaeology and Historic Preservation (DAHP) provides notice to proceed. The finding of human skeletal remains shall be reported to the Castle Rock Police Department and the Cowlitz County Coroner in the most expeditious manner possible. The remains will not be touched, moved, or further disturbed. The County Coroner will assume jurisdiction over the human skeletal remains and decide of whether those remains are forensic or non-forensic. If the County Coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the Cowlitz Indian Tribe. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.

- c. If ground disturbing activities encounter artifacts, or evidence of potential archaeological, historical, or cultural resources during construction, then all activity shall cease that may cause further disturbance to those items. The Project Sponsor shall immediately contact the Castle Rock Public Works Department to determine how best to secure the site and to consult with the Cowlitz Indian Tribe and the DAHP.
21. Applications to implement the approved Master Site Plan and subsequent Development Agreement shall be processed in accordance with the provisions of CRMC 17.77, in effect at the time a complete application is submitted and accepted for processing, or as subsequently amended by the City, and as modified by CRMC 17.100, unless otherwise provided in these Conditions of Approval or the Development Agreement.
  22. The Project Sponsor shall submit with the application to implement each phase of the approved Master Site Plan:
    - a. An updated SEPA Checklist.
    - a. An updated traffic report that identifies the number of trips to be generated, assesses existing conditions, identifies proposed mitigation measures to meet City standards, and that identifies when the mitigation is required.
    - b. Other technical studies and reports that may be required by the City to fully evaluate and mitigate potential adverse impacts.
    - c. A Landscaping Plan prepared in accordance with the provisions of Castle Rock Municipal Code and as modified by these Conditions of Approval.
    - d. A Parking Plan prepared in accordance with the provisions of Castle Rock Municipal Code and as modified by these Conditions of Approval.
    - e. An updated Parks, Recreation, and Open Space Master Plan.
    - f. The applications shall also address the status of applicable conditions of approval of previous phases.
    - g. An updated Phasing Plan.
  23. The City may require additional mitigation and/or conditions of approval based on an analysis of the application materials submitted to implement each subsequent phase of development.
  24. The Project Sponsor may propose adjustments to the boundaries of the land use areas depicted on the Master Site Plan or to the applicable development standards in accordance with the following provisions governing Minor and Major Modifications.

- a. Minor Modifications shall include revisions to the Master Site Plan that do not reduce the amount of open space or adversely affect environmentally sensitive areas or jurisdictional shoreline areas and do not trigger the need for a new SEPA Threshold Determination. Proposed Minor Modifications are subject to administrative review and approval by the Mayor or his/her designee and shall include a Notice of Application and an opportunity for the public to submit written comments.
  - b. Examples of Minor Modifications include, but are not limited to:
    - (1) An alternative development standard that is determined by the City to be functionally equivalent to, or superior to, the original standard or requirement in fulfilling the intent and purpose of that original standard or requirement.
    - (2) Approval of uses determined to be similar in nature and compatible with permitted uses in a land use area.
    - (3) Mutual written agreements between abutting property owners to modify the 20' landscaping requirement.
    - (4) Revisions to the shape of development areas.
    - (5) Increases in a proposed use that is offset by a corresponding decrease of another use that results in no net increase in trips.
    - (6) The realignment of internal road corridors provided that there is no decrease in functionality as determined by the City.
  - c. Major Modifications shall include those revisions that do not meet the criteria for a Minor Modification as determined by the City. Major Modifications shall be reviewed by City Development Review Team and upon preparation and distribution of a Staff Report the City Land Use Hearings Examiner shall conduct a public hearing and shall make a recommendation on the proposed modification to the City Council.
  - d. Examples of a Major Modification include, but are not limited to:
    - (1) The proposed use of Larsen Lane SW to provide a second access to the Master Planned Development.
    - (2) Proposed uses that are not similar in nature and/or that may not be compatible with approved uses.
25. The Project Sponsor and the City may execute a Development Agreement further clarifying these conditions and/or to provide more detailed guidance on how these conditions shall be implemented.

26. In the event of a question about the applicability of the Conditions of Approval or a potential conflict between standards or provisions, the Mayor or his/her designee shall make an administrative code interpretation, provided that such administrative determination may be appealed to the City's Land Use Hearings Examiner.
27. The Project Sponsor shall reimburse the City for all expenses incurred in the implementation of the approved Master Site Plan and Development Agreement including but not limited to the costs associated with the review and approval of implementing applications and construction plans, public notices, City consultants, peer reviews, construction monitoring, and enforcement.
28. Prior to any additional filling or grading of the project site, City staff and Department of Ecology shall undertake wetland boundary verification necessary to insure that critical areas have been properly identified and rated and that the proposed buffers are adequate to protect the resources from the impacts related to future on-site developments.
29. The mitigation measures set forth in the revised SEPA MDNS of September 8, 2021, are incorporated herein as additional conditions of project approval. In the event of any conflict between the SEPA MDNS mitigation measures and these Conditions of Approval, the more stringent shall apply.