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5 BEFORE THE HEARING EXAMINER FOR THE CITY OF DUPONT

6 RE: Patriots Landing Village Master)
7 Plan) ORDER GRANTING RECONSIDERATION
8 Master Plan Approval) REQUEST
9 File No. PLNG 2022-014 (Master)
10 Plan) and PLNG2022-)
11)

12 By letter dated September 18, 2023 the City of Dupont has requested reconsideration of the Final
13 Decision issued for the above-captioned matter. The City requests that Condition No. 5 of the
14 Decision be struck or revised. The reconsideration request is granted and Condition No. 5 is struck
from the Final Decision.

15 Condition No. 5 required tree retention in conformance to a tree retention plan prepared by the
16 Applicant's arborist. The City noted that the retention plan was still preliminary and the City had
17 intended to do a more precise review during subsequent site plan review. The City noted that tree
18 retention standards do not apply to master plan review, identifying that DMC 25.152.030, the
master plan review criteria, only requires conformance to zoning district standards and that tree
retention standards are not part of those standards.

19 Given that the Applicant's arborist report has not received final clearance from City staff, it is
20 found appropriate to delegate that to site plan review to ensure better compliance with City tree
21 retention standards. In general, as a practical matter tree retention is sometimes more appropriate
22 at master plan level of review so that the overall development configuration in its entirety can be
23 evaluated on its impact to strands of significant trees. Deferring that review to site plan review,
24 which is sometimes broken into multiple separate applications, can place the Applicant in a
position of claiming that tree impacts can't be avoided because the overall development plan was
locked in at the master plan stage of review. That scenario doesn't appear likely for this project
so deferring tree retention to site plan review is appropriate.

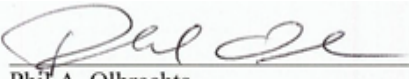
25 Staff asserts in its reconsideration request that tree retention cannot be assessed at master plan
26 review because it is not pertinent to master plan review criteria. Staff cite to DMC 25.152.030(1),
which provides that master plan approval is subject to conformance with applicable zoning district

standards. Staff notes that tree retention is not a standard based upon the applicable zoning district to the project site. However, Condition No. 5 was not based upon DMC 25.152.030(1). Condition No. 5 was based upon DMC 25.152.030(2), which provides that a master plan may be conditioned “to mitigate impacts relating to traffic and the environment.” Even if the authority to impose conditions granted by DMC 25.152.030(2) was limited to implementation of the review standards listed in DMC 25.152.030(1), the DMC 25.152.030(1) review standards include conformance to the comprehensive plan. The comprehensive plan, in turn, has multiple policies promoting compatibility and protection of environmental and scenic resources. Ultimately, the issue of how to apply DMC 25.152.030(2) need not be resolved in this reconsideration request since conformance to the City’s tree retention standards and objectives can be adequately assured during site plan review. The interplay of DMC 25.152.030(1) and DMC 25.152.030(2) may yet come up again in future master plan applications, since master plan review sometimes can trigger a wide range of public concerns.

The staff’s request for reconsideration has not been distributed for public comment because tree retention was not one of the concerns raised in public comment and tree retention will still be addressed in site plan review.

The Final Decision will be re-issued with Condition No. 5 stricken.

Decision issued September 28th, 2023.


Phil A. Olbrechts

Hearing Examiner

Appeal Right and Valuation Notices

DMC 25.175.010 provides that this decision, as a Type III decision, is final, subject to appeal to Pierce County Superior Court. Appeals are governed by Chapter 36.70C RCW.

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.