



CITY HALL  
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[www.cityoffederalway.com](http://www.cityoffederalway.com)  
Jim Ferrell, Mayor

October 21, 2016

COPY

John C. McCullough  
McCullough Hill Leary, PS  
701 Fifth Avenue, Suite 6600  
Seattle, WA 98104

Re: Segregation Applications (Application Nos. 16-104996-SU and 16-105003-SU)  
Former Weyerhaeuser Campus

Dear Jack,

This letter follows up on our telephone discussion earlier this week and your correspondence, dated October 13 and 15, 2016, regarding the above-referenced land use applications.

To further explain the City of Federal Way's position, the City has accepted receipt of, and will commence processing, the October 13, 2016 binding site plan application (Application No. 16-104996-SU) filed by your client, Federal Way Campus, LLC. The City is not processing your client's separately filed short plat application for the same property. As the City has explained previously, the Federal Way Revised Code ("FWRC") does not authorize the use of short plats to divide property that is zoned for commercial, business, office, or industrial development. Instead, the FWRC clarifies that the binding site plan mechanism is the exclusive means by which to segregate these categories of land. *See* FWRC 18.20.010. To that effect, the short plat application and the associated administrative fee are available to be picked up by you or your client.

Additionally, you submitted a concurrency application, dated October 13, 2016, and payment pursuant to Chapter 19.90 FWRC; however, binding site plans are exempt from concurrency evaluation. FWRC 19.90.060(2)(s). Concurrency will be required at the use process or building permit application stage. Unlike binding site plans, short plats are subject to concurrency because the City is able to easily calculate trip generation for residential developments from the face of a short plat application. In line with the City's position outlined above, the City is processing the binding site plan and—because the short plat application is not the appropriate way to segregate commercial property—the concurrency fee is available to be picked up along with your short plat application.

To the extent you contend that the approach codified in the FWRC is inconsistent with applicable state law, the City respectfully rejects this assertion. RCW 58.17.060 affords municipalities broad latitude to adopt local regulations and procedures governing short plats. RCW 58.17.035 further clarifies that cities may, as an alternative to otherwise applicable

subdivision processes, adopt binding site plan procedures for the division of commercial and industrial property. The relevant FWRC provisions are facially compliant with this authority. The City is unaware of any Washington statute or case precedent that would support a contrary view. If you know of any controlling authority to this effect, please provide appropriate citations for the City's consideration.

If you disagree with the City's approach to processing the binding site plan application, and in lieu of the City returning your client's short plat application and concurrency submission, you may apply for a formal administrative interpretation request concerning the City's procedural framework for this issue. The relevant code provisions governing the interpretation process are set forth at Chapter 19.50 FWRC. Upon receiving a proper request pursuant to this Chapter, the City will process and issue an interpretation.

With regard to your request to waive the preapplication meeting, that submission is under review, and the Community Development Director will provide you with a decision pursuant to FWRC 19.40.030(2).

Thank you for your attention and continued courtesies. Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Orthmann". The signature is fluid and cursive, written over a white background.

Mark D. Orthmann  
Acting City Attorney  
City of Federal Way

cc: Scott Sproul, Acting Community Development Director