

The Governor's proclamation 20-28 regarding the Open Public Meetings Act and Public Records Act temporarily prohibits in-person public attendance at meetings subject to the OPMA.

A GoToMeeting will be arranged to enable the public to listen and make public comments remotely. To participate remotely, please call-in at: [1-877-309-2073](tel:1-877-309-2073), Access Code: 354-331-917
Or, join on-line at the following link <https://global.gotomeeting.com/join/354331917>

AGENDA

***Port of Kennewick
Regular Commission Business Meeting
Port of Kennewick Commission Chambers (via GoToMeeting)
350 Clover Island Drive, Suite 200, Kennewick Washington***

February 22, 2022
2:00 p.m.

- I. CALL TO ORDER**
- II. ANNOUNCEMENTS AND ROLL CALL**
- III. PLEDGE OF ALLEGIANCE**
- IV. APPROVAL OF AGENDA**
- V. PUBLIC COMMENT** (*Please state your name for the public record*)
- VI. CONSENT AGENDA**
 - A. Approval of Direct Deposit and ePayments Dated February 17, 2022
 - B. Approval of Warrant Register Dated February 22, 2022
 - C. Approval of Regular Commission Meeting Minutes February 8, 2022
 - D. Approval of Special Commission Meeting Minutes February 16, 2022
- VII. OLD BUSINESS**
 - A. Clover Island Housing Project – Due Diligence (**TIM**)
- VIII. REPORTS, COMMENTS AND DISCUSSION ITEMS**
 - A. Kennewick Waterfront
 - 1. The Willows Build Back Better Resolution 2021-06 (**TANA**)
 - B. Vista Field
 - 1. Team Approach (**TIM**)
 - 2. Property Owner's Association Update, Doris Goldstein & Ben Floyd (**LARRY/AMBER**)
 - C. Frequency of Budget Presentations (**NICK**)
 - D. Commission meetings (formal and informal meetings with groups or individuals)
 - E. Non-Scheduled Items
(**LISA/BRIDGETTE/TANA/NICK/LARRY/AMBER/LUCINDA/TIM/KEN/TOM/SKIP**)
- IX. PUBLIC COMMENT** (*Please state your name for the public record*)
- X. EXECUTIVE SESSION** (*Ask public if they are staying, and if not, where they can be located if the Executive Session ends early.*)
 - A. Potential Litigation, per RCW 42.30.110(1)(i) (**LUCINDA**)
- XI. ADJOURNMENT**

PLEASE SILENCE ALL NOISE MAKING DEVICES



PORT OF KENNEWICK REGULAR COMMISSION MEETING

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FEBRUARY 8, 2022 MINUTES

Commission Meeting recordings, with agenda items linked to corresponding audio, can be found on the Port's website at: <https://www.portofkennewick.org/commission-meetings-audio/>

Commission President Skip Novakovich called the Regular Commission Meeting to order at 2:00 p.m. via GoToMeeting Teleconference.

ANNOUNCEMENTS AND ROLL CALL

The following were present:

Board Members: Skip Novakovich, President (via telephone)
Kenneth Hohenberg, Vice President (via telephone)
Thomas Moak, Secretary (via telephone)

Staff Members: Tim Arntzen, Chief Executive Officer (via telephone)
Tana Bader Inglima, Deputy Chief Executive Officer (via telephone)
Amber Hanchette, Director of Real Estate and Operations (via telephone)
Nick Kooiker, Chief Finance Officer (via telephone)
Larry Peterson, Director of Planning and Development (via telephone)
Lisa Schumacher, Special Projects Coordinator
Bridgette Scott, Executive Assistant (via telephone)
Lucinda Luke, Port Counsel (via telephone)

PLEDGE OF ALLEGIANCE

Marie Mosley led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

MOTION: Commissioner Hohenberg moved to approve the Agenda as presented; Commissioner Moak seconded. With no further discussion, motion carried unanimously. All in favor 3:0.

PUBLIC COMMENT

Kate Moran, West Richland. Ms. Moran sits on the City of West Richland City Council and stated she has been appointed as the representative from the Council to participate in Port meetings.

No further comments were made.

CONSENT AGENDA

A. Approval of Direct Deposit and E-Payments Dated February 2, 2022

Direct Deposit and E-Payments totaling \$92,410.64

B. Approval of Warrant Register Dated February 8, 2022

Expense Fund Voucher Number 103506 through 103540 for a grand total of \$112,112.15

C. Approval of Regular Commission Meeting Minutes January 25, 2022

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MOTION: *Commissioner Moak moved to approve the Consent Agenda as presented; Commissioner Hohenberg seconded. With no further discussion, motion carried unanimously. All in favor 3:0.*

PRESENTATION

A. City of Kennewick

Mr. Arntzen introduced Marie Mosley, City Manager for the City of Kennewick. Ms. Mosley will be discussing the past, present, and future partnerships between the City and the Port.

Ms. Mosley thanked the Commission for the opportunity to speak today and outlined the history of the partnership projects between the Port and City (*Exhibit A*). Ms. Mosley stated the Port and City have a great working relationship which has leveraged taxpayer grants and partnership dollars to spur economic development in our community. Ms. Mosley stated the catalyst for private development in Vista Field continues and we are excited about future opportunities to maintain this momentum. Our mutual efforts are directed at building on our excellent quality of life, creating a supportive environment from small businesses and entrepreneurs, recruiting target industries to complement our existing business space, and attracting a young professional work force to support our growth. The City is competing with other communities to bring businesses and vibrancy to the Tri-City region and we need to have the amenities in place to do that. A one-time project investment between the City and the Port will further attract private sector investment and that in turn will support the ongoing maintenance and operations, as well as getting developed properties on the tax rolls and creating new jobs. Today the City is seeking the Port's input and asking permission for staff to work together on developing a Memorandum of Understanding with timelines and funding recommendations for Vista Field. The City would like to provide a similar presentation to the City Council and ask for the same consideration. Ms. Mosley stated the City and Port can do so much more in partnership than we can individually and thanked the Commission for their time.

Discussion between the Commission and Mr. Arntzen and Ms. Mosley commenced.

It is the consensus of the Commission to enter into a Memorandum of Understanding with the City of Kennewick for projects at Vista Field.

B. Vista Field Renderings

Mr. Arntzen gave a brief history of the Vista Field renderings created by Chris Ritter, who has worked with the Port since the Charrette.

Ms. Bader Inglima stated the renderings will create the vision and help the development community understand how and why Vista Field is different. The renderings will be utilized in marketing materials, presentations, and the website.

Mr. Peterson presented the lot layout and buildings as envisioned by the Vista Field design standards (*Exhibit B*).

Mr. Arntzen stated building on Ms. Mosley's presentation, the renderings depict some of the potential, joint funding opportunities between the City and the Port. Mr. Arntzen stated the

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previous Commission established a goal to come up with a plan to remodel the corporate hangars; however, the report presented by David Robison was deemed too costly by the Commission. Mr. Arntzen inquired if this is a goal the Commission would like him to pursue him. If the Commission would like staff to move forward, Mr. Arntzen suggested a leaner approach where the hangars could be used as a seating and shade structure for a food pavilion. Additionally, the renderings include little huts for potential food service facilities.

Commissioner Hohenberg is in favor of reauthorizing an update to the hangars and stated it is imperative to have amenities to kick off the project. Commissioner Hohenberg is supportive and will defer to staff to bring thoughts about what would be the best proposal to bring forward.

Commissioner Novakovich agrees with Commissioner Hohenberg's comments and stated he would like to keep it as a goal for the CEO and staff to work on. Commissioner Novakovich stated it was previously discussed that the hangars would possibly include a Port real estate office, a mini police station and Port maintenance facility and he inquired if that was still part of the plan.

Mr. Arntzen requested leeway to come up with several concepts and bring them forward to the Commission.

Commissioner Hohenberg believes the CEO and the City Manger need some leeway to determine what is project fits both entities as far as how they would like to invest potential Rural County Capital Funds, whether it be the hangar project or additional roadway system upgrades and then bring back the suggestions at a later date.

OLD BUSINESS

A. *Clover Island Housing Project – Due Diligence*

Mr. Arntzen briefed the Commission that staff continues to work on the due diligence of the potential sale of the Clover Island Inn and the proposal received from Fortify Holdings LLC.

REPORTS, COMMENTS AND DISCUSSION ITEMS

A. *Columbia Drive Property Purchase*

Mr. Arntzen stated the team has looked at potential properties on Columbia Drive and indicated there is one particular property that could enhance the neighborhood. Mr. Arntzen stated the property currently has a residential component on it and previously, the Port purchased residential properties in this area and successfully transitioned families and individuals out. Mr. Arntzen stated if the Commission moves forward with this, there will be a transition of families out of the area.

It is the Consensus of the Commission to move forward with the potential property purchase on Columbia Drive.

B. *2021-2022 Work Plan*

Commissioner Novakovich directed attention to the Port's current work plan and asked that the Commission as a body remember that there is a work plan adopted by resolution that outlines

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specific items for action. It is his feeling that the Port's emphasis should be on those work plan activities. If something new comes up, the Commission needs to carefully consider those new activities in relation to the impact on staff, resources, and goals that have already been established. Commissioner Novakovich commended staff for their expertise and the way they continued working through the various distractions the past few years as well as the impacts of the Covid pandemic; and stated that he wants to work on rebuilding trust and accomplishing good things for the community. Commissioner Novakovich hopes that we can adhere to the work plan and not create unnecessary things that don't align with the Port's mission.

C. Kennewick Waterfront

1. Willows and Cable Greens Design Standards

Mr. Peterson presented Resolution 2022-08 approving the design standards for The Willows and Cable Greens in the Kennewick Historic Waterfront District. Mr. Peterson outlined the differences between the Columbia Gardens design standards and The Willows and Cable Greens design standards, which has a residential element to them.

Bob Bengford and Scott Bonjukian of Makers Architecture and Urban Design presented an overview of The Willows and Cable Greens design standards (*Exhibit C*).

Commission and staff discussed the details of The Willows and Cable Greens Design Standards.

MOTION: Commissioner Hohenberg moved to approve Resolution 2022-08 approving and adopting the Willows and Cable Greens Design Standards; and ratify and approve all action by Port officers and employees furtherance hereof; and authorize the Port Chief Executive Officer to take all action necessary in furtherance hereof; Commissioner Moak seconded.

PUBLIC COMMENT

No comments were made.

Discussion:

Commissioner Hohenberg appreciates the thoughtfulness of the access to the riverfront and pedestrian path. He believes the Port is charged with the responsibility to ensure that public access continues.

With no further discussion, motion carried unanimously. All in favor 3:0.

2. Wine & Artisan Village Wayfinding & Monument Signage

Ms. Bader Inglima presented the wayfinding and signage report for Columbia Gardens Wine and Artisan Village, The Willows, and the Sacagawea Heritage Trail, prepared by Meier Architecture and Engineering (*Exhibit D*). Ms. Bader Inglima stated the report provides options to support visibility and vibrancy at the Wine Village. Ms. Bader Inglima stated the signage is not currently funded.

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Commission and staff discussed the various options for the signage.

Commissioner Novakovich tasked staff to bring back details for funding the signage.

Mr. Arntzen stated we will work on funding options and look at alternatives for installing the signage in phases or all at once.

D. Vista Field

1. Joint Use Parking & Project Reinvestment Discussion

Mr. Peterson outlined two Vista Field policy questions for the Commission to consider (*Exhibit E*):

- Joint-use parking areas improvements will be provided by the Port;
- Vista Field land sale proceeds will be reinvested into the development.

Commissioner Hohenberg agrees with both subjects presented by Mr. Peterson and stated he would like to create roadway improvements, sooner rather than later. Commissioner Hohenberg would like the CEO to work with the City Manager to see how that might come about. Commissioner Hohenberg thinks doing roadway improvements earlier would eliminate traffic congestion issues that neighboring jurisdictions have seen.

Commissioners Moak and Novakovich support the subjects presented.

It is the consensus of the Commission that the Port will provide joint-use parking improvements in Vista Field and proceeds from land sales will be reinvested into the development.

RECESS

Commissioner Novakovich called for a recess at 4:09 p.m. until 4:14 p.m.

Commissioner Novakovich reconvened the meeting at 4:14 p.m.

E. Express Employment Professional Contract

Ms. Hanchette stated the Department of Corrections (DOC) Coyote Work Crew has been inconsistent since the pandemic began 2020. To make up for the loss, the Port employed temporary labor services of Express Employment Professionals for 2020-2021. Without the Coyote Work Crew, the maintenance team requires additional help, therefore, before the Commission is Resolution 2022-09, authorizing the CEO to enter into a contract for continued temporary labor.

MOTION: Commissioner Hohenberg moved to approve Resolution 2022-09 authorizing the Port's Chief Executive Officer to execute all necessary to contract with Express Employment Professionals in order to assist Port operations with temporary workers; and further ratifies and approves all action by Port officers and employees furtherance hereof; Commissioner Moak seconded.

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PUBLIC COMMENT

No comments were made.

Discussion:

Commissioner Hohenberg applauds the CEO and staff for bringing this contract forward. This is an example of how the Port has continued to operate efficiently with the limited staff. It is unfortunate with COVID that we are not able to utilize the DOC, but we have an alternative here and he fully supports it.

Commissioner Novakovich echoes Commissioner Hohenberg's comments and stated Ms. Hanchette and the operations team has done an excellent job maintaining Port properties through all of this and he applauds them.

With no further discussion, motion carried unanimously. All in favor 3:0.

F. Commissioner Meetings (formal and informal meetings with groups or individuals)

Commissioners reported on their respective committee meetings.

G. Non-Scheduled Items

Ms. Bader Inglima stated the Port provided the City of Kennewick with a letter of support for a grant application for the National Highway Freight program roadway improvements for Columbia Drive and Bruneau Street. There are several businesses that are heavily freight served and need some roadway improvements.

Ms. Bader Inglima presented a photo of Commissioner Novakovich, Lisa Chapman Rosa, and Shannon Toranzo of Total Site Services receiving the Inland Northwest Association General Contractors 2021 Build Northwest for excellence in construction award for the Vista Field redevelopment project.

Mr. Peterson stated construction on Clover Island continues for the 1135 restoration project and encouraged the Commission to come down and view the activity.

Mr. Arntzen is currently working on a report for the Vista Field implementation team, that will adjust duties of current employees and utilize the services of consultants, which prepares the Port for action at Vista Field.

Commissioner Hohenberg stated from his perspective and being a long-term staff person, sometimes policy makers don't recognize or they are not appreciative of the fact that our CEO and staff are putting out fires daily. That is what keeps our constituents from not calling the Commission about complaints or concerns. Commissioner Hohenberg does not want to speak for Mr. Arntzen, but he is sure the Port staff is doing the same thing, taking care of business every day, which eliminates a lot of complications that the CEO may have deal with. Commissioner Hohenberg always appreciates looking at what has been accomplished and it is important that we do that, but we also need to give recognition to the good work that gets done every day that we don't know about.

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Commissioner Moak stated for the record he has no conflicts of interest to report.

PUBLIC COMMENTS

No comments were made.

Commissioner Novakovich anticipates the Executive Session will last approximately 45 minutes, Real Estate, Site Selection, per RCW 42.30.110(1)(b) and Potential Litigation, per RCW 43.30.110(1)(i) with possible action expected. Commissioner Novakovich asked the public to notify Port staff if they will return after the executive session so staff can advise if the session concludes early.

RECESS FOR EXECUTIVE SESSION

Commissioner Novakovich recessed the Regular Commission Meeting at 4:33 p.m. and convened the Executive Session at 4:37 p.m. for 45 minutes.

EXECUTIVE SESSION

- A. Real Estate, Site Selection, per RCW 42.30.110(1)(b)*
- B. Potential Litigation per RCW 43.30.110(1)(i)*

Ms. Schumacher extended the Executive Session for 10 minutes at 5:22 p.m.

Commissioner Novakovich adjourned the Executive Session at 5:32 p.m.

Commissioner Novakovich reconvened the Regular Commission Meeting 5:33 at p.m.

COMMISSION COMMENTS

No comments were made.

ADJOURNMENT

With no further business to bring before the Board; the meeting was adjourned 5:33 p.m.

PORT OF KENNEWICK REGULAR COMMISSION MEETING

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APPROVED:

**PORT of KENNEWICK
BOARD of COMMISSIONERS**

Skip Novakovich, President

Kenneth Hohenberg, Vice President

Thomas Moak, Secretary

PORT OF KENNEWICK

RESOLUTION No. 2022-08

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK ADOPTING THE
WILLOWS & CABLE GREENS DESIGN STANDARDS***

WHEREAS, MAKERS Architecture and Urban Design was contracted to assist the Port with preparation of the Design Standards for the Port's waterfront district properties known as the Willows & Cable Greens; and

WHEREAS, MAKERS Architecture and Urban Design prepared the draft Design Standards to complement the City's underlying Urban Mixed Uses (UMU) zoning and the Port's recently adopted Kennewick Historic Waterfront District Master Plan; and

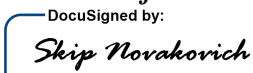
WHEREAS, the Board of Commissioners has reviewed the Willows & Cable Greens Design Standards.

NOW, THEREFORE, BE IT RESOLVED that the Port of Kennewick Board of Commissioners hereby approves and adopts the Willows & Cable Greens Design Standards as prepared and revised by MAKERS Architecture and Urban Design (Exhibit A).


BE IT FURTHER RESOLVED that the Port of Kennewick Board of Commissioners hereby ratify and approve all action by port officers and employees in furtherance hereof; and authorize the port Chief Executive Officer to take all action necessary in furtherance hereof.

ADOPTED by the Board of Commissioners of Port of Kennewick on the 8th day of February 8, 2022.


***PORT of KENNEWICK
BOARD of COMMISSIONERS***

By: 
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SKIP NOVAKOVICH, President

By: 
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KENNETH HOHENBERG, Vice President

By: 
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THOMAS MOAK, Secretary

Port of Kennewick

The Willows & Cable Greens Design Standards



February 2022

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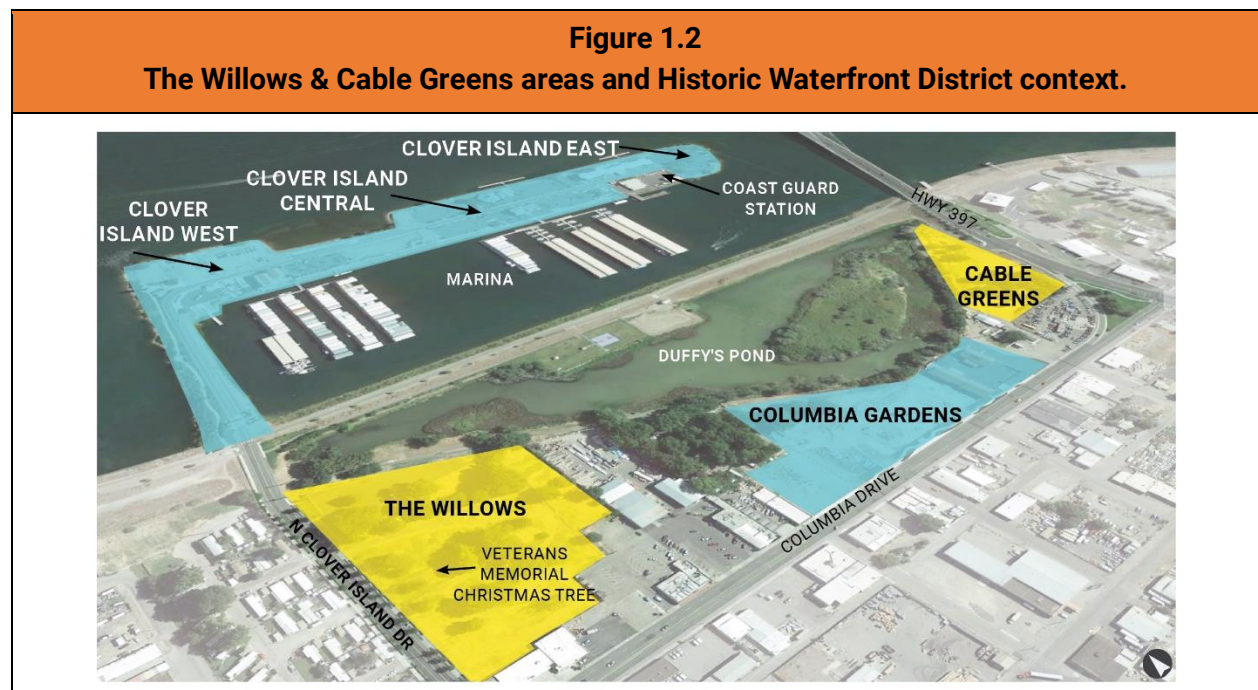
PART 1 – INTRODUCTION

1.1 – Background

These design standards were completed in support of the 2021 Port of Kennewick Historic Waterfront Master Plan and to supplement the City of Kennewick's zone-based Urban Mixed-Use Design Standards. The Willows comprises approximately 6.6 acres adjacent to North Clover Island Drive and Duffy's Pond. Cable Greens is approximately 3.2 acres and is east of Columbia Gardens, next to Duffy's Pond and the Cable Bridge. Whereas the zoning allows for a great variety of uses, the primary use for both areas is anticipated to be residential. Consistent with community goals, these standards will ensure new development on the site is high-quality and creates enjoyable places for people to live and visit.

1.2 – Applicability

- A. These standards apply to all new development in the Willows and Cable Greens areas defined in Figure 1.2 below.
- B. Individual design criteria may also have more specific applicability statements.
- C. Relationship to the 2021 Historic Waterfront Master Plan: This document implements key design policies from the master plan.
- D. Relationship to Kennewick Municipal Code. These standards supplement the existing Urban Mixed-Use Design Standards in Chapter 18.80 of the Kennewick Municipal Code. They provide a greater level of detail and cover design issues not addressed in the code.



1.3 – Intent of the Standards

Thoughtful urban design is a critical strategy for realizing the vision and goals of Willows and Cable Greens. To that end, these standards are intended to:

- A. Provide a high standard for site planning and building design consistent with the goals and policies of the 2021 Historic Waterfront Master Plan.
- B. Provide clear objectives for the planning and design of individual developments.

1.4 – Illustrative Examples

The site plans following pages are intended to illustrate example site layouts and building types designed consistent with the Master Plan and the Design Standards herein. Keep in mind that there are numerous possible site layouts that could be configured to meet the standards herein. The intent here is to show how all the various design guideline elements can fit together.

The **Willows** site plan includes two apartment buildings which are each three-stories and oriented towards Duffy's Pond Trail and a shared courtyard. The apartment building on the left contains space adjacent to the trail and parking area for a small retail use, such as a coffee shop or deli to serve the district, trail users, and surrounding neighborhood. Townhouses occupy the southern half of the site along tree-lined streets. The townhouses are configured to preserve and integrate the Veterans Memorial Christmas Tree and other trails. Streets are configured to provide access to and through the site and maximize views towards the pond and provide visual interest. A network of sidewalks and trails connect the buildings with the streets, open spaces, and Duffy's Pond Trail.

The **Cable Greens** site plan features townhouses arranged to maximize views of Duffy's Pond. Internal roadways are configured to serve the townhouses and provide the opportunity for future connections to adjacent properties. Open spaces are configured in central areas that also orient towards Duffy's Pond and the trail.

In both areas, apartments and townhouse buildings would be configured and designed with comfortable and attractive human-scaled streetscapes, provide shade trees and attractive landscaping, and create articulated building facades.

Figure 1.4.A
Illustrative example site plan for The Willows.



Figure 1.4.B
Illustrative example site plan for Cable Greens.



1.5 – Interpretation

The word “must” is intended to be a mandate. Where the word “should” or “encouraged” is used, it is intended to be a recommendation.

1.6 – Departures

All available departure opportunities for standards are noted within each standard by the capitalized term DEPARTURES. Such departures are voluntary and must only be approved if they meet the intent of the individual standard.

1.7 – Definitions

Introduction. All words used in these design standards carry their customary meanings, except for those defined below.

“ADA” means the Americans with Disabilities Act.

“Articulation” means the giving of emphasis to architectural elements (like windows, balconies, entries, etc.) that create a complementary pattern or rhythm, dividing large buildings into smaller identifiable pieces. See Standard 3.1 for articulation provisions.

“Articulation interval” means the measure of articulation, the distance before architectural elements repeat. See Standard 3.1 for articulation provisions.

“Blank wall” means a ground floor wall or portion of a ground floor wall as described in Standard 3.6 that does not include a transparent window or door.

“Building frontage” refers to the “façade” or street-facing elevation of a building. For buildings not adjacent to a street, it refers to the building elevation(s) that features the primary entrance to the uses within the building. Depending on the context the term is used in, it may also refer to the uses within the building. For example, a “storefront” is a type of building frontage.

“Façade” means the entire street wall of a building extending from the grade of the building to the top of the parapet or eaves and the entire width of the building elevation. For buildings not adjacent to a street, the façade refers to the building elevation containing the main entrance or entrances to the building.

“Internal pathway” refers to any pedestrian path or walkway internal to a development. This includes sidewalks along private streets.

“KMC” means Kennewick Municipal Code.

“Modulation” means stepping forward or backwards a portion of the façade as a means to articulate or add visual interest to the façade.

“Roofline” means the highest edge of the roof or the top of a parapet, whichever establishes the top line of the structure when viewed in a horizontal plane.

“Streetscape” means the space between the buildings on either side of a street that defines its character. The elements of a streetscape include building façades, landscaping (trees, yards, shrubs, plantings, etc.), sidewalks, street paving, street furniture (benches, kiosks, trash receptacles, fountains, etc.), signs, awnings, and street lighting.

“Vertical building modulation” means stepping back or projecting forward vertical walls of a building face, within specified intervals of building width and depth, as a means of breaking up the apparent bulk of a structure’s continuous exterior walls. Vertical building modulation may be used to meet façade articulation provisions in Standards 3.1.A.

“Weather protection” means a permanent horizontal structure above pedestrian areas such as sidewalks and building entries that protects pedestrians from inclement weather.

PART 2 – SITE PLANNING STANDARDS

2.1 – Frontage Standards

Intent

- To enhance the pedestrian environment and recreational opportunities.
- To promote good visibility between buildings and trails for security for pedestrians and to create a more welcoming and interesting trail and residential environment.

Relation to Zoning Standards

These provisions go beyond the street frontage design standards in KMC 18.80.040(1).

Design Criteria

A. Duffy's Pond Trail frontage standards. All development on sites adjacent to the trail must comply with the standards in Table 2.1.A below:


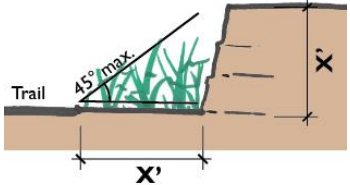

Figure 2.1.A Duffy's Pond Trail frontage standards.		
Element	Standards	Examples and Notes
Building placement	Buildings must be setback 10-30' from the trail edge, except greater setbacks are allowed when the setback area complies with the plaza provisions in Standard 2.4.	
Setback use	Landscaping, decks, plazas and patios, dining areas, playgrounds, and other similar uses are encouraged within the trail setback area. Service and trash storage areas are prohibited in the setback area.	
Parking location	Vehicular parking may occupy up to 33% of the trail frontage.	
Fences & retaining walls	Height limits for opaque fences & retaining walls use a 1:1 ratio for their setback from the edge of the trail (for every 1' of setback distance, the maximum height is increased 1'). Deck railings associated with non-residential development must be at least 60% transparent.	
Building use	Refer to permitted uses for the Urban Mixed Use zone, Chapter 18.12 KMC.	

Figure 2.1.A
Duffy's Pond Trail frontage standards.

Element	Standards	Examples and Notes
Building length	Maximum 160 feet within 75 feet of the trail. DEPARTURES. One building may exceed this dimension provided that other features are successfully integrated to maximize the physical and visual access to Duffy's Pond from central portions of the site.	
Building entrances	For non-residential uses, at least one customer building entry visible and accessible from the trail is required. For residential uses, at least one pedestrian connection between the trail and each building is required.	
Façade transparency	For non-residential buildings, at least 25% of the building façade facing a trail must be transparent. For residential buildings, generous façade transparency is encouraged, but no minimum percentage is required.	

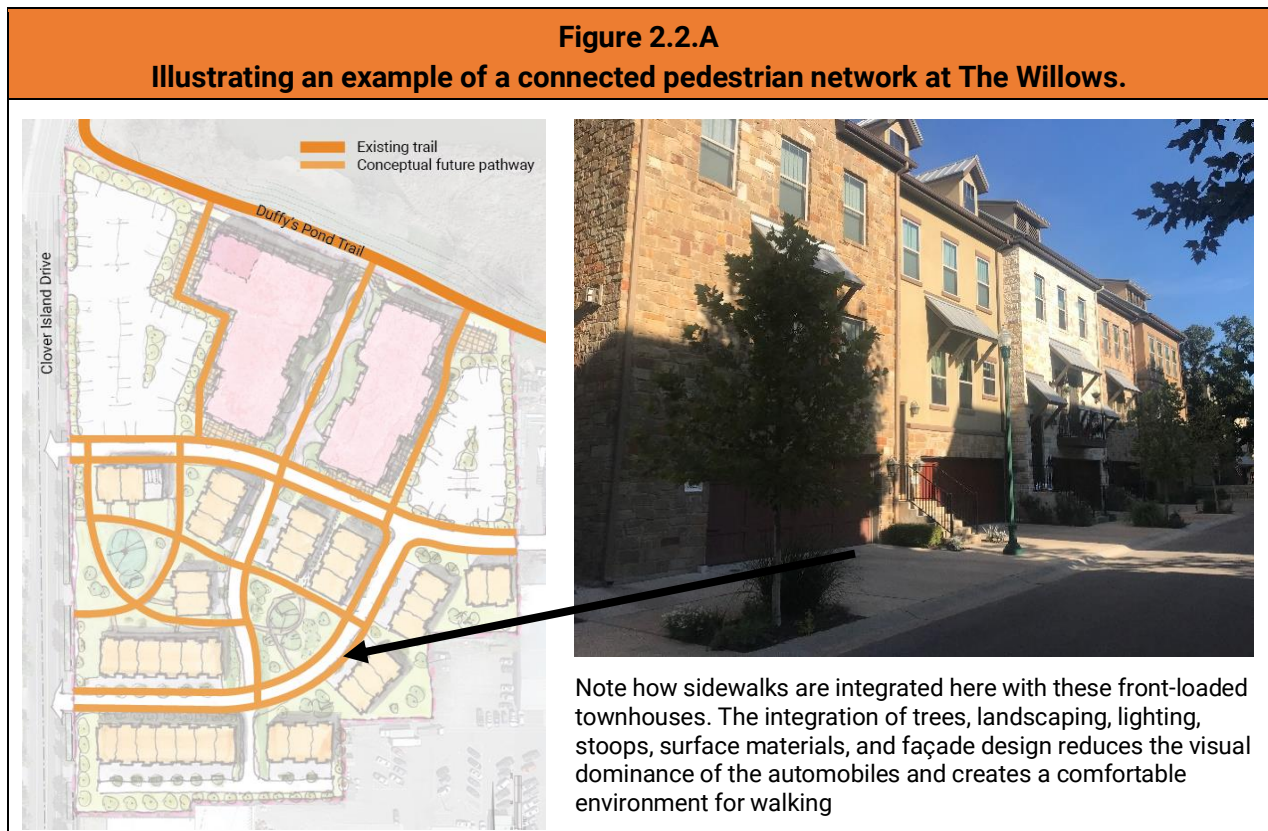
2.2 – Pedestrian Circulation

Intent

To improve the pedestrian and bicycling environment by making it easier, safer, and more comfortable to walk or ride among residences, to businesses, to the trail and street sidewalk, to transit stops, through parking lots, to adjacent properties, and connections throughout the city.

Design Criteria

- A. General pedestrian connectivity.** Developments must provide an integrated and connected pedestrian circulation network that encourages walking. Required connections include:
1. Shared and individual entrances to streets, trails and recreational areas, parking areas, and other pedestrian amenities.
 2. Between on-site buildings.
 3. To internal pedestrian circulation networks on adjacent sites, when desirable and feasible.



- B. Pedestrian facility design.** The following are minimum dimensions. Larger dimensions may be appropriate for high-volume facilities and for facilities located adjacent to high-activity land uses.

1. Off-street pathways: Eight feet wide paving.
2. Sidewalks: Five feet wide paving.

2.3 – Landscaping

Intent

- To assist in creating a distinctive design character for the area.
- To promote well-conceived and attractive landscaping that reinforces the architectural and site planning concepts in response to site conditions and context.
- To promote plant materials that are native or compatible to the local shrub-steppe landscape.

Relation to Zoning Standards

These provisions go beyond the landscaping standards in Chapter 18.21 KMC.

Design Criteria

A. General landscaping standards.

1. Landscaped areas must consist of grade level or elevated planting beds featuring a mix of trees, shrubs, ornamental grasses, groundcover, and other vegetation. Landscaped area may not consist only of rocks or gravel.
2. Landscaping materials must include species native to the region or hardy, waterwise, and noninvasive species appropriate in the climatic conditions of the Tri-Cities region (decorative annuals and/or perennials in strategic locations are an exception). Generally acceptable plant materials must be those identified as hardy in Zone 7a as described in the United States Department of Agriculture's Plant Hardiness Zone Map.
3. Installation standards.
 - a. The combination of trees, shrubs, and ornamental grasses must be designed to cover at least 70-percent of the landscaped areas within three years of planting.
 - b. Shrubs, except for ornamental grasses, must be a minimum of one-gallon size at the time of planting. Shrubs and hedges adjacent to walkways and trails must be limited to 42-inches in height at maturity to maintain visibility (exceptions may be made for landscaping adjacent to blank walls).
 - c. Groundcovers must be planted and spaced to result in total coverage of the required landscape area within three years, specifically either four-inch pots at 18 inches on center or one-gallon or greater sized containers at 24 inches on center.
 - d. Mature tree and shrub height and size must be accounted for in the siting and design of landscaped areas.
4. Water conservation design. Water conservation may be achieved by a combination of any of the following techniques:
 - a. Group plants into areas of similar water need.
 - b. Locate plants based on solar orientation, exposure, and drainage patterns.
 - c. Amend soil based on existing conditions.

B. Irrigation standards. It is required to irrigate landscaping using a spray irrigation system.

- C. Trail corridor and plaza landscaping and design.** Landscaping edging the trail and plaza spaces should be designed to help frame the trail and plaza spaces, soften building and retaining walls, and create a memorable and distinctive design character while maintaining good visibility for safety purposes. This includes a combination of trees, shrubs, ornamental grasses, perennials, and ground covers that comply with the provisions in Standards 2.3.A-B above.

Figure 2.3
Appropriate landscaping examples.



- D. Save/integrate the Veterans Memorial Christmas Tree into the Willows development and landscape.** Figure 1.4.A illustrates one way to site buildings, view corridors, and pathways to successfully integrate the tree as a character-defining feature of the development. The landscape surrounding the tree should complement and celebrate the tree.

2.4 – Plazas

Intent

- To provide plaza spaces that attract visitors to commercial areas.
- To enhance the development character and attractiveness of development.

Design Criteria

Where provided, plaza spaces must meet the following criteria.

A. Required plaza features.

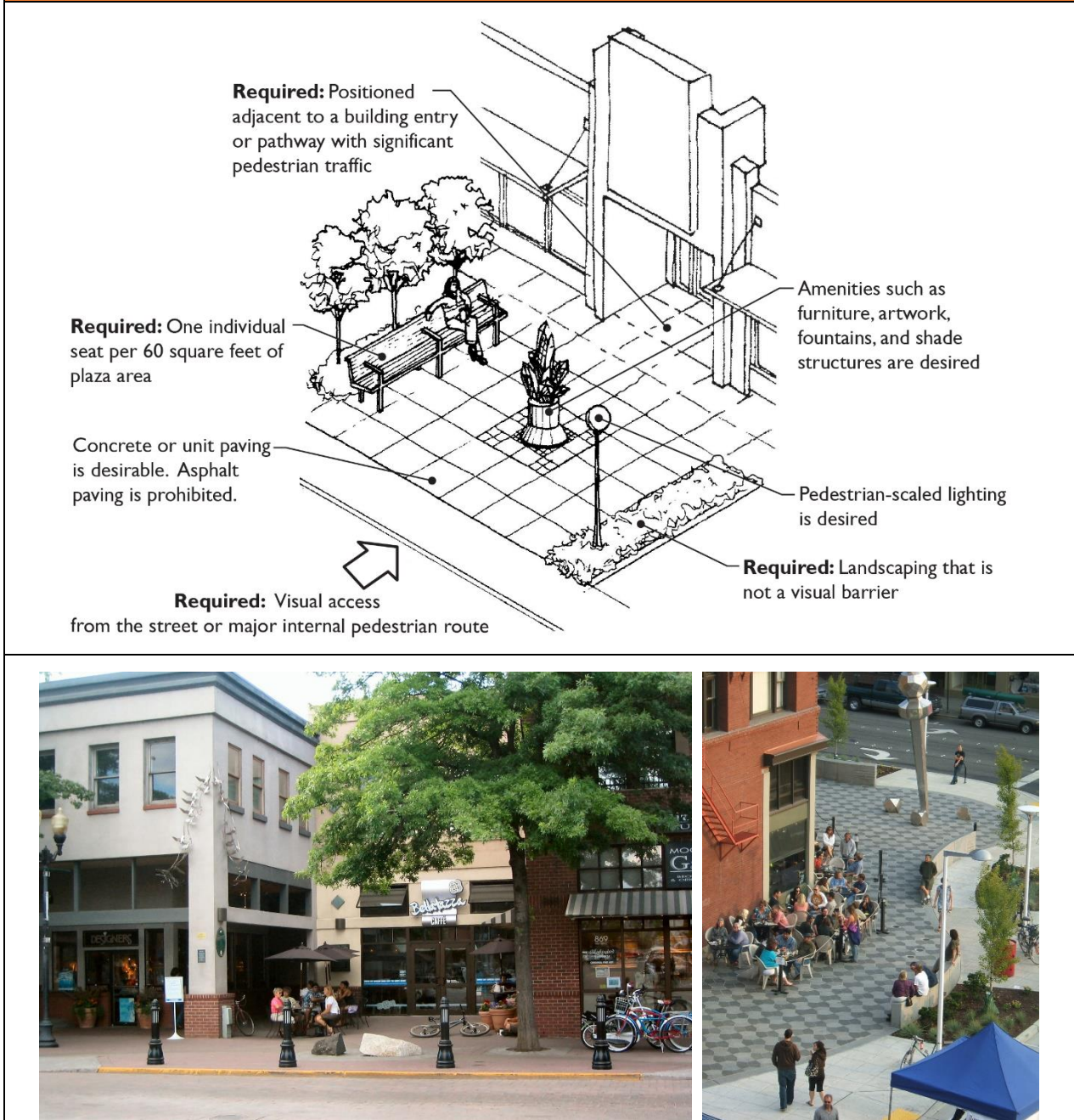
1. The space must abut a public sidewalk or other major internal pedestrian route and be designed to function as a focal point and gathering spot.
2. The space must be ADA compliant and generally level with the adjacent sidewalk or internal pedestrian route. Steps, ramps, and grade changes may be acceptable, provided the outdoor space is designed to be visually and physically accessible from the adjacent sidewalk or internal pedestrian route and the space meets all other standards herein.
3. The space must feature no dimension less than 15 feet in order to provide functional leisure or recreational activity.
4. The space must be framed on at least one side by buildings that are oriented towards the space (via entries and generous façade transparency).
5. Paved walking surfaces of either concrete or approved unit paving are required. Form-in-place pervious concrete paving is allowed. Gravel surface areas may be allowed for special seating areas.
6. Pedestrian amenities must be integrated into the space. Examples include, but are not limited to, site furniture, artwork, drinking fountains, shade structures, kiosks, or other similar features that complement the space and encourage use of the space by a variety of users.
7. At least one individual seat per 60-square feet of plaza area or open space is required. At least 50-percent of the required seating must be built-in seating elements, while moveable seating may be used for the remaining percentage. Two feet of seating area on a bench or ledge at least 16-inches deep at an appropriate seating height qualifies as an individual seat. Reductions of up to 50-percent will be allowed for the integration of specialized open spaces that meet the intent of these standards.
8. Landscaping components that add visual interest and do not act as a visual barrier must be integrated. Such components can include, but are not limited to, trees, planting beds, raised planters, and/or potted plants.

B. Prohibited plaza features.

1. Large expanses of uninterrupted paving or paving without pattern.
2. Asphalt paving.
3. Unscreened service and utility areas or venting of mechanical systems.
4. Adjacent chain-link fences.

5. Adjacent “blank walls” without “blank wall treatment” (see Standard 3.6).
6. Outdoor storage.

Figure 2.4
Plaza requirements and examples.



2.5 – Service Areas & Utilities

Intent

- To promote thoughtful design of service elements integrated into the project's design and to mitigate the impacts of those elements on on-site uses and activities and uses abutting the site.
- To provide adequate, durable, well-maintained, and accessible service and equipment areas.

Relation to Zoning Standards

These provisions go beyond the standards in KMC 18.80.040(3)(d) and (4)(k-l).

Design Criteria

- A. Location of ground-level service areas and mechanical equipment.** Ground-level building service areas and mechanical equipment including loading docks, trash collection and compactors, dumpster areas, storage tanks, electrical panels, HVAC equipment, and other utility equipment should be located inside buildings. If any such elements are outside the building at ground level, the following location standards apply:
1. Service areas must be located for convenient service access while avoiding negative visual, auditory, olfactory, or physical impacts on the streetscape environment and adjacent properties.
 2. Service areas for multiple users or tenants must be co-located or consolidated to the extent practical.
 3. Exterior loading areas for commercial uses must not be located within 20 feet of residential uses.
- B. Screening of ground-level service areas and mechanical equipment.** Where the only option for locating a service area is an area visible from a street, pedestrian pathway, plaza, trail, or from an adjacent property, the area must be screened. Where screening of ground level service areas is required, the following applies:
1. Structural enclosures must be constructed of masonry, heavy-gauge metal, heavy timber, or other decay-resistant material that is also used with the architecture of the main building. Alternative materials other than those used for the main building are permitted if the finishes are similar in color and texture, or if the proposed enclosure materials are more durable than those for the main structure. The walls must be sufficient to provide full screening from the affected roadway, pedestrian areas, or adjacent use, but must be no greater than seven feet tall. The enclosure may use overlapping walls as a screening method.
 2. Gates must be made of heavy-gauge, sight-obscuring material.
 3. The service area must be paved.
 4. The sides and rear of service enclosures must be screened with landscaping at least five feet wide in locations visible from the street, parking lots, and pathways to soften views of the screening element and add visual interest. Plants must be arranged with a minimum of 50 percent coverage at time of installation and be able to grow to fully screen or shield the equipment within three years.

DEPARTURES to the above provisions will be considered provided the enclosure and landscaping treatment meet the intent of the standards and add visual interest to site users.

Figure 2.5.B
Acceptable trash screening enclosures.



Both examples use durable and attractive enclosures with trees and shrubs to soften views of the enclosures from the side.

- C. Utility meters, electrical conduit, and other service utility apparatus.** These elements must be located and/or designed to minimize their visibility to the public. Project designers are strongly encouraged to coordinate with applicable service providers early in the design process to determine the best approach in meeting these standards. If such elements are mounted in a location visible from the street, pedestrian pathway, plaza, or trail, they must be screened with vegetation and/or integrated into the building's architecture.

Figure 2.5.C
Acceptable and unacceptable utility meter location and screening examples.



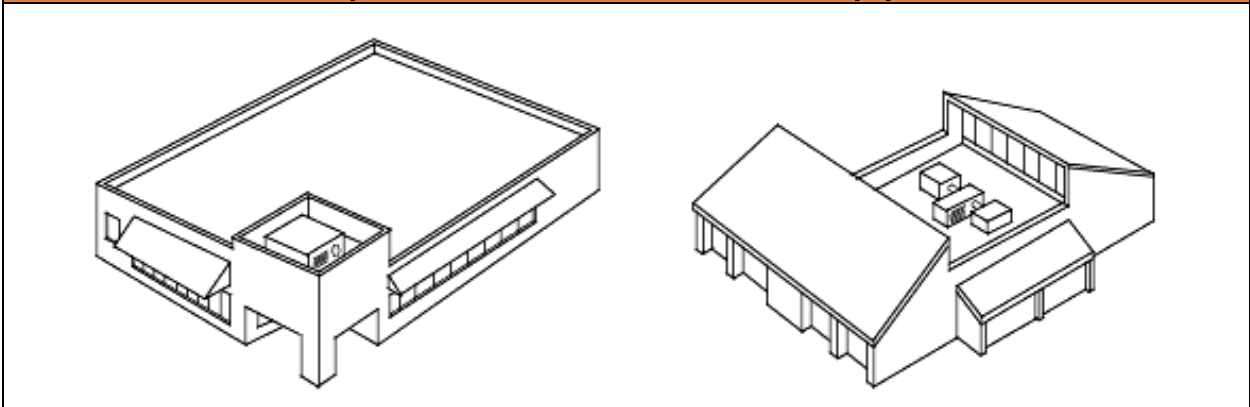
Place utility meters in less visible locations. The left examples is successfully tucked away in a less visible location and screened by vegetation. The right image is poorly executed and would not be permitted in such a visible location; such meters must be coordinated and better integrated with the architecture of the building.

D. Roof-mounted equipment.

1. All rooftop equipment, including air conditioners, heaters, vents, and similar equipment must be fully screened from public view at the ground level. Screening must be located so as not to interfere with operation of the equipment.

Exception: Roof-mounted wind turbines, solar energy and photovoltaic systems, and rainwater reuse systems do not require screening.

2. Solar photovoltaic panels must be integrated into the surface of the roof and not expose an independent structure. Panels must be inclined at the same pitch as the roof plane.
3. For other rooftop equipment, all screening devices must be well integrated into the architectural design through such elements as parapet walls, false roofs, roof wells, clerestories, or equipment rooms. Screening walls or unit-mounted screening is allowed but less desirable. The screening materials must be as high as the equipment being screened.
4. The screening materials must be of material requiring minimal maintenance. Wood must not be used for screens or enclosures. Louvered designs are acceptable if consistent with the building design style. Perforated metal is not permitted.
5. Noise producing mechanical equipment such as fans, heat pumps, etc. must be located and/or shielded to minimize sounds and reduce impacts to adjacent residential uses.

Figure 2.5.D**Examples of how to screen roof-mounted equipment.**

2.6 – Residential Amenity Space

Intent

- To create usable amenity space that is suitable for leisure or recreational activities for residents.
- To create amenity space that contributes to the residential setting.

Design Criteria

Residential amenity space meeting the following standards is required for all new multi-family development, residential mixed-use, and townhouse developments.

- A. Amount required.** Applicable developments are required to provide residential amenity space equal to a minimum of 125 square feet per new dwelling unit.

For example, a development with 30 units must provide a minimum of 3,750 square feet of amenity area.

- B. Amenity space types and distribution.** The following table illustrates the types of residential amenity spaces that may be used to meet the requirement in subsection (A) above.

Figure 2.6.B Residential amenity space standards.		
Residential amenity space type	Maximum percentage of required area	Cross-reference to design standards
Common outdoor recreation areas	Up to 100%	Subsection (C)(1)
Shared roof decks	Up to 50%	Subsection (C)(2)
Private ground level open space (applicable only to adjacent dwelling units)	Up to 100%	Subsection (C)(3)
Private balconies (applicable only to adjacent dwelling units)	Up to 25%	Subsection (C)(4)

For example, of the 3,750 square feet of amenity area required for a 30-unit development, up to 50% of the required area (1,875 square feet) may be met by providing a shared roof deck. A larger roof deck area is allowed but the extra roof deck area does not further count towards the minimum amenity area for the development.

C. Residential amenity space design standards.

1. Common outdoor recreation areas. Such spaces are internal to a development and accessible to all tenants of a development, but may not be accessible to the general public. Examples include, but are not limited to, landscaped courtyards, decks, entrance plazas, gardens with walkways, children's play areas [see subsection (C)(5)], swimming pools, and water features. Common outdoor recreation areas must meet the following design standards:
 - a. The minimum area is 500-square feet. The space must feature dimensions necessary to provide functional leisure or recreational activity. Stairways and service elements located within or on the edge of the space are not included in the recreation area calculations. Bike parking may be included within the area.

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- b. The area must be located in accessible areas that are visible from units within the development.
- c. The area must feature paths, walkable lawns, landscaping, seating, lighting, play structures, sports courts, or other pedestrian amenities to make the area functional and enjoyable for a range of users.
- d. The area must be separated from ground level windows, streets, vehicular circulation areas, service areas, and parking lots with landscaping, fencing, and/or other acceptable treatments that enhance safety and privacy for both the recreation area and dwelling units.

DEPARTURES will be considered for the standards above provided they meet the purpose of the standards and fill a recreational need for the residents of the development. The use and design of the space must be integrated with the surrounding site and building features in a manner that is complementary to the development and any adjacent streetscape.

Figure 2.6.C.1
Common outdoor recreation area examples.



2. Shared roof decks. Such spaces are located on the top of buildings or intermediate levels and are accessible to all residents of the development. Examples of amenities include, but are not limited to, cooking and dining areas, seating areas, gardening areas, water features, children's play areas [see subsection (C)(5)], and pet play areas. Shared rooftop decks must meet the following design standards:
 - a. Space must feature hard-surfacing and provide amenities that encourage use, such as seating and weather protection elements.
 - b. Space must integrate landscaping elements that enhance the character of the space and encourage its use.
 - c. Space must incorporate features that provide for the safety of residents, such as enclosures, railings, and appropriate lighting levels.

Figure 2.6.C.2
Shared roof deck examples.



3. Private ground level open space. This space is adjacent and directly accessible to the subject unit. Examples include yards, stoops, and porches. Private ground level open space must meet the following design standards:
 - a. The open space must be at least 50-square feet in area, with no dimension less than six feet.
 - b. The space must be enclosed by a fence and/or hedge between 18 and 42 inches in height. Taller privacy fences and/or hedges between units are acceptable.

Figure 2.6.C.3**Private ground level open space examples.**

4. Private balconies. This space is adjacent and directly accessible to the subject unit. Private balconies must meet the following design standards:
 - a. Balconies must be at least 36 square feet in area with no dimension less than four feet to qualify as amenity space.
 - b. Private balconies should be at least partially recessed into the building façade.

Figure 2.6.C.4**Private balcony examples.**

5. Children's play areas. Any children's play areas integrated as a part of a common outdoor recreation area or shared roof deck must meet all the following design standards (in addition to the design standards listed above):
 - a. The minimum area is 400 square feet.
 - b. Measures necessary to protect children's safety from vehicular traffic must be included, such as low fencing or landscaping to provide a physical barrier around the perimeter.
 - c. Shade and rest areas for supervision must be provided by using deciduous landscaping, architectural elements (including but not limited to pergolas or shelters), or other means.
 - d. Natural, creative play elements should be provided, such as ground slides from one level to another, tricycle tracks, swings hung from arbors or trees, paths that meander and are of varying materials and widths, water that can be manipulated, outdoor rooms made from landscape or rocks, and berms and hills.
 - e. Play areas must be designed for a variety of ages, activities, and motor skills.

Figure 2.6.C.5
Children's play area example.



PART 3 – BUILDING DESIGN STANDARDS

3.1 – Building Massing & Articulation

Intent

To employ façade articulation techniques that reduce the perceived scale of large buildings and add visual interest and a human-scaled pattern.

Relation to Zoning Standards

This standard provides further guidance on meeting the building massing standards in KMC 18.80.040(4)(d).

Design Criteria

A. Façade articulation. Façade articulation is required for building facades and other building elevations facing trails and internal walkways, plazas, internal drives (or streets), and containing primary building entrances.

For commercial and mixed-use buildings, at least three articulation features must be employed at intervals no greater than 30 feet.

For multifamily and townhouse buildings, at least three articulation features must be employed at intervals that related to the location/size of individual units within the building (but no more than every 30 feet).

B. Articulation features to meet the standards of (A) above include:

1. Window patterns and/or entries.
2. Providing vertical building modulation of at least 12-inches in depth if tied to a change in roofline or a change in building material, siding style, or color.
3. Change in roofline with a difference in height, slope or pitch, direction, or shape (such as towers or dormers).
4. Change in building material or siding style.
5. Vertical elements such as a trellis with plants, green wall, or art element.
6. Use of vertical piers/columns (not applicable to residential buildings).
7. Use of awnings or similar weather protection features (not applicable to residential buildings).
8. Other design techniques that effectively break up the massing of structures and add visual interest.

Figure 3.1.B
Articulation examples.



3.2 – Building Entries

Intent

- To create clear and welcoming building entries.
- To visual interest to the street and neighborhood.
- To emphasize pedestrian entrances over garage entries.

Relation to Zoning Standards

These provisions go beyond the building entry standards in KMC 18.80.040(4)(c) and (h).

Design Criteria

A. Commercial, mixed-use, and multifamily buildings. If a primary common building entrance exists, it must be designed as a clearly defined and demarcated standout architectural feature of the building. Such entrances must be easily distinguishable from individual tenant entrances on the building. Such entries must be scaled proportional to the building.

Figure 3.2.A
Primary building entry examples.



B. Townhouses.

1. For townhouses where the primary pedestrian entrance is along same building elevation as a garage, the pedestrian entrances must be emphasized over private garages by using both of the following measures:
 - a. Enhance entries with a trellis, small porch, stoop, or other architectural features that help to emphasize the pedestrian entry and create a comfortable transitional space between outside and inside the dwelling.
 - b. Provide a planted area in front of each pedestrian entry of at least 20 square feet in area, with no dimension less than four feet. DEPARTURES to the minimum dimension down to two feet will be considered provided the design meets the intent of the standards.

2. Townhouses facing a street must include a pedestrian entrance facing the street and a pedestrian pathway to the street. The entry must provide overhead weather protection (minimum three feet by three feet) for a person entering the unit.
3. See also the front-loaded townhouse standards in Standard 4.1.

Figure 3.2.B
Townhouse entry examples.



Left: A landscaped area and trellis to highlight the entry to these townhouses. Right: A stoop with planting areas on both sides, decorative railings, and weather protection over the entry.



Left: No landscaped area or other architectural features mark the townhouse pedestrian entries from this alley. Right: A street-facing townhouse with a covered entry.

3.3 – Building Details

Intent

- To encourage the incorporation of design details and small scale elements into building façades that are attractive at a pedestrian scale.

Relation to Zoning Standards

These provisions go beyond the building details standards in KMC 18.80.040(4)(h).

Design Criteria

- A. Façade details.** The ground floor of all commercial and mixed-use buildings must be enhanced with appropriate details. This standard applies to building façades facing public streets and building elevations facing parks, trails, and containing primary building entrances. Commercial buildings must employ at least one detail element from each of the three categories in Standard 3.3.B for each façade articulation interval (see Standard 3.1.A).

For example, a commercial building with 90-feet of trail frontage with a façade articulated at 25-foot intervals will need to employ a façade detail from each of the three categories below for all four façade segments.

B. Façade detail categories.

1. Window and/or entry treatment:

- a. Display windows divided into a grid of multiple panes.
- b. Transom windows.
- c. Roll-up windows/doors.
- d. Other distinctive window treatment that meets the intent of the standards.
- e. Recessed entry.
- f. Decorative door.
- g. Other decorative or specially designed entry treatment that meets the intent of the standards.

Figure 3.3.A
Examples of decorative or specially designed windows and entries.



A = openable storefront window. B = transom windows. C = openable window with decorative details. D = decorative window shades. E = decorative door. F = recessed entry.

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2. Building element, façade attachment, or façade detail:

- a. Custom-designed weather protection element such as a steel canopy, cloth awning, or retractable awning.
- b. Decorative building-mounted light fixtures.
- c. Bay windows, trellises, towers, and similar elements.
- d. Decorative, custom hanging sign(s).
- e. Other details or elements that meet the intent of these standards.

Figure 3.3.B**Examples of attached elements that enhance the visual intrigue of the building.**

A = retractable awning. B = custom hanging bike rack and repair station integrated as a storefront design element. C = decorative façade/sign lighting. D and E = custom decorative canopy. F = decorative tower.

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3. Decorative material and artistic elements:

- a. Decorative building materials/use of building materials. Examples include decorative use of brick, tile, or stonework.
- b. Artwork on building, such as a mural or bas-relief sculpture.
- c. Decorative kick-plate, pilaster, base panel, or another similar feature.
- d. Hand-crafted material, such as special wrought iron or carved wood.
- e. Other details that meet the intent of the standards.

Figure 3.3.C
Examples of decorative surface materials.



A = decorative brick/design. B = decorative tile-work and column pattern. C = decorative medallion. D = decorative mosaic tile work. E = decorative bulkhead. F = decorative materials and design.

3.4 – Window Design

Intent

- To integrate window design that adds depth, richness, and visual interest to the façade.

Relation to Zoning Standards

These provisions go beyond the window design standards in KMC 18.80.040(4)(g).

Design Criteria

- A. All windows must employ designs that add depth and richness to the building façade. At least one of the following features must be included to meet this requirement:
 1. Recess windows at least two-inches from the façade.
 2. Incorporate window trim (at least three-inches wide) around windows.
 3. Incorporate other design treatments that add depth, richness, and visual interest to the façade.
- B. Highly reflective glass must not be used on more than 10-percent of a building façade or other building elevations facing trails and containing primary building entrances.

Figure 3.4

Acceptable and unacceptable window design examples.



The window in Image A features 3-inch trim. The windows in Images B-C are recessed by at least two-inches from the façade. Images D and E feature a reveal/recess of less than two-inches, but the contrasting frames and mullions effectively add a sense of depth and richness to the façade. The treatment in Image F does not effectively meet the design criteria.

3.5 – Materials and Color

Intent

- To encourage the use of durable, high quality, and urban building materials that minimize maintenance cost and provide visual interest from all observable vantage points.
- To promote the use of a distinctive mix of materials that helps to articulate façades and lends a sense of depth and richness to the buildings.
- To place the highest priority in the quality and detailing of materials on the first floor at the pedestrian scale.

Relation to Zoning Standards

These provisions go beyond the building material standards in KMC 18.80.040(4)(b).

Design Criteria

If a development includes concrete block, metal siding, exterior insulation and finish system (EIFS), or cementitious wall board paneling/siding on a building exterior, the conditions set forth in Standards 3.5.A-D below apply. These materials are not required and the use of other exterior materials is encouraged. Standard 3.5.E provides guidance on exterior building colors.

A. Concrete block (also known as concrete masonry unit or CMU).

Concrete block is acceptable on commercial buildings and commercial portions of mixed-use buildings. It must not be used as the primary exterior material and must be integrated with other acceptable materials. It may be used as a contrasting accent material or the primary material when it employs a mixture of colors and/or textures or employs a combination of design details to articulate the building and add visual interest.

Figure 3.5.A

Acceptable concrete block use/design.



Left: Effective use of colored concrete block with trim elements that complements other materials. Right: Colored concrete block with a mix of smooth and textured finish that is well-integrated with other materials.

B. Metal siding.

Metal siding may be used on all building elevations provided it complies with the following standards:

1. It must feature visible corner molding and trim.
2. Metal siding must be factory finished, with a matte, non-reflective surface.
3. Walls with more than 50 percent metal siding must feature a roof overhang above the wall.

DEPARTURES will be considered provided the material's integration and overall façade composition meets the intent of the standards.

Figure 3.5.B
Acceptable metal siding examples.



Left: Metal siding with corner and window trim. Note the roof overhang. Right: A good departure example without a consistent roof overhang, but the short length of the walls, amount of window openings, and color/pattern changes create an acceptable design that meets the intent of the standards.

C. Exterior Insulation and Finish System (EIFS).

EIFS may be used when it complies with the following:

1. EIFS must not be used on the ground floor of building elevations. Concrete, masonry, or other highly durable material(s) must be used for the ground floor of building elevations to provide a durable surface where damage is most likely.
2. EIFS must not be the primary cladding material on upper floors and must be integrated with other acceptable materials.
3. EIFS must feature a smooth or sand finish only.
4. EIFS must be trimmed in wood, masonry, or other material and must be sheltered from weather by roof overhangs or other methods.

DEPARTURES will be considered provided the material's integration and overall façade composition meets the intent of the standards.

Figure 3.5.C
Acceptable EIFS examples.



D. Cementitious wall board paneling/siding.

Cementitious wall board paneling/siding may be used provided it meets the following provisions:

1. Cement board paneling/siding may be the dominant exterior material but must be integrated with other acceptable materials (specifically, up to 70-percent of non-window exterior materials may be cement wall board paneling/siding). Where cement wall board paneling/siding is the dominant siding material, the design must integrate a mix of colors and/or textures that are articulated consistent with windows, balconies, and modulated building surfaces and the design must be balanced with façade details that add visual interest from the ground level and adjacent buildings.

DEPARTURES will be considered provided the material's integration and overall façade composition meets the intent of the standards.

Figure 3.5.D**Acceptable cementitious wall board paneling/siding examples.**

E. Building color.

1. A variety of colors are encouraged for building facades, trim elements, and roofs.
2. Fluorescent and neon colors may be used sparingly except for accents.
3. Heavy use of grays and whites should be avoided.

Figure 3.5.E
Acceptable examples of vibrant building colors.



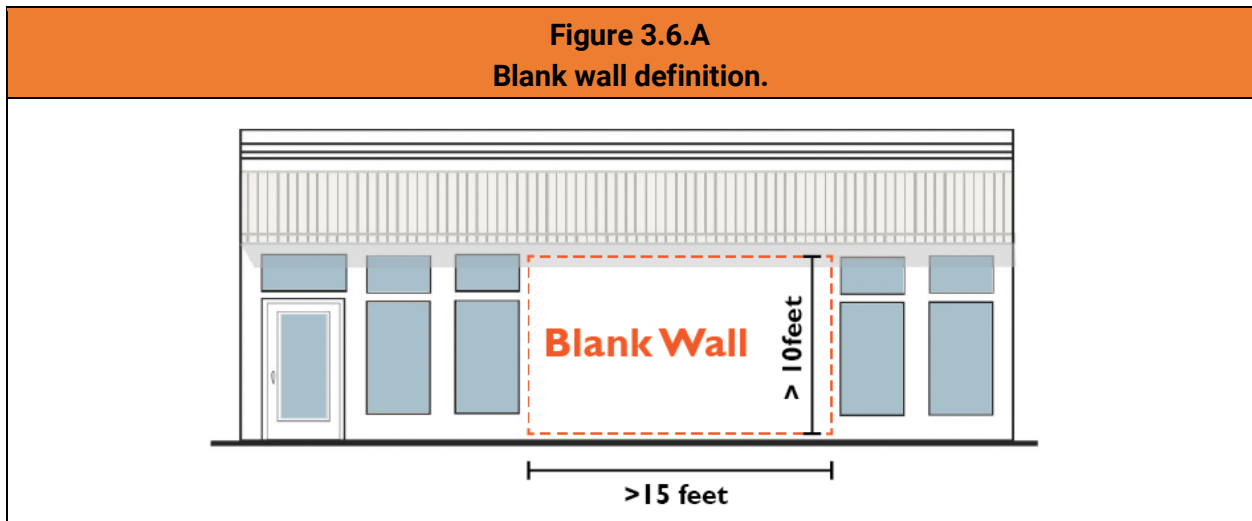
3.6 – Blank Wall Treatment

Intent

- To avoid untreated blank walls.
- To retain and enhance the pedestrian-oriented character of streetscapes.

Design Criteria

- A. Blank wall definition.** A wall (including building façades and retaining walls) is considered a blank wall if it does not include a transparent window or door and has the following dimensions: Over 10 feet in height and a horizontal length greater than 15 feet.



- B. Blank wall treatment standards.** Untreated blank walls adjacent to a public street, plaza, trail, pedestrian pathway, or customer/resident parking lot are prohibited. Methods to treat blank walls on buildings can include:
1. Landscape planting bed at least five-feet wide, or a raised planter bed at least two-feet high and three-feet wide, in front of the wall. Planting materials must be sufficient to obscure or screen at least 60-percent of the wall's surface within three years.
 2. Installing a vertical trellis in front of the wall with climbing vines or plant materials.
 3. Installing an artistic mural as approved by the Director.
 4. Special building detailing that adds visual interest at a pedestrian scale. Such detailing must use a variety of surfaces; monotonous designs will not meet the intent of the standards.

For large visible blank walls, a variety of treatments may be required to meet the intent of the standards.

DEPARTURES will be considered provided the entire façade composition meets the intent of the standards for the context of the wall (e.g., walls along pathway corridors connecting parking areas to building entries might be granted more flexibility than street facades).

Figure 3.6.B
Blank wall treatment examples.



PART 4 – TOWNHOUSE STANDARDS

4.1 – Front-Loaded Townhouses

Front-loaded townhouses are those where the main pedestrian entry is on the same façade as the driveway and garage. The provisions herein supplement the related standards in Standard 3.2.B

Intent

- De-emphasize driveways and garages as major visual elements.
- Enhance pedestrian safety.

Design Criteria

- A. Front-loaded townhouse (where the main pedestrian entry is on the same façade as the driveway and garage) buildings are prohibited adjacent to public streets.
- B. Front-loaded townhouses adjacent to a private street must integrate shade trees at a rate of one tree/dwelling unit and placed in planters along the edge of the street.
- C. Front-loaded townhouses featuring private two-car garages must integrate at least three of the following features to help mitigate the visual impact of the driveway and garage doors on the streetscape:
 1. Integrate decorative garage door design or utilize a color darker than that of the rest of the façade (required feature).
 2. Integrate a stoop entry adjacent to the garage.
 3. Integrate a trellis with landscaping projecting over the garage door.
 4. Cantilever the upper floor over the garage by at least four feet.
 5. Cantilever a balcony or deck that projects at least four feet over the garage covering the full width of the garage.
 6. Integrate decorative pavers, colored concrete or other durable surface materials that add visual interest and effectively soften the streetscape.

Figure 4.1
Acceptable front-loaded townhouse examples.



Left: Decorative garage door with dark color; stoop entry; colored concrete surface Right: Stoop entry; decorative garage door; balcony projecting over garage.

PORT OF KENNEWICK

RESOLUTION No. 2022-09

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK AUTHORIZING
A CONTRACT WITH EXPRESS EMPLOYMENT PROFESSIONALS***

WHEREAS, in mid-March 2020 the coronavirus pandemic forced the Washington State Department of Corrections to recall all local offsite work crews back to the Coyote Ridge facility in Connell, Washington leaving a significant deficit in labor within port operations; and


WHEREAS, the Washington State Department of Corrections work crew continues to maintain a significantly reduced and intermittent schedule which may continue into 2022; and


WHEREAS, Express Employment Professionals has been a reliable source for temporary workers to perform maintenance duties at various port properties.


NOW, THEREFORE; BE IT HEREBY RESOLVED that the Board of Commissioners of the Port of Kennewick hereby authorize the Port's Chief Executive Officer to execute a service agreement with Express Employment Professionals for \$100,000.

ADOPTED by the Board of Commissioners of the Port of Kennewick on the 8th day of February 2022.

***PORT of KENNEWICK
BOARD of COMMISSIONERS***

By: 
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SKIP NOVAKOVICH, *President*

By: 
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KENNETH HOHENBERG, *Vice President*

By: 
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THOMAS MOAK, *Secretary*

CITY OF KENNEWICK

Partnership Projects & Progress

2.8.2022



**TOGETHER
WE CAN
ACCOMPLISH
MORE**

“Pursue projects with development partners who demonstrate support; i.e. matching funds, political/citizen/taxpayer support, and enthusiasm.” – Port of Kennewick Resolution 2010-41



RURAL COUNTY CAPITAL FUND



EXHIBIT A

The Rural County Capital Fund (“RCCF”) is used by Benton County to support new capital infrastructure projects in the community that specifically contribute to job growth and economic diversification. The RCCF is funded by a Washington State Sales Tax rebate at the rate of 0.09 percent ([RCW 82.14.370](#)), and is not a new or additional tax. The funds are used either by Benton County or disbursed to local government partners in the community for qualified economic development projects that meet statutory requirements as outlined by the Washington State Legislature.

- Columbia Gardens Partnership
\$550K Port/\$550K City
- Clover Island Shoreline
Transformation Project
\$1M City

COLUMBIA DRIVE
REVITALIZATION

2009



COLUMBIA DRIVE REVITALIZATION

2022

- Duffy's Pond Restoration
- Walking Trail
- Effluent Treatment
- Wine Village – Private Road
- Public Art
- Streetscape Improvements
- **Catalyst for Private Development!**



COLUMBIA GARDENS WINE & ARTISAN VILLAGE

VIBRANCY

- 4 Tasting Rooms
- 2 Full Production Wineries
- City and Port Partnership for Event Promotion



EXHIBIT A



CLOVER ISLAND SHORELINE RESTORATION



- \$1 Million City Contribution – Rural County Capital Funds

WASHINGTON STREET IMPROVEMENTS



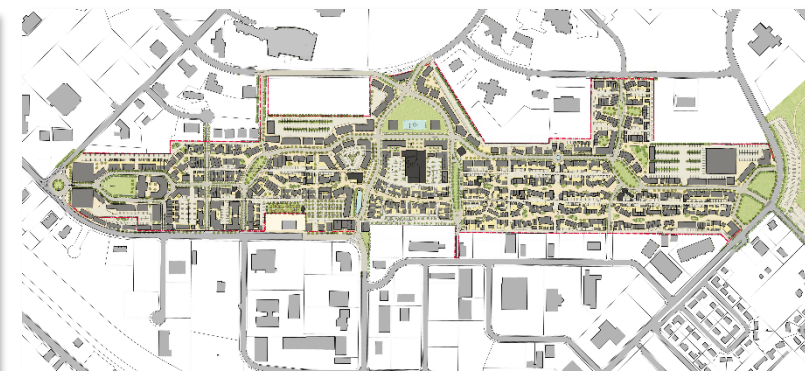
- Traffic Calming Construction
- Additional Pedestrian Crossing
- Vegetation/Beautification
- \$500K Port Contribution



VISTA FIELD & ENTERTAINMENT DISTRICT

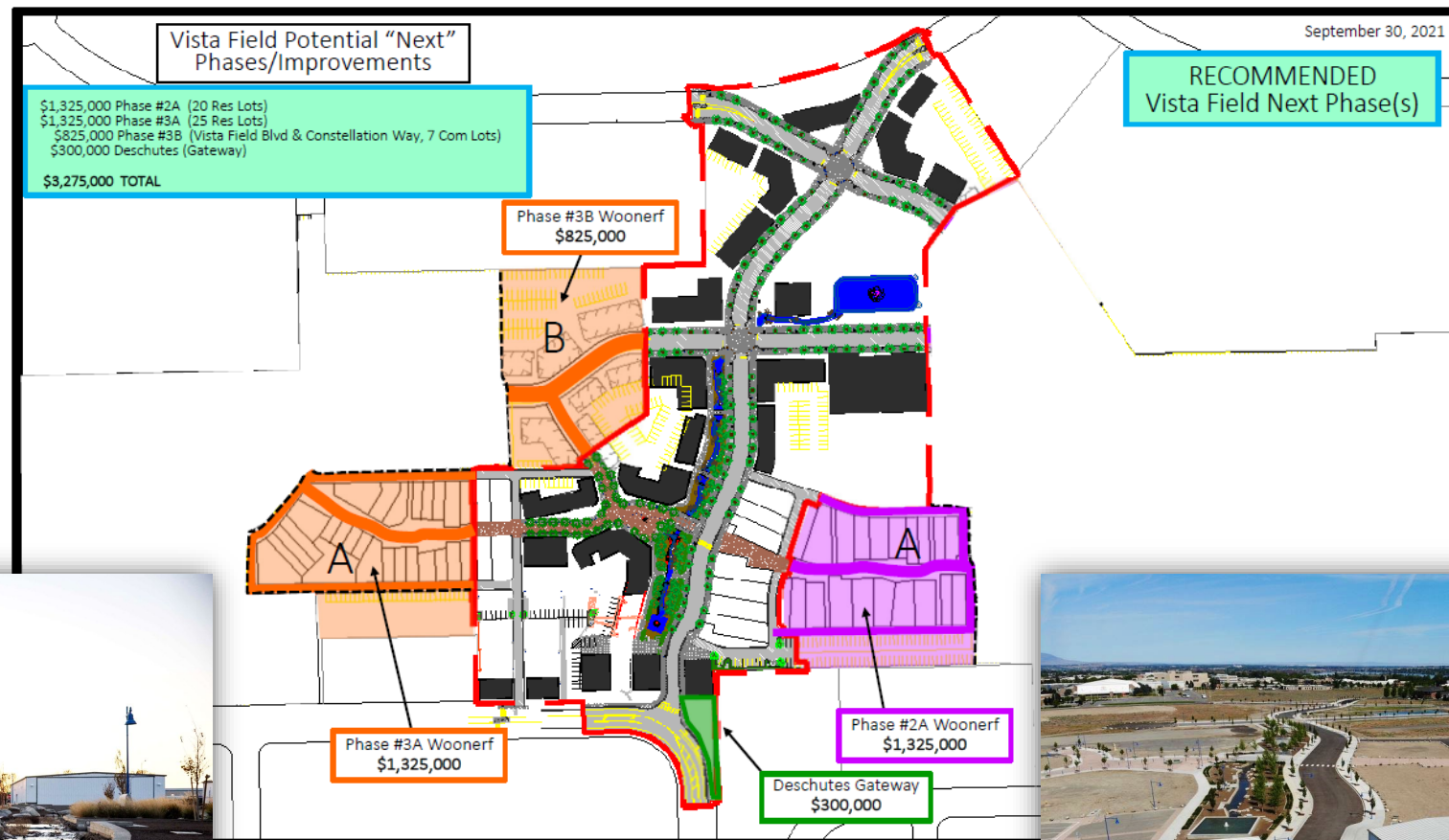
2005-2022

- Decommission of Airport
- Vista Field Redevelopment Master Plan
- Joint Economic Development Agreement
- Re-zoning to Urban Mixed Use
- New Fire Station 3
- Infrastructure Design
- Sewer Line Enhancements



VISTA FIELD

- Catalyst for Private Development
- Potential Art Installation Partnerships





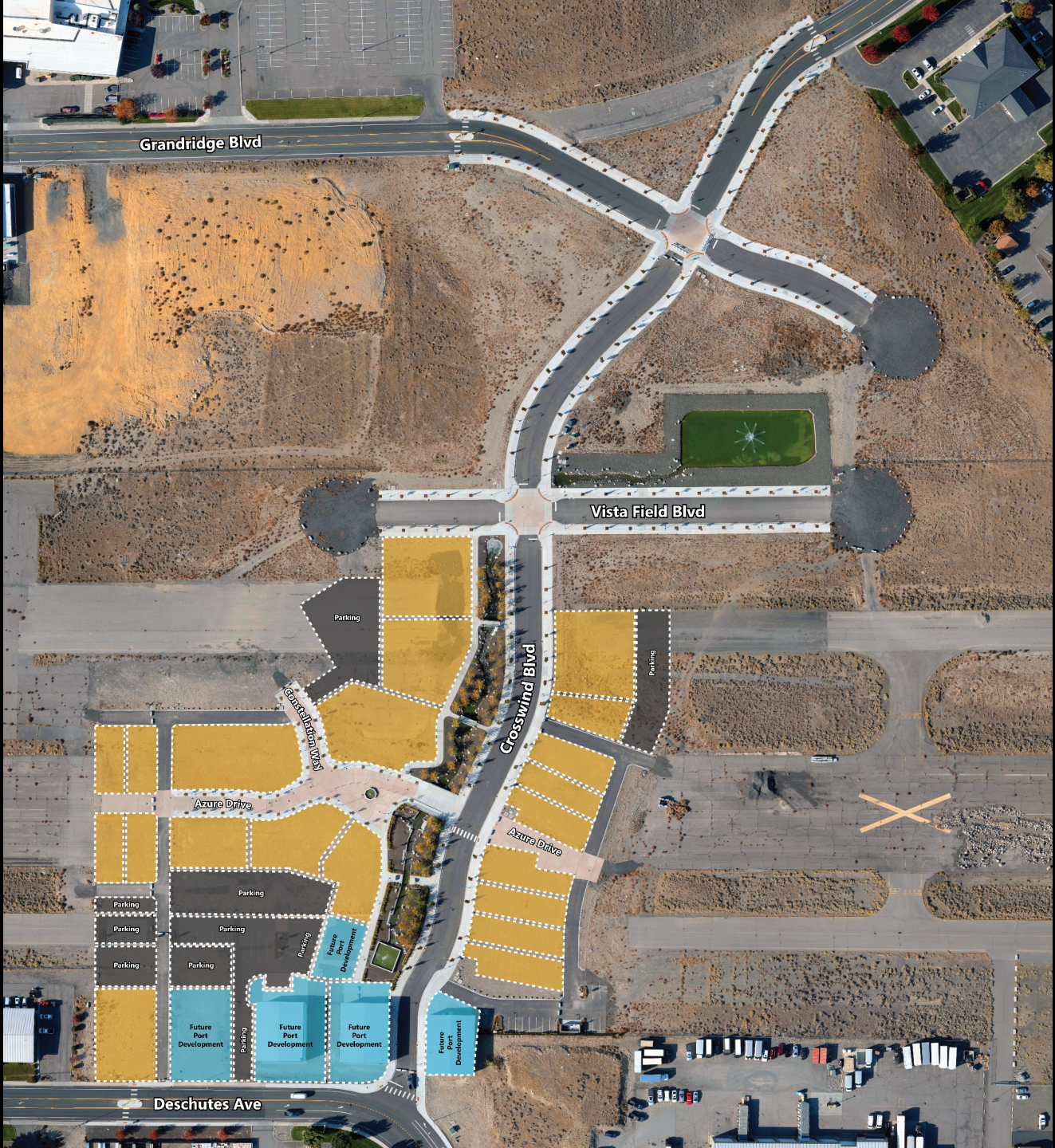
THANK YOU

QUESTIONS?

JG Tippet

Vista Field Renderings























PORT OF KENNEWICK

EXHIBIT C

HISTORIC WATERFRONT DISTRICT DESIGN STANDARDS



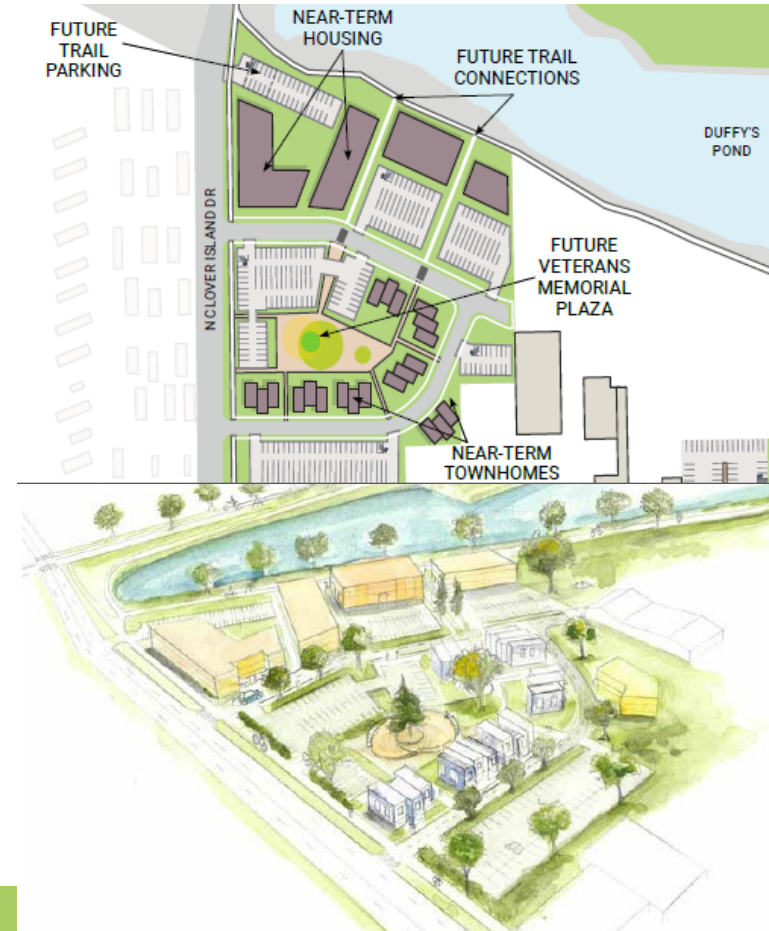
Introduction to Willows and Cable Greens Design Standards

February 8, 2022

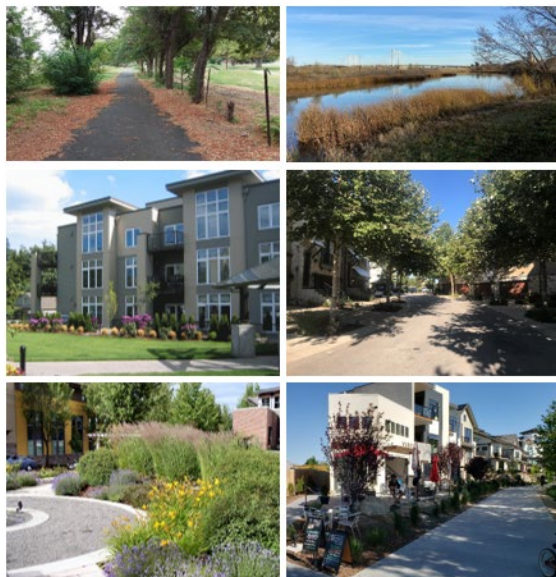
Implementing the 2021 Master Plan

EXHIBIT C

- The first phase adopted commercial design standards for Columbia Gardens in September 2021
- This next phase will have similar design standards for The Willows and Cable Greens, but focused on residential uses
- Approach: Treat the guidelines in the master plan (pg. 41-47) as conceptual policy for developing these more specific design standards



Port of Kennewick
**The Willows & Cable Greens
 Design Standards**



DRAFT February 3, 2022

Contents

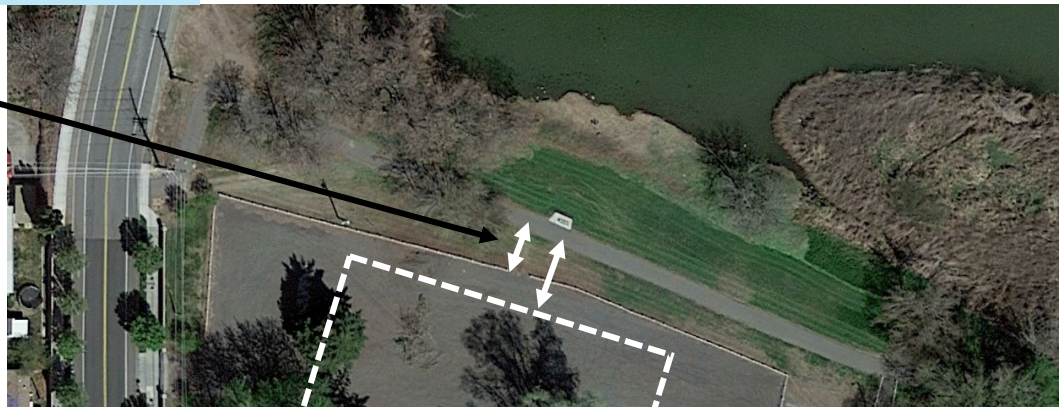
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Duffy's Pond Trail Frontage Standards

EXHIBIT C

Why? Ensure vibrant and pedestrian-friendly design.

- Buildings must be 10-30 feet from the trail
- The setback area must be used as a dining area, patio or deck, play area, landscaping, or similar functions (parking may occupy up to 33% of the trail frontage)
- Maximum building length 160 feet
- Pedestrian connection required
- Wall and fence heights are limited depending on distance from the trail



Residential trail frontage example



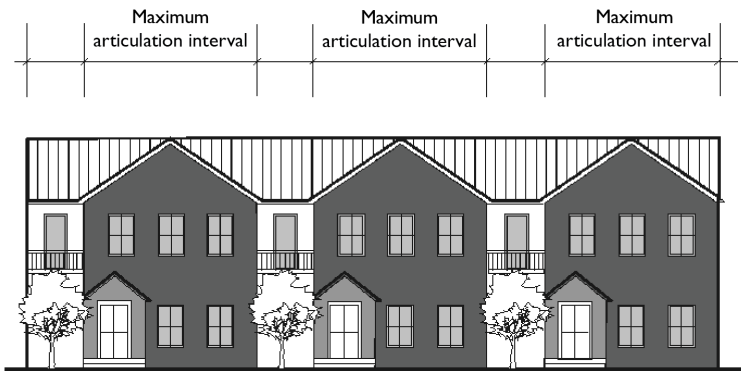
Commercial trail frontage example

Building Massing & Articulation

EXHIBIT C

Why? Reinforce pedestrian-friendly “village” scale

- All buildings must use at least three articulation features at intervals that relate to the location/size of **individual units within the building** (or no more than every **30 feet**)
- Applies to facades facing trails and internal walkways, plazas, internal drives (or streets), and containing primary building entrances.



Articulation feature options:

- Window or entry patterns
- Vertical piers/columns
- Awnings
- Change in roofline
- Change in building material or siding
- Vertical elements such as a trellis or art
- Vertical building modulation
- Other design techniques

Building Entries

EXHIBIT C

Why? Create clear and welcoming building entries

- Commercial, mixed-use, and multifamily buildings. If a primary common building entrance exists, it must be designed as a clearly defined architectural feature and scaled proportional to the building.
- Townhouses. Individual pedestrian entrances must be emphasized over private garages, whether facing the street or an alley. Weather protection over the entry is required.



Apartment building entry example



Individual townhouse entry examples



Building Materials

EXHIBIT C

Why? Reinforce desired character by adding strategic conditions for commonly used materials

Concrete block



- Must not be the primary material
- Must have a mix of texture and colors

Metal



- Must feature corner molding and trim
- Walls with >50% metal must have roof overhang

Stucco



- Traditional stucco is allowed on ground floor
- EIFS (synthetic stucco) limited to upper floors

Cementious panel



- May cover up to 70% of façade. If dominant, it must integrate a mix of colors and/or textures

Residential Amenity Space

EXHIBIT C

Why? Create usable amenity space that is suitable for leisure or recreational activities

Residential developments are required to provide amenity space equal to a minimum of 125 square feet per new dwelling unit. Multiple types of spaces may be used.

Common outdoor area



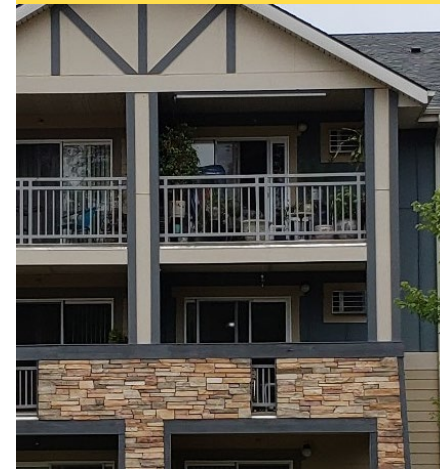
Shared roof deck



Private ground-level area



Private balconies



Conceptual Site Plan – The Willows

The sketch illustrates one possible vision for the site with desired housing products, landscape features, and street layout.

Key features in this concept:

- 130 homes (37 townhomes + 93 apartments)
- 1,750 square feet of retail
- Parks/playgrounds
- Trail connections
- Visitor parking

Open space around the
Veterans Memorial
Christmas Tree



Model Example



Model example of townhomes along internal access road. Note the integration of trees, design of driveways, sidewalks, entries and façade articulation.

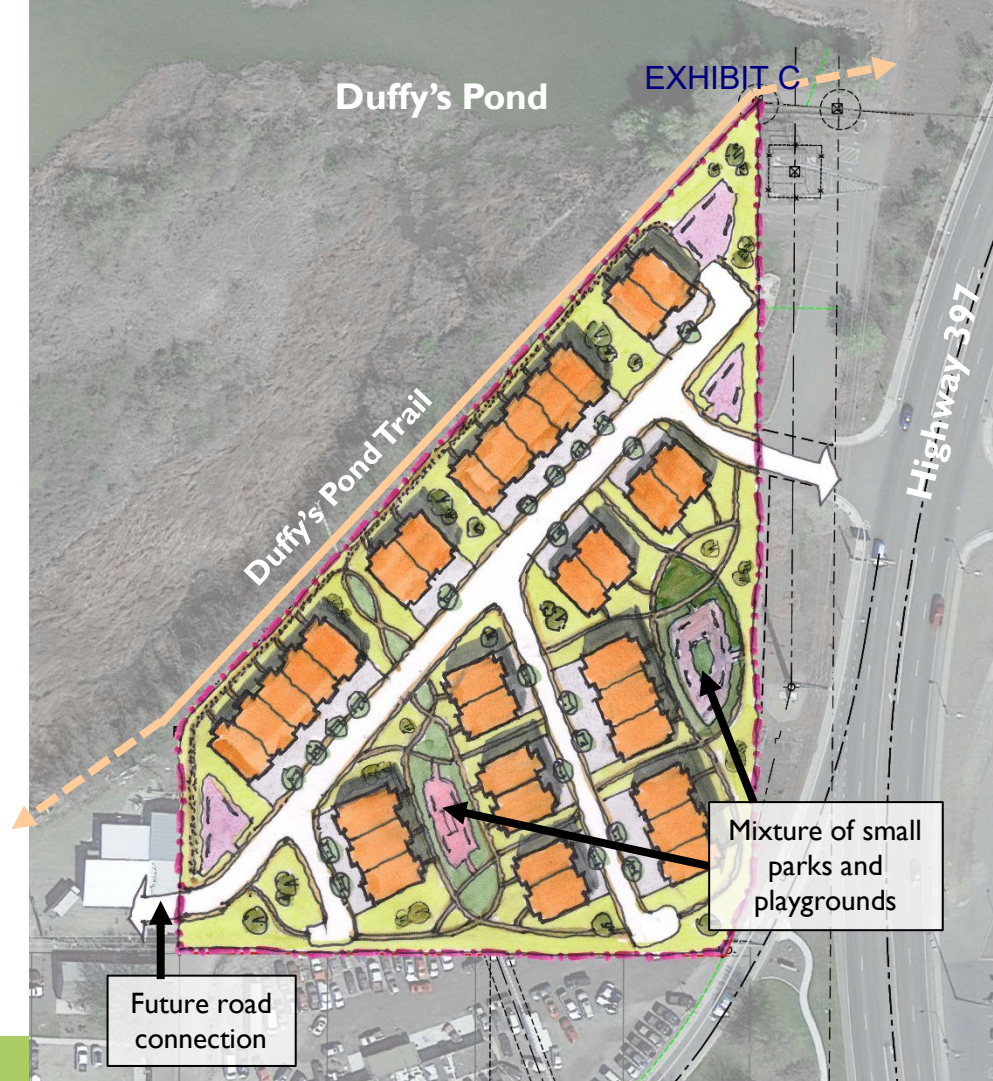


Conceptual Site Plan – Cable Greens

The sketch illustrates one possible vision for the site with desired housing products, landscape features, and street layout.

Key features in this concept:

- 33 homes (all townhomes)
- Parks/playgrounds
- Trail connections



Model Example



Linear shared open space incorporating a children's play area and informal "green".

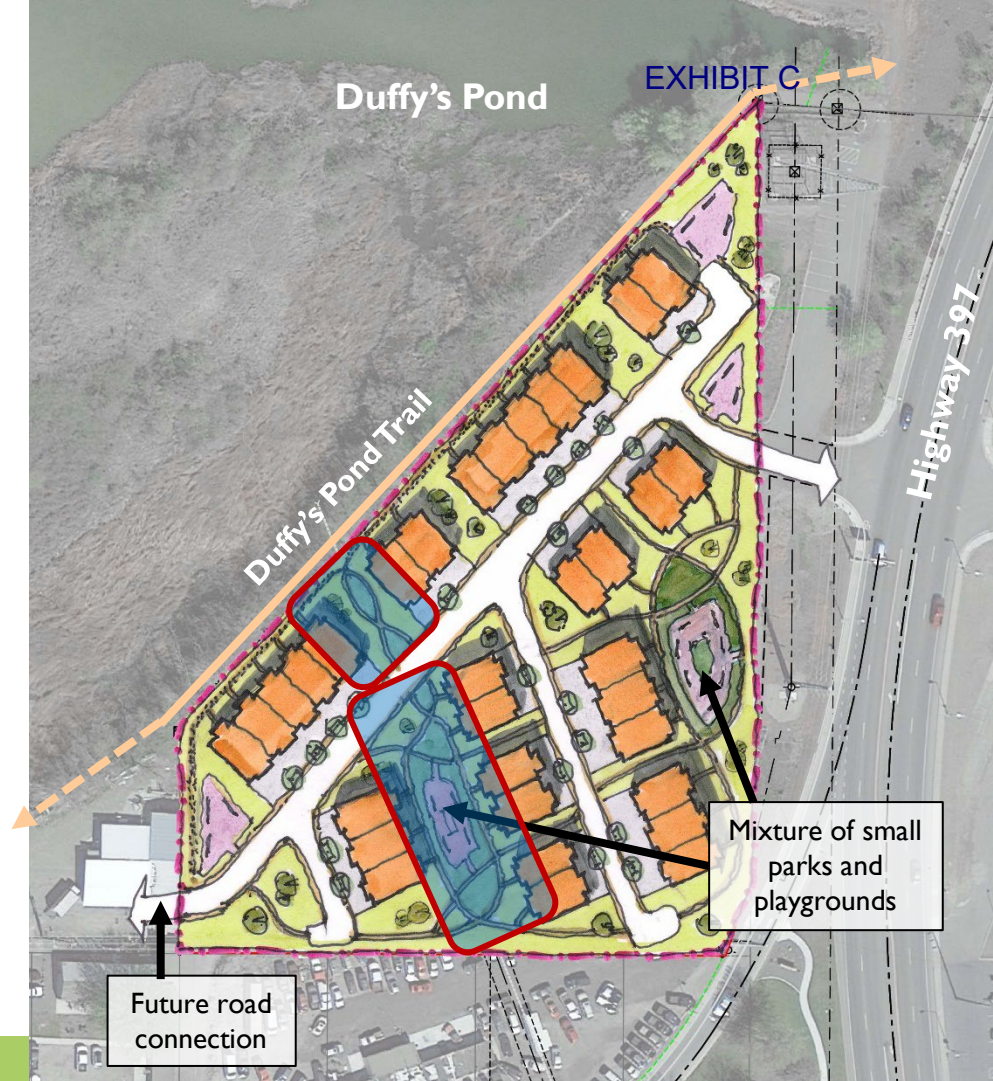


Figure 2.1.A
Duffy's Pond Trail frontage standards.


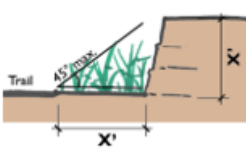
Element	Standards	Examples and Notes
Building placement	Buildings must be setback 10-30' from the trail edge, except greater setbacks are allowed when the setback area complies with the plaza provisions in Standard 2.4.	
Setback use	Landscaping, decks, plazas and patios, dining areas, playgrounds, and other similar uses are encouraged within the trail setback area. Service and trash storage areas are prohibited in the setback area.	
Parking location	Vehicular parking may occupy up to 33% of the trail frontage.	
Fences & retaining walls	Height limits for opaque fences & retaining walls use a 1:1 ratio for their setback from the edge of the trail (for every 1' of setback distance, the maximum height is increased 1'). Deck railings associated with non-residential development must be at least 60% transparent.	
Building use	Refer to permitted uses for the Urban Mixed Use zone, Chapter 18.12 KMC.	



Figure 2.3
Appropriate landscaping examples.



EXHIBIT C

Figure 3.4
Acceptable and unacceptable window design examples.



The window in Image A features 3-inch trim. The windows in Images B-C are recessed by at least two-inches from the façade. Images D and E feature a reveal/recess of less than two-inches, but the contrasting frames and mullions effectively add a sense of depth and richness to the façade. The treatment in Image F does not effectively meet the design criteria.

Thank You!

COMMENTS? QUESTIONS?



EXHIBIT D

Columbia Gardens Wine & Artisan Village Monument & Wayfinding Signage

Considerations

- Identified Need
- Regional Wayfinding
- Design Standards
- Cost Estimates



Complementary Design

- Regional Wayfinding



Complementary Design

- Established City Signage
- Waterfront District Design Standards
- Previous Investments & Architectural Elements



Signage & Locations

- Monument
- Wayfinding
- Lighting
- Graffiti Prevention

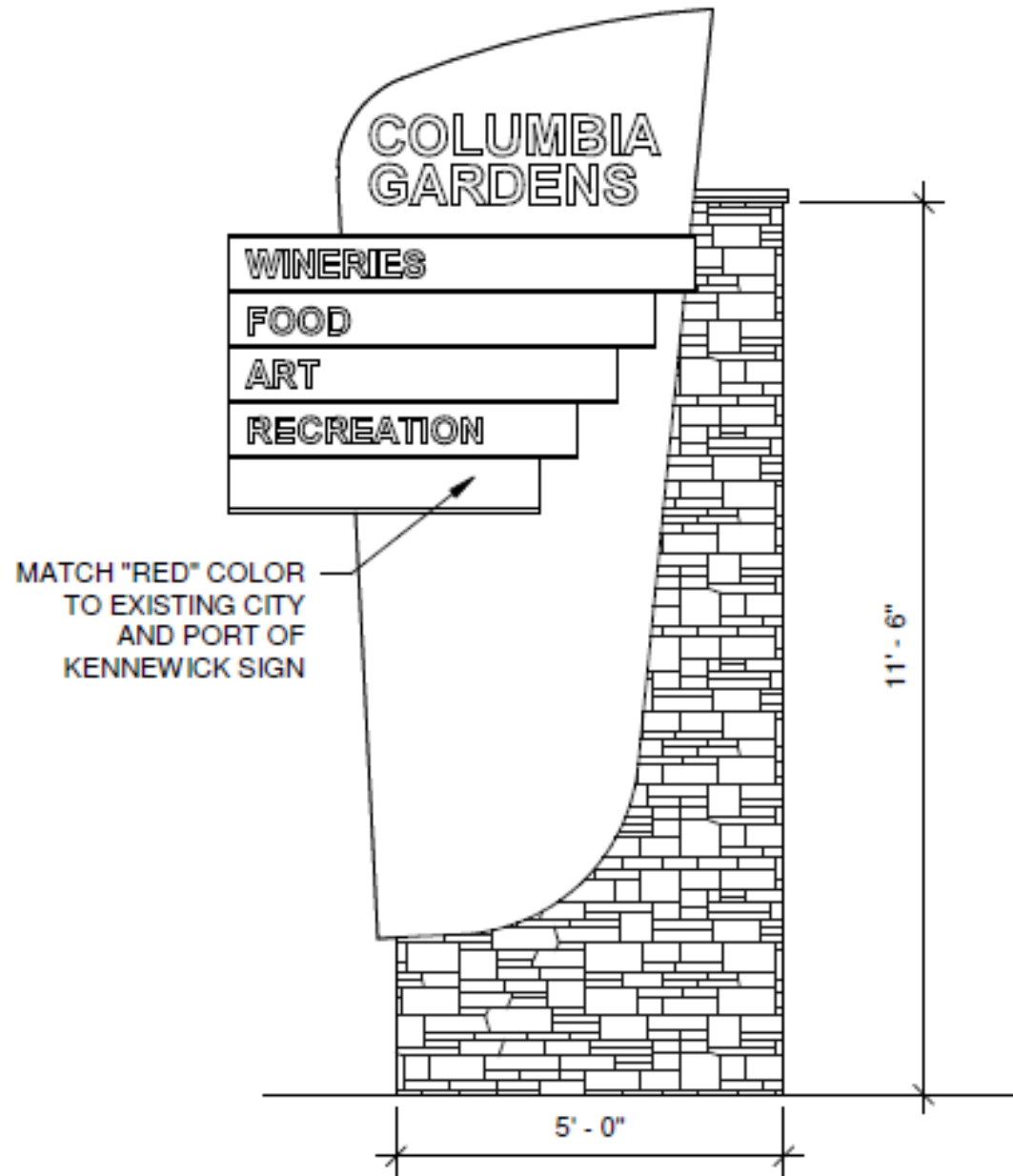


Regulations

- Landscape Easement
- Zoning/Variance/Permit
- Site Lines/Access/Sidewalk
- Liquor Control Board
- USACE / City / State
- Historic/Cultural Resources

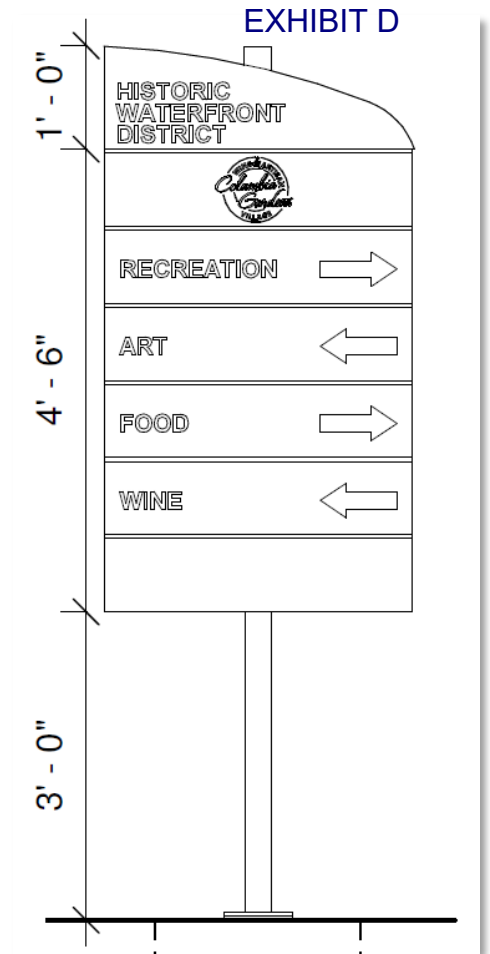
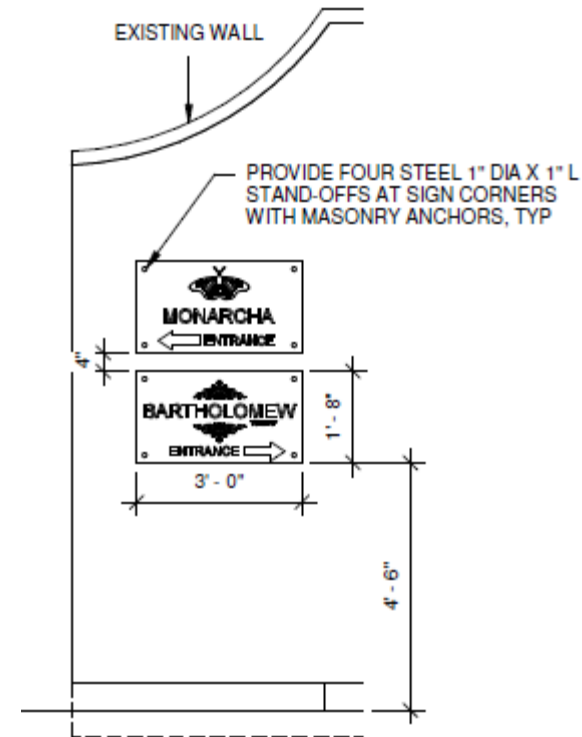


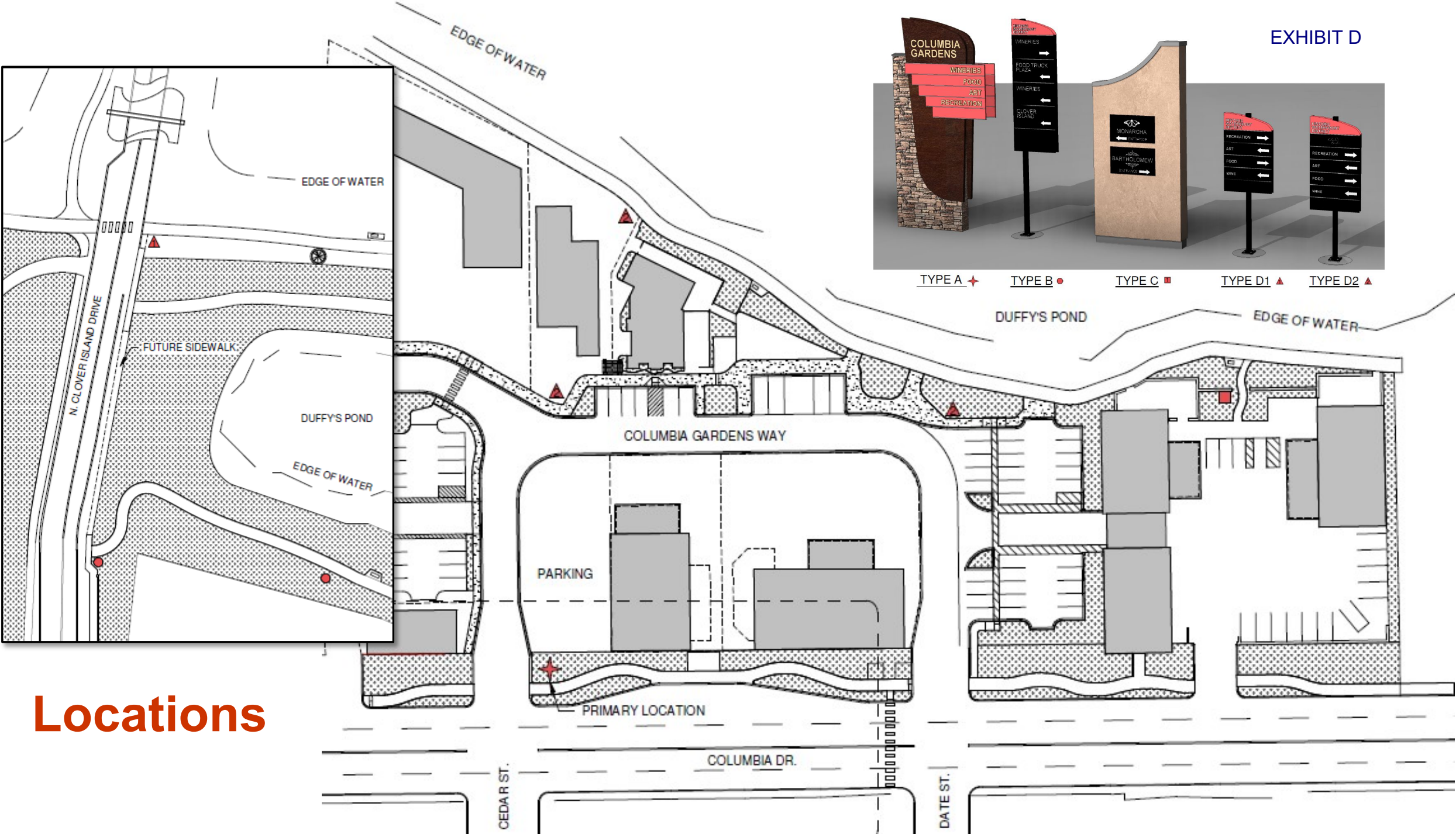
MEMORANDUM OF UNDERSTANDING WITH CONFEDERATED TRIBES OF THE UMATILLA
INDIAN RESERVATION
February 26, 2013



Signage Types

- Monument
- Wayfinding





Locations



Type A Monument Sign at Columbia Drive at Cedar Street.



Type D2 Wayfinding Sign adjacent two-tenant building. SAMPLE ONLY—WORDS AND ARROWS NOT YET DETERMINED



Type D2 Wayfinding Sign at Duffy's Pond Trail access near Food Truck Plaza. SAMPLE ONLY—WORDS AND ARROWS NOT YET DETERMINED



Type C Wayfinding Signs proposed for Courtyard Wall adjacent Duffy's Pond Trail access.



Type B Wayfinding Sign on Clover Island Drive at The Willows. SAMPLE ONLY—WORDS AND ARROWS NOT YET DETERMINED



Type D1 Wayfinding Sign on Sacagawea Heritage Trail at Clover Island Gateway. SAMPLE ONLY—
WORDS AND ARROWS NOT YET DETERMINED



City and Port of Kennewick Monument Sign
roughly \$71,000 three years ago

Cost Estimates

Estimated Costs by Site:

Columbia Gardens

1 Type A Monument Sign:	\$ 97,203
2 Type C Signs:	\$ 8,706
3 Type D2 Signs:	<u>\$ 70,824</u>
total:	<u>\$176,733</u>

The Willows

2 Type B Signs:	\$59,032
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Sacagawea Heritage Trail

1 Type D1 Sign:	\$23,608
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Grand Total:	<u>\$259,373</u>
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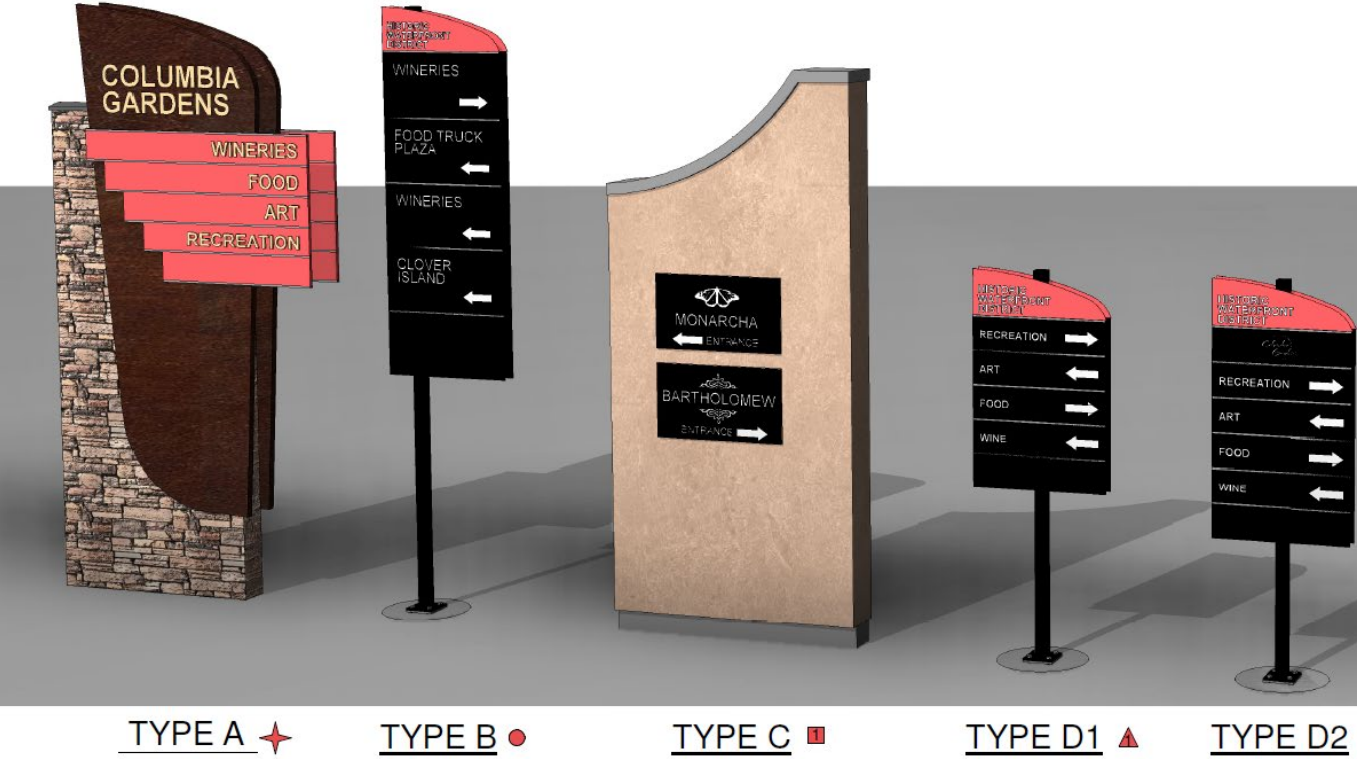




EXHIBIT D

Thank you





Columbia Gardens Wine & Artisan Village Monument & Wayfinding Signage

Especially prepared for
Port of Kennewick Board of Commissioners
February 8, 2022

Considerations

In response to feedback from both citizens and tenants, it became apparent that additional wayfinding signage is needed for the Columbia Gardens Wine & Artisan Village. And while the port previously installed signage on the entry walls, that signage (while great for pedestrians) runs parallel to Columbia Drive and is not readily visible to motorists who are conditioned to viewing signage perpendicular to the street.

As part of the bi-annual goals and objectives, the CEO was tasked with exploring options and considerations to add signage that could support visibility, wayfinding and vibrancy at Columbia Gardens.

In researching options, it was determined that monument-style signage located along Columbia Gardens and smaller internal signage could help attract motorist, bicycle and pedestrian attention and distinguish points of interest within the development.

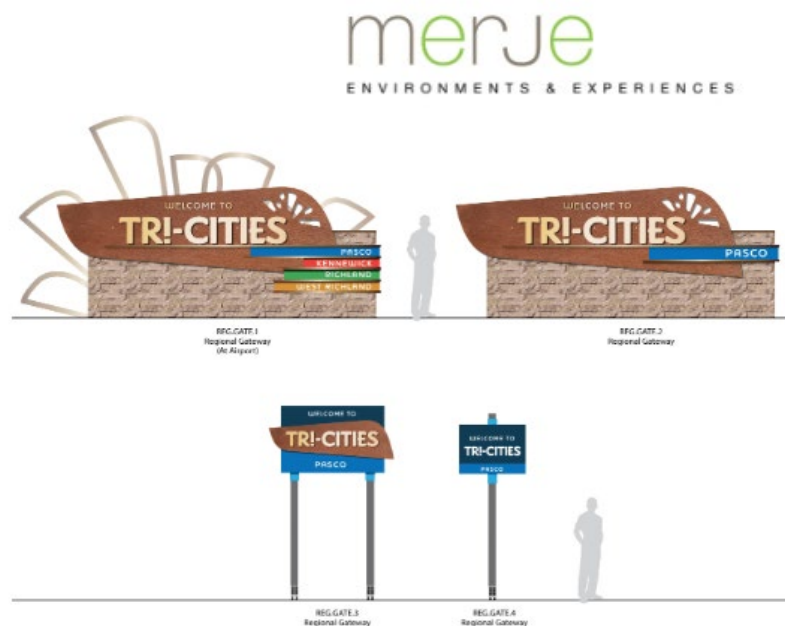


As part of the process, several items were identified as needing to be addressed for the monument and wayfinding signage, including consideration of the community's recent regional signage project; federal, state and local regulations and involvement; waterfront design standards; lighting; and estimated costs. These issues are detailed below, some of which have been addressed. Others will require further resolution before signage can be ordered/installed.

Complementary Design

Regional Wayfinding:

Consideration was given to the regional branding and community-wide wayfinding design effort coordinated and established by TRIDEC, Visit Tri-Cities and the Tri-Cities Regional Chamber of Commerce.



Established City Signage:

Consideration was given to the fact that the City of Kennewick had recently installed monument-style gateway signage at the base of the nearby “Cable Bridge,” which included Port of Kennewick funding. The city also installed smaller points-of-interest wayfinding signage on Clover Island Drive and Columbia Drive. This signage helped establish a benchmark standard for signage within Kennewick’s Historic Waterfront District.



Historic Waterfront District Design Standards: The port’s Board of Commissioners approved design standards for the Historic Waterfront District, and Meier Engineering & Architecture was identified as the waterfront district town architect. Meier was asked to consider the regional branding/wayfinding plan, recent city signage and prepare conceptual signage that would conform to the adopted Waterfront District Design Standards while complementing city signage and the design aesthetic from established investments at the wine village and on Clover Island.

Previous Investments/Architectural Elements: The Meier-designed monument and wayfinding signage complements the city signage and is reminiscent of elements from many of the port’s previous investments in the Historic Waterfront District: the flat silver banding found on the Clover Island gateway arch; the sweeping curves found on the Clover Island gateway arch and on the trellis arch and transit shelter at Columbia Drive; the weathered steel found in the Aspirations, Rollin Mass, Fair Game, Willow Fish Traps at The Gathering Place, and Mother of Reinvention II artworks; and finally, the use of real stone and bright red metal in the city signage and on the port’s two-tenant tasting room building. All those elements combine to create a complementary signage aesthetic for the waterfront district and are reflected well in the monument and wayfinding signage proposed for Columbia Gardens.



Type of Signage & Locations

Monument Signage: Motorists often travel more than forty miles an hour on Columbia Drive, so the signage must be visible and concise in its messaging. Red is a bright color that is eye-catching and has been accepted by City of Kennewick as their “identifying color” under the regional branding program (Richland uses green and Pasco, blue).

It is also important that signage be clean and not cluttered with too many messages. Thus, it was determined a summary listing of the “points of interest” would be most easily read/understood and most likely to encourage people to explore Columbia Gardens: Wine, Food, Art, Recreation (with space left for future items of interest such as “Shops”).

A 14-foot-tall, real stone, Corten steel and red metal sign is proposed to be installed, with the sign panel perpendicular to Columbia Drive in the city’s landscape easement. This monument-style sign would be double-sided to be viewed from both westbound and eastbound traffic. The look of the monument signage was inspired by and complements the gateway signage already established by City of Kennewick.

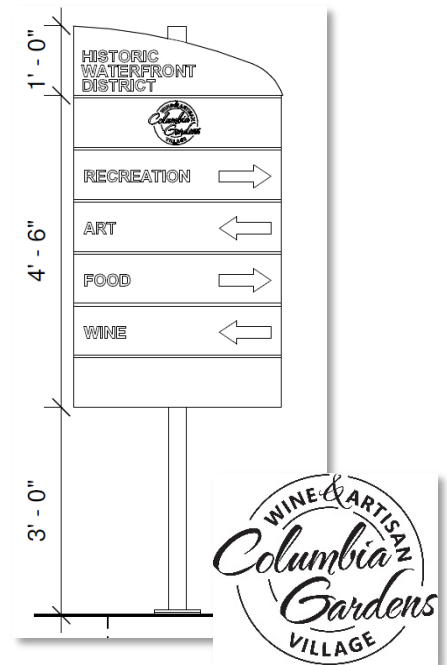


Wayfinding Signage: The Columbia Gardens Wine & Artisan Village Development established an early interior wayfinding aesthetic using black and white blade signs to identify the tasting room tenants. Meier combined the look of the city’s pedestrian wayfinding signage with the blade sign aesthetic and found a way to complement the city’s signage while identifying the wine village as a distinct development.



The port wayfinding signage has a panel and header design similar to the city's but uses square pole(s) instead of round, and the sign panel would be black with white lettering/arrows instead of the city's blue and white. The header section of the sign would be the same red as the city's and would use the words *Historic Waterfront District* to identify the area as part of a distinct neighborhood. The sign panels located at the wine village would also include the Columbia Gardens Wine & Artisan logo to reinforce branding for that location.

Meier designed a series of pedestrian wayfinding signs (*Exhibit A*) for use along the Duffy's Pond trail and the interior landscape areas within the Columbia Gardens Wine & Artisan Village. The idea is that these signs would provide information and guidance to help visitors understand where to go and what to do within the wine and artisan village and encourage visitors to discover Columbia Gardens from the Sacagawea Heritage Trail and The Willows.



Lighting: It will be necessary to provide lighting for the monument sign. As part of the cost estimating for signage, Meier A|E has developed an estimate for extending electrical and lighting the monument signage for visibility at night (*Exhibit B*). Lighting is anticipated to be similar to that found on the city gateway signs at the base of the Cable Bridge and West Clearwater near the Leslie roundabout.

Graffiti Prevention: It will be necessary for all signage, posts and panels to be treated with an anti-graffiti coating to help with the maintenance and longevity of the signs.

Federal, State, City Regulations

Several other critical issues must be addressed before placing wayfinding signage along Duffy's Pond and Columbia Drive.

Landscape Easement: The Port of Kennewick gave City of Kennewick an easement for the landscape improvements along Columbia Drive. Installation of the monument sign will require amending that easement. City of Kennewick Public Works and City of Kennewick legal departments have been asked to review the Interlocal Agreement and landscape easement to help advise port staff on the ability to install the signage on Columbia Drive. A formal request and processing may be required either administratively with staff or through the city council and port commission.

Zoning / Variance / Permit: For the monument sign on Columbia Drive, Meier has designed it at 14 feet tall to ensure visibility and accommodate the required wording and panels. The city zoning limits the height of signage to 13-feet. However, city planning staff have reviewed

preliminary designs and have indicated support for the monument and wayfinding signage. They have indicated the port could apply for an administrative variance of not more than 10% (which, if approved, would accommodate the 14-foot-tall monument sign as designed). Application for the variance can be made concurrently with the permit for construction.

Site Lines/Access/Sidewalk Revision: City codes control where signage can be placed on Columbia Drive to ensure sight lines are maintained and there is not too much visual clutter or diminished access at any intersection. Meier determined the best location for the monument sign would be to the east of the Cedar Street intersection.

Liquor Control Board: There are significant restrictions and rules related to advertising alcohol to the public. Port staff contacted the Washington State Liquor and Cannabis Board (WSLCB) advertising coordinator and port legal counsel researched state RCWs to determine that having words such as “Wine,” “Wineries” or “Tasting Rooms” on an off-premises sign on a city street or park trail will not cause any problems for port tenants or raise any concerns with the WSLCB.

U.S. Army Corps of Engineers / City of Kennewick / Historic & Cultural Resources: The U.S. Army Corps of Engineers owns Duffy’s Pond and levee, which the City of Kennewick manages under a recreational lease. The port gave the city an easement to construct the pedestrian/bike trail along a portion of the port’s land adjacent Duffy’s Pond adjacent to Columbia Gardens, other parts of that trail are on federal land.



While the city and port have an Interlocal Agreement whereby the port maintains the Duffy’s Pond trail, that pathway was constructed by and is part of the city’s parks and recreation system. The city’s Parks Commission and staff will need to be consulted to assist with approvals and permitting for any signage not installed on port land.



Also, any construction near the river that may impact historic properties requires federal and state agencies to consider the effects on historic and cultural resources. The Duffy's Pond trail is on the original Columbia Rivershore (before the levee was constructed). The placement of monument and wayfinding signage will require cultural resources observation per the State Historic Preservation Office and the port's MOU with the Confederated Tribes of the Umatilla Indian Reservation.



MEMORANDUM OF UNDERSTANDING WITH CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION
February 26, 2013

Sample Signage – Exhibit A

As the port's town architect, Meier Architecture & Engineering has prepared renderings of potential signage for both the Columbia Gardens monument/point of interest sign and the pedestrian wayfinding signs. Renderings of these signs and their proposed placement within the wine and artisan village, The Willows and Sacagawea Heritage Trail are included in Exhibit A.

Cost Estimates – Exhibit B

Monument Signage: Meier has developed preliminary cost estimates for constructing and installing a monument sign at the Cedar Street intersection, which includes electrical and light fixtures to ensure visibility at night.

Pedestrian Wayfinding Signage: Meier has developed preliminary cost estimates for construction and installation of pedestrian wayfinding signage for the Columbia Gardens interior and at various places on Duffy's Pond trail at Columbia Gardens and The Willows. Additionally, they have suggested a bicycle-scale sign along the Sacagawea Heritage Trail near the Clover Island Gateway Arch.

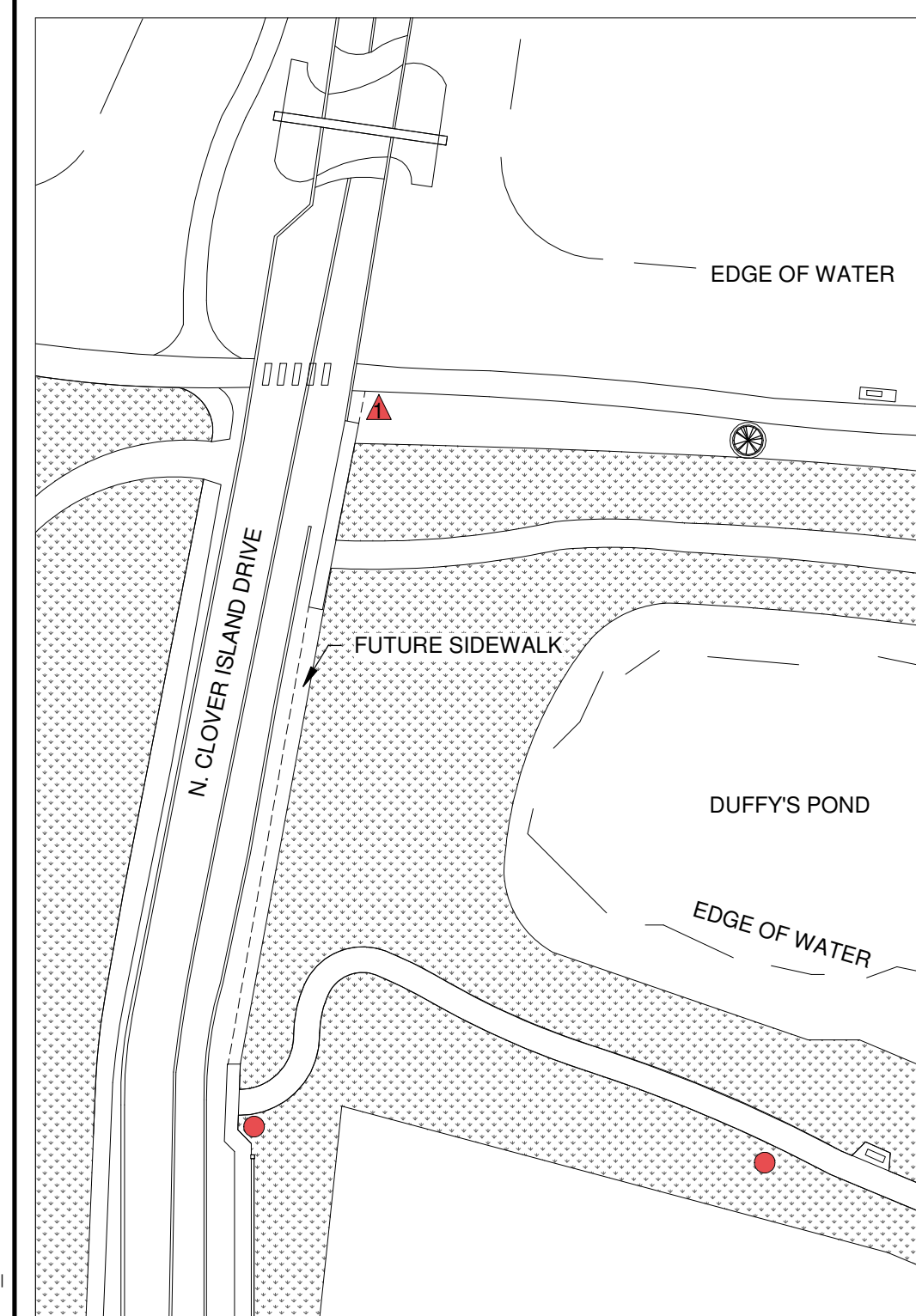
The cost estimates are included in Exhibit B.

Exhibit A

Meier Architecture & Engineering Monument & Wayfinding Signage Design Drawings

SIGN LEGEND

 TYPE A	1 Type A Monument Sign
 TYPE B	2 Type B Signs
 TYPE C	2 Type C Signs
 TYPE D	4 Type D1/D2 Signs
 TYPE D	

[illegible]



Type A Monument Sign at Columbia Drive at Cedar Street.



Type D2 Wayfinding Sign adjacent two-tenant building. SAMPLE ONLY—WORDS AND ARROWS NOT YET DETERMINED



Type D2 Wayfinding Sign at Duffy's Pond Trail access near Food Truck Plaza. SAMPLE ONLY—WORDS AND ARROWS NOT YET DETERMINED



Type C Wayfinding Signs proposed for Courtyard Wall adjacent Duffy's Pond Trail access.



Type B Wayfinding Sign on Clover Island Drive at The Willows. SAMPLE ONLY—WORDS AND ARROWS NOT YET DETERMINED








Type D1 Wayfinding Sign on Sacagawea Heritage Trail at Clover Island Gateway. SAMPLE ONLY—WORDS AND ARROWS NOT YET DETERMINED

Exhibit B

Meier Architecture & Engineering
Monument & Wayfinding Signage Preliminary Cost Estimates

SIGN LEGEND

		Each	Total
 TYPE A	1 Type A Monument Sign:	\$97,203	\$97,203
 TYPE B	2 Type B Signs:	\$29,516	\$59,032
 TYPE C	2 Type C Signs:	\$ 4,353	\$ 8,706
 TYPE D	4 Type D1/D2 Signs:	\$23,608	<u>\$94,432</u>
 TYPE D			
Total:			<u>\$259,373</u>

Estimated Costs by Site:**Columbia Gardens**

1 Type A Monument Sign:	\$ 97,203
2 Type C Signs:	\$ 8,706
3 Type D2 Signs:	<u>\$ 70,824</u>
total:	\$176,733

The Willows

2 Type B Signs:	\$59,032
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Sacagawea Heritage Trail

1 Type D1 Sign:	\$23,608
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Rev 2

[illegible]

Columbia Gardens Sign Type B



Project No.: 8837

Title: Schematic Design Estimate Rev 1

Project Description: New Type B Sign at Columbia Gardens

Architect: Meier Enterprises, Inc.

Location: Kennewick, WA

CSI Division

Description

CSI Division	Description	
Division 0	General Requirements	\$ 2,336.18
Division 3	Sign - Footing and Slab	\$ 451.46
Division 5	Steel Fabrications	\$ 8,210.31
Division 7	Thermal & Moisture & Powder\Graffiti Coating	\$ 191.90
Division 10	Specialties	\$ 3,784.32
Division 31	Earthwork	\$ 2,524.25
Division 32	Site Improvements	\$ 112.86
Subtotal		\$ 17,611.28

	GENERAL CONTRACTOR PROFIT	6%			\$1,056.68
	GENERAL CONTRACTOR OVERHEAD	12.5%			\$2,201.41
	GENERAL CONDITIONS COMPLIENCE	2%			\$352.23
	PERCENTAGE OF PERMIT COST	ASSUMED \$4.75 PER \$1,000			\$83.65
	INSURANCE, BUILDERS RISK	0.62%			\$109.19
	PERFORMANCE BONDS	1.75%			\$308.20
	Estimated Construction Bid Cost				\$21,723
	SALES TAX	8.6%			\$1,868
	CONTINGENCY	5%			\$1,086
	Pricing March to to Bid Date at 2.025 % per month	22.28%	Months, Bic		\$4,839
Total Project Estimated Cost					\$29,516

Columbia Gardens Sign Type C



Project No.: 8837

Title: Schematic Design Estimate Rev 1

Project Description: New Type C Sign at Columbia Gardens

Architect: Meier Enterprises, Inc.

Location: Kennewick, WA

CSI Division

Description

CSI Division	Description	
Division 0	General Requirements	\$ 350.00
Division 3	Sign - Footing and Slab	\$ -
Division 5	Steel	\$ 1,630.24
Division 7	Thermal & Moisture & Graffiti Coating	\$ 35.04
Division 10	Specialties	\$ 630.72
Division 31	Earthwork	\$ -
Division 32	Site Improvements	\$ -
Subtotal		\$ 2,646.00

	GENERAL CONTRACTOR PROFIT	6%			\$158.76
	GENERAL CONTRACTOR OVERHEAD	12.5%			\$330.75
	GENERAL CONDITIONS COMPLIENCE	2%			\$52.92
	PERCENTAGE OF PERMIT COST	ASSUMED \$4.75 PER \$1,000			\$12.57
	INSURANCE, BUILDERS RISK	0.62%			\$16.41
	PERFORMANCE BONDS	1.75%			\$46.31
	Estimated Construction Bid Cost				\$3,264
	SALES TAX	8.6%			\$281
	CONTINGENCY	3%			\$82
	Pricing March to to Bid Date at 2.025 % per month	22.28%	Months, Bic		\$727
Total Project Estimated Cost					\$4,353

Columbia Gardens Sign Type D2



Project No.: 8837

Title: Schematic Design Estimate Rev 1

Project Description: New Type D2 Sign at Columbia Gardens

Architect: Meier Enterprises, Inc.

Location: Kennewick, WA

CSI Division

Description

CSI Division	Description	
Division 0	General Requirements	\$ 2,336.18
Division 3	Sign - Footing and Slab	\$ 451.46
Division 5	Steel Fabrications	\$ 4,667.73
Division 7	Thermal & Moisture & Powder\Graffiti Coating	\$ 209.42
Division 10	Specialties	\$ 3,784.32
Division 31	Earthwork	\$ 2,524.25
Division 32	Site Improvements	\$ 112.86
Subtotal		\$ 14,086.22

	GENERAL CONTRACTOR PROFIT	6%			\$845.17
	GENERAL CONTRACTOR OVERHEAD	12.5%			\$1,760.78
	GENERAL CONDITIONS COMPLIENCE	2%			\$281.72
	PERCENTAGE OF PERMIT COST	ASSUMED \$4.75 PER \$1,000			\$66.91
	INSURANCE, BUILDERS RISK	0.62%			\$87.33
	PERFORMANCE BONDS	1.75%			\$246.51
	Estimated Construction Bid Cost				\$17,375
	SALES TAX	8.6%			\$1,494
	CONTINGENCY	5%			\$869
	Pricing March to to Bid Date at 2.025 % per month	22.28%	Months, Bic		\$3,870
Total Project Estimated Cost					\$23,608

Memorandum

To: Tim Arntzen, Executive Director
 From: Larry Peterson
 Date: February 8, 2022
 Re: Vista Field Policy Issues & Commission Decisions/Reaffirmations Needed

Together with the numerous tasks staff is completing to bring the Vista Field Redevelopment project to market, there is a need for several Commission policy decisions and/or reaffirmations of previous decisions. These policy decisions are proposed to be presented at the next three Commission meetings in a format that would allow for Commission decisions/direction at those meetings. Below is the proposed “agenda” for the next three meetings with details on the decisions.

❖ PROPOSED AGENDA & SCHEDULE OF POLICY ISSUES

JANUARY 25, 2022 Meeting

(Commission Reaffirmed via Consensus vote)

- ✓ Initial Marketing Area
- ✓ Initial Parcel Offer Prices

FEBRUARY 8, 2022 Meeting

(Commission Reaffirmation sought via Consensus vote)

Joint-Use Parking areas initially provided by the Port {inherent role of the developer}
 Project Reinvestments triggered by initial development {inherent role of the developer}

FEBRUARY 22, 2022 Meeting

(Commission Reaffirmation sought via Consensus vote)

Vista Field Introduction to Governing Documents {helps to explain the regulator pieces}
 Vista Field Declaration of Covenants {applies to entire site, regardless of use}
 Vista Field Declaration of Covenants-Commercial Property {2nd layer for commercial uses}
 Vista Field Association Assessment Structure {actual costs to owners based upon use}
 Vista Field Association Appointment of initial Officers

(Shared with Commission for information but formal approval not required)

Vista Field Association Article of Incorporation {non-subjective, dictated by State law}
 Vista Field Association By-Laws {non-subjective, dictated by State law}

❖ **POLICY ISSUES for February 8, 2022 meeting**

(Commission Reaffirmation sought via Consensus vote)

Joint-Use Parking areas initially provided by the Port

The whole concept of new urbanism really involves developing land in the most efficient and productive manner. “Efficient and productive” in this case can be measured in amounts. Amount of building on a particular parcel, amount of revenue a given parcel can generate and possibly most important; amount of activity and vibrancy generated. One way to maximize these “amounts” is through sharing common elements that benefit all and yet avoids duplication by each owner. Vehicle parking consumes the largest portion of land in development typical since the 1960’s.

Joint-Use parking lots are one way to address a basic need without unnecessary duplication. The Vista Field master plan addresses vehicle parking through joint-use parking lots augmented by on-street parking. The on-street parking is/will be established when the main streets are constructed leaving the joint-use parking lots to be completed by the master developer. *{Port is the master developer at Vista Field}*

Due to both logistic and budgetary reasons most of the joint-use parking planned in Phase #1 hasn’t been constructed. Logistically joint-use parking lot construction is sequenced after building construction to avoid damage during that construction process. Financially the joint-use parking lots are intended to be construction with a portion the land sale proceeds obtained from the parcel benefiting from the joint use parking.

Parcel pricing is based upon the premise that smaller lots and buildings will be wholly dependent on parking provided by others. Pricing also contemplated that the larger parcels would prove for some of their parking need on-site and could rely on the remaining need being met by the joint-use parking lots. The Vista Field Property Owners Association establishes a mechanism where all future owners would contribute to the perpetual maintenance of the joint-use parking lots, but these lots need to be constructed by someone/some entity.

Almost without exception the master developer constructs these joint-use parking lots; however, in some instances the developer might accept less for the land if the buyer commits to make common use improvements such as a parking lot. In the Port’s situation, being a municipal corporation, at best this might be perceived as an effort to avoid payment of prevailing wages to construct a common use element and at the other end of the spectrum involve complications far beyond just an audit finding and requirement to pay the wage differences.

QUESTION: Does the Commission concur with the principle that as the “master developer” the Port has the responsibility to construct the joint-use parking improvements?

Project Reinvestments Triggered by Initial Development

This issue encompasses the prior discussion about the Port utilizing land sale proceeds to construct joint-use parking lots but is far broader. Per the master plan, a 2.5 acre central gathering area known as Daybreak Commons needs to be improved. Per the Port/City 10-year development agreement, the Port has financial responsibility for a prorated portion of improvements to intersections negatively impacted by Vista Field traffic. Funding the last 7 phases on the remaining 80-acres will also require significant investment by the master developer.

The Port has selected a pay-as-you-go approach to the Vista Field project which negated the need to adjust {aka raise} taxes. Yes, a \$5M+ loan was obtained, but the Port's strong financial position allowed for structuring repayment with existing revenue streams. The improvements completed in 2019-2020 are effectively "covered" it's a matter of how the planned/expected/future improvements will be funded. Fortunately funding for and construction of these improvements is tethered to land sales, which generate the necessary proceeds. No land sale = no traffic to mitigate and no worry about funding more "product". But land sales will occur, building will arise, additional cars will travel, and additional land will need improvements.

Effectively the horizontal improvements (roads, utilities, open space, transportation elements) could be funded as proceeds from land sales are obtained. There is and will be an expectation of all who buy into Vista Field that a great central open space will be developed where now sagebrush and boulders exists. Funding will likely dictate timing of this improvement. Ideally, Daybreak Commons would be improved before the adjacent parcels are sold, which would result in enhanced land sale revenues to the Port. However, if land sale proceeds are required to make the improvements, there would surely be a great expectation other than those adjacent buyers, that the open space would be completed prior to the private section. Improvements of future phases would be required as the first phase is sold, but again, land sales trigger these future improvements.

Vertical improvements such as remodeling the three corporate hangars on Deschutes Avenue would require funding beyond the embedded within the first phase.

QUESTION: Does the Commission concur with the principle Vista Field land sales proceeds will be directed back into the Vista Field project for both on-site improvements and off-site traffic mitigation commitments?

- - -



PORT OF KENNEWICK SPECIAL COMMISSION MEETING

DRAFT

FEBRUARY 16, 2022 MINUTES

Commission Meeting recordings, with agenda items linked to corresponding audio, can be found on the Port's website at: <https://www.portofkennewick.org/commission-meetings-audio/>

Commission President Skip Novakovich called the Special Commission Meeting to order at 10:15 a.m. via GoToMeeting Teleconference.

ANNOUNCEMENTS AND ROLL CALL

The following were present:

Board Members: Skip Novakovich, President (via telephone)
Kenneth Hohenberg, Vice President (via telephone)
Thomas Moak, Secretary (via telephone)

Staff Members: Tana Bader Inglima, Deputy Chief Executive Officer (via telephone)
Nick Kooiker, Chief Finance Officer (via telephone)
Lisa Schumacher, Special Projects Coordinator
Bridgette Scott, Executive Assistant (via telephone)
Lucinda Luke, Port Counsel (via telephone)

PLEDGE OF ALLEGIANCE

Bridgette Scott led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

MOTION: Commissioner Hohenberg moved to approve the Agenda as presented; Commissioner Novakovich seconded. With no further discussion, motion carried unanimously. All in favor 3:0 *

PUBLIC COMMENT

No comments were made.

Commissioner Novakovich anticipates the Executive Session will last approximately 25 minutes, Potential Litigation, per RCW 43.30.110(1)(i) with possible action expected. Commissioner Novakovich asked the public to notify Port staff if they will return after the executive session so staff can advise if the session concludes early.

RECESS FOR EXECUTIVE SESSION

Commissioner Novakovich recessed the Regular Commission Meeting at 10:19 a.m. and convened the Executive Session at 10:22 a.m. for 25 minutes.

PORT OF KENNEWICK SPECIAL COMMISSION MEETING

FEBRUARY 16, 2022 MINUTES

DRAFT

EXECUTIVE SESSION

A. Potential Litigation per RCW 43.30.110(1)(i)

Ms. Schumacher extended the Executive Session 5 minutes at 10:47 a.m.

Ms. Schumacher extended the Executive Session 5 minutes at 10:52 a.m.

Ms. Schumacher extended the Executive Session 5 minutes at 10:57 a.m.

Commissioner Novakovich adjourned the Executive Session at 11:02 a.m. with no action taken.

Commissioner Novakovich reconvened the Regular Commission Meeting at 11:04 a.m.

COMMISSION COMMENTS

No comments were made.

ADJOURNMENT

With no further business to bring before the Board; the meeting was adjourned 11:05 a.m.

APPROVED:

**PORT of KENNEWICK
BOARD of COMMISSIONERS**

Skip Novakovich, President

Kenneth Hohenberg, Vice President

Thomas Moak, Secretary

**Clerks Note: Commissioner Moak lost connection with the internet and had technical difficulties during the Approval of the Agenda.*



WITHERSPOON
BRAJICICH
MCPHEE

TAUDD A. HUME
thume@workwith.com
509.252.5659

February __, 2022

Clover Island Development Company
c/o _____
[ADDRESS]

Re: *Clover Island Inn: Assignment of Lease*

Dear _____:

I am writing to you on behalf of the Port of Kennewick (the "Port") in relation to the Port's understanding of your desire to explore an assignment of the December 11, 2012 lease between the Port and Clover Island Development Company (the "Lease"). Section 12 of the Lease states:

Lessee shall neither transfer nor assign this Lease nor sublet the premises, or any part thereof, nor grant any interest, privilege or license whatsoever in connection with this Lease without the prior written permission of the Port; provided, however, that no such permission shall be arbitrarily withheld, and in the event of any transfer, Lessee shall remain responsible for all of the covenants and terms herein.

The purpose of this letter is to draw your attention to the language above that gives the Port broad authority to accept or reject any proposed assignment. Please understand that the Port has an obligation as a public entity to fully vet any assignment requests, and it is uncertain at this time, without conducting further due diligence, whether such a request would be granted.

To the extent that Clover Island Development Company would like to propose an assignment, the Port requests that you submit an official written request for the Port's consideration. Such a request should include the name and contact information for the proposed assignee, as well as

A Professional Limited Liability Company

601 West Main Avenue, Suite 714
Spokane, Washington 99201-0677
Telephone: (509) 455-9077
Facsimile: (509) 624-6441
Toll Free: (866) 903-9912

PETER A. WITHERSPOON
GARY D. BRAJICICH
JAMES A. MCPHEE[†]
PETER E. MOYE^{†*}^Δ
BRIAN M. WERST[†]
TAUDD A. HUME
ROBERT J. BURNETT
BRYCE J. WILCOX[†]

LAWRENCE W. GARVIN
JESSICA C. ALLEN[†]
THADDEUS J. O'SULLIVAN[†]
DEANNA M. WILLMAN

[†]Also Admitted in Idaho
^ΔAlso Admitted in Oregon
^{*}Also Admitted in California
^Δ Certified Specialist
Estate Planning, Trust & Probate Law
California State Board of Legal Specialization

www.workwith.com

your permission for the Port to reach out directly to that party for the purposes of undertaking our necessary due diligence.

Should you have any questions or concerns please do not hesitate to contact myself or Tim Arntzen at the Port of Kennewick.

Very Truly,

A handwritten signature in black ink, appearing to read 'T. Arntzen' or similar, with a stylized, cursive script.

TAUDD A. HUME
WITHERSPOON BRAJCICH MCPHEE, PLLC

cc: Tim Arntzen
Port of Kennewick, Chief Executive Officer



WITHERSPOON
BRAJCICH
MCPHEE

TAUDD A. HUME
thume@workwith.com
509.252.5659

February __, 2022

[NAME]
[ADDRESS]

Re: *Clover Island Inn: Assignment of Lease*

Dear _____:

I am writing to you on behalf of the Port of Kennewick (the "Port"). The Clover Island Development Company (the "CIDC") formally notified the Port that it desires to assign its interest in a December 11, 2012 lease of the Clover Island Inn property (the "Lease") to you. Section 12 of the Lease states:

Lessee shall neither transfer nor assign this Lease nor sublet the premises, or any part thereof, nor grant any interest, privilege or license whatsoever in connection with this Lease without the prior written permission of the Port; provided, however, that no such permission shall be arbitrarily withheld, and in the event of any transfer, Lessee shall remain responsible for all of the covenants and terms herein.

Pursuant to the language above, the Port has broad authority to accept or reject any proposed assignment. As a public entity the Port has an obligation to fully vet any assignment requests. CIDC indicated that the Port has its permission to seek further information from you as a putative Assignee under the Lease.

Accordingly, attached to this letter is a due diligence questionnaire soliciting certain information relating to your company and your proposed use of the Port's property. Please fill out and return this questionnaire to the Port in support of your request for an assignment of the Lease.

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601 West Main Avenue, Suite 714
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^{*}Also Admitted in California
^Δ Certified Specialist
Estate Planning, Trust & Probate Law
California State Board of Legal Specialization

www.workwith.com

Should you have any questions or concerns regarding this questionnaire or the assignment in general, please do not hesitate to contact myself or Tim Arntzen at the Port of Kennewick.

Very Truly,

A handwritten signature in black ink, appearing to read 'T. Arntzen' or similar, with a stylized, cursive script.

TAUDD A. HUME
WITHERSPOON BRAJCICH MCPHEE, PLLC

Enclosures

cc: Tim Arntzen,
Port of Kennewick, Chief Executive Officer

DUE DILIGENCE QUESTIONNAIRE

The Port of Kennewick requests the following information to assist with its due diligence efforts. Please be as thorough as possible to give us enough information to understand both your proposed use of Port property and you as a financially viable partner in the work the Port is undertaking on Clover Island. Please understand that the Port of Kennewick is a public agency and any information supplied pursuant to these requests is subject to the Washington State Public Records Act – Chapter 42.56 RCW.

1. Name and address of the proposed Tenant/Assignee.
2. Names and professional backgrounds of any owners, directors, officers of the proposed Tenant/Assignee.
3. Name and address of any corporate entity that is a member of the proposed Tenant/Assignee (a “Related Entity”).
4. Names and professional backgrounds of any owners, directors, officers of a Related Entity.
5. Describe the operating proposal of the Tenant/Assignee in the following terms:
 - a. Generally describe the Tenant/Assignee’s proposed use and operation of the Clover Island Inn property, including the type of uses and the square footage dedicated to each type of use (e.g. residential, commercial, retail etc.).
 - b. What specific improvements would be made to the exterior of the building?
 - c. What specific improvements would be made to the land?
 - d. How much of the site would remain open to the public?
 - e. What is the timing of the proposed improvements?
 - f. What are the parking requirements for the proposed use?
 - g. Describe how the proposed use and operation fit into and support the Clover Island Master Plan, the City’s zoning ordinances, the City’s Shoreline Master Program and the federal McNary Shoreline Management Plan.
 - h. Describe the permits or licenses the Tenant/Assignee needs to effectuate the operation of its proposal.

6. Please provide the following information for the proposed Tenant/Assignee and/or Related Party:
- a. Audited or certified financial statements for the past five (5) years of the Tenant/Assignee.
 - b. The charter documents (including the operating agreement) of the proposed Tenant/Assignee.
 - c. A description of other similar projects undertaken by the Tenant/Assignee.
 - d. Provide the name and state of registration for any subsidiaries of Tenant/Assignee.
 - e. Provide the names and addresses of the security holders (holders of options, preferred stocks, warrants etc.) of the Tenant/Assignee.
 - f. Please identify all sources of initial capital used to renovate, maintain and operate the Clover Island Inn.
 - g. What is the nature of any threatened litigation involving the Tenant/Assignee or any Related Party?
 - h. Please identify by name, cause number and jurisdiction any litigation in which the Tenant/Assignee has been a party within the past five (5) years.
 - i. Please identify by name, cause number and jurisdiction any litigation in which any of the owners, directors or officers of Tenant/Assignee has been a party within the past five (5) years.
 - j. Please identify by name, cause number and jurisdiction any litigation in which any Related Party has been a party within the past five (5) years.
 - k. Please identify by name, cause number and jurisdiction any litigation in which any of the owners, directors or officers of Tenant/Assignee has been a party within the past five (5) years.
 - l. Are there any governmental proceedings currently pending against the Tenant/Assignee or a Related Party?
 - m. Has the Tenant/Assignee or any Related Party declared bankruptcy in the past ten (10) years? If so, please provide the cause number and jurisdiction for such bankruptcy proceedings.

**PORT OF KENNEWICK
Resolution No. 2021-06**

The Willows Infrastructure Project

**A RESOLUTION OF THE PORT OF KENNEWICK AUTHORIZING THE
APPLICATION FOR FEDERAL APPROPRIATIONS FUNDING TO DEVELOP
INFRASTRUCTURE AT THE WILLOWS TO SUPPORT MIXED-INCOME/MIXED-USE
HOUSING IN COLLABORATION WITH THE KENNEWICK HOUSING AUTHORITY**

WHEREAS, our organization has an opportunity to seek federal appropriations funding to create shovel-ready parcels for housing and business/employment opportunities within a distressed area that has been designated a Federal Opportunity Zone; and

WHEREAS, the Commission directed staff to collaborate with the Kennewick Housing Authority to explore relevant tools that can connect and build housing (serving individuals and families in transition from poverty following Covid, and homeless and at-risk veterans) following completion of the required road and utility infrastructure; and

WHEREAS, this resolution will demonstrate the Commission's commitment to this endeavor, and acknowledge the Port's ability to obligate federal funding in Fiscal Year 2022; and

WHEREAS, the Board of Commissioners considers it in the best public interest to complete The Willows Infrastructure Project described as follows:

The project will construct water, sewer, storm drainage, roads, sidewalks, streetlights, landscaping, parking areas, and other appurtenances to prepare shovel ready lots on a 6.7-acre site which is owned by the Port of Kennewick and zoned as Urban Mixed Use by the City of Kennewick. In addition, four level-2 electric vehicle (EV) charging stations will be installed. And the project will implement smart regional planning to incorporate transit connections, as well as bicycle and pedestrian pathways and related fixtures to connect The Willows site with the greater Benton-Franklin County region.

NOW, THEREFORE, BE IT RESOLVED that:

- *The Chief Executive Officer of the Port of Kennewick is hereby authorized to make formal application for a Congressional Appropriations request of \$2,416,000.*
- *Our organization hereby certifies that any required share of matching funds derive from investments the port has previously made to acquire the land, clear the site, construct paved public pathways, install perimeter fencing, develop a community-driven master plan, and initiate preliminary design; and that this infrastructure project expands upon an additional \$24 million in public dollars already expended at Clover Island and Columbia Drive to revitalize that distressed neighborhood into a desirable residential waterfront located within a federally designated Opportunity Zone.*

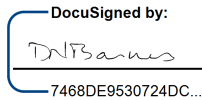
PORT OF KENNEWICK
Resolution No. 2021-06
Page 2

- *That appropriations funding received would be used for implementation of the project referenced above in support of a collaboration with the Kennewick Housing Authority efforts to expand opportunities for affordable housing to serve individuals and families in transition from poverty following Covid, seniors, and homeless and at-risk veterans.*
- *This resolution becomes part of a formal application package.*
- *We provided appropriate opportunity for public comment on this application.*

The resolution shall be effective immediately upon passage and signature by the Port of Kennewick Commissioners.

ADOPTED by the Board of Commissioners of Port of Kennewick this 11th day of May 2021.

PORT OF KENNEWICK
BOARD OF COMMISSIONERS

By:  7468DE9530724DC...

Don Barnes, President

By: ABSTAIN

Skip Novakovich, Vice-President

By:  A35176A2D2CD413...

Thomas Moak, Secretary

MEMORANDUM

To: Commission

From: Tim Arntzen, CEO

Date: 02/22/2022

Re: *Vista Field Implementation Approach (Vista Field Team)*

Now that the port's New Urbanism town center site has basic infrastructure, with lots soon ready to be sold, I am planning to assemble a team for Vista Field administration (the Team). The Team would respond to nearly all Vista Field related issues, including fielding all inquiries related to the site; property purchases; information requests; property tours; media information; processing of development proposals for commission consideration; additional planning and site revisions, etc.

Some of the tasks in support of creation of the Team, including our internal staff reorganizations and associations with contractors, identified below have been implemented. Some have not. At least at this point in time.

The overall goal is to get ready for land sales this summer. I only need as much of a team in place to effectively respond to that. Let's get it open with the team in place we need; we can adjust as we go along. That's the overarching principle!

1. Project Manager.

The project needs a "Point Person" to meet with realtors, builders and others expressing interest in the project. Amber Hanchette, port Director of Real Estate & Operations, is that point of contact related to Vista Field inquiries. This addition to her duties now requires her to spend more time on Vista Field matters. It would also limit the time she can spend pursuing her existing duties which include all phases of port operations and maintenance. She has a staff of three employees and several contract part-time personnel.

Thus, this change in Ms. Hachette's duties has created a need for "backfilling" in order to cover the duties she transferred to other qualified individuals within the organization. Specifically, Ms. Hanchette has transferred some of her duties to current Maintenance Supervisor Mike Boehnke. This phased transfer began in October of 2020 and is now complete. In administering her Vista Field related tasks, Ms. Hanchette will utilize the services of other staff and contractors as necessary (planning; administrative services, etc.) and would not be viewed a stand-alone asset. Rather she would be a part of a team as described below.

2. Maintenance Supervisor.

In reference to Item 1 above, current Maintenance Supervision, Mike Boehnke has assumed the spillover tasks from Ms. Hanchette, effective mid-February 2021.

We have experience with these two transitions. They are working well.

3. Maintenance Technician(s): New Hire.

Because of the overall increase in the number of port-owned properties, including Vista Field, I have identified a need to hire an additional entry-level maintenance technician. Part of the need is to provide for potential realignment within this department. Even though the port will eventually contract out much of the Vista Field maintenance to a private management firm, utilizing funding from the Property Owners Association (POA), staff will still be needed to provide oversight (i.e., ensuring contract compliance) and to perform emergency and priority maintenance matters on site; in addition to increasing maintenance demands from newly developed port properties and construction projects. It is anticipated that the cost of salary and benefits is estimated at \$90,000 annually.

In the meantime, we have been using temporary laborers, and until a hire of a permanent employee has been carried out, we will continue with the temporary workers. Additionally, temporary labor will continue to be utilized in place of Coyote Ridge Correctional Facility labor crews which are currently restricted due to Covid-mandates.

4. Project Planner/Coordinator.

Larry Peterson, port Director of Planning and Development will serve as the coordinator with the port's long-standing architectural advisors, DPZ, as well as Town Architects and Town Engineers (referenced below) related to the development of Vista Field.

5. Town Architect.

DPZ partner, Matt Lambert of Portland, Oregon has worked with the port from the early days of the Vista Field project and is a known commodity. He is willing to fulfill the role of town architect to provide detailed planning assistance with any additional improvements or alterations needed to Phase I of the project. He will also assist staff evaluating project proposals that the port receives through the collaborative design process. Matt will work as an independent contractor and will bill the port on an hourly basis for time expended on each task assigned. The port Director of Planning will assist and manage the DPZ efforts, ensuring the best value for time spent.

It should be mentioned that the day-to-day contact with the DPZ "mothership" from Miami is past. We now have the skillset internally and with the contractors mentioned in this memo to spread our own wings, so to speak. However, we are just a phone call away if we need the assistance of Lizz and Andreas. And Senen.

6. Governance & Management Advisors.

The port is currently in a contractual relationship with Ben Floyd (planner) and Doris Goldstein (New Urbanism attorney) to provide set-up of the property owner's association. This is anticipated to be a multi-year task with initial set up and continued monitoring and implementation advice and assistance (through a portion of Phase I).

7. Town Engineer(s).

Gary Hall of Hall Engineering and Darren Sandeno of Parametrix will provide engineering support for review of private sector projects and integration into established and planned infrastructure. They will bill on an hourly basis.

8. Construction Management.

I will contract with on-call construction management services on an as-needed basis to assist the port in review of construction proposals and to assist with review of construction progress.

It should be noted that when sales and site visits increase, I would like to think about transitioning Kandy to Amber's assistant. She has expanded her role into marina manager and is doing an exemplary job there. Should she pick up the duties of Amber's assistant, we would need to backfill at the office front desk. And with the office "closed" during Covid, I am unsure what level of front desk support we need. As I stated earlier in this memo, we will figure the rest out as we go. But most importantly, we are moving ahead so we can sell lots this summer. Exciting!

Memorandum

To: Tim Arntzen, Executive Director
From: Larry Peterson
Date: February 22, 2022
Re: Vista Field Policy Issues & Commission Decisions/Reaffirmations Needed

The remaining policy decisions/confirmations pertain to the Vista Field Owners Associations...the “creatures” that will require compliance with the approved design standards and assess the property owners for the perpetual maintenance of the non-City elements at Vista Field. At the next meeting concurrence will be sought on the package of documents and specifically the initial assessment rates and officers. Many of the documents have been previously approved and most of the others have very little subjective matter. The package of documents are attached in (number order) and it is encouraged that documents (1) and (2) be reviewed as those documents provide a summary of the overall intent.

❖ AGENDA & SCHEDULE OF POLICY ISSUES

JANUARY 25, 2022 Meeting

[Commission Reaffirmed via Consensus vote]

- ✓ Initial Marketing Area
- ✓ Initial Parcel Offer Prices

FEBRUARY 8, 2022 Meeting

[Commission Reaffirmation sought via Consensus vote]

- ✓ Joint-Use Parking areas initially provided by the Port {inherent role of the developer}
- ✓ Project Reinvestments triggered by initial development {inherent role of the developer}

FEBRUARY 22, 2022 Meeting

[Commission Reaffirmation sought via Consensus vote]

- (2) Vista Field Introduction to Governing Documents {helps to explain the regulatory pieces}
- (3) Vista Field Declarations-Overall {applies to entire site, regardless of use}
- (4) Vista Field Declaration-Commercial {2nd layer for commercial uses}
- (3 & 4) Vista Field Association Assessment Structure {actual costs to owners based upon use}
- (5 & 6) Vista Field Association Appointment of initial Registered Agent & Officers

[Shared with Commission for information but formal approval not required]

- (1) Vista Field Frequently Asked Questions {complementary document-helps explain VF}
- (5) Vista Field Association Articles of Incorporation-Overall {non-subjective/State form}
- (6) Vista Field Association Articles of Incorporation-Commercial {non-subjective/State form}
- (7) Vista Field Association By-Laws-Overall {non-subjective, dictated by State law}
- (8) Vista Field Association By-Laws-Commercial {non-subjective, dictated by State law}

❖ **POLICY ISSUES for February 22, 2022 meeting**

(Commission Reaffirmation sought via Consensus vote)

(2) Vista Field Introduction to Governing Documents

(3) Vista Field Declaration of Covenants-Overall

(4) Vista Field Declaration of Covenants-Commercial Property

(3 & 4) Vista Field Association Assessment Structure

(5 & 6) Vista Field Association Appointment of initial Registered Agent & Officers

The purpose, wording and implications of these documents were discussed in detail in mid to late 2020 resulting in the passage of Resolution 2020-22 on October 27, 2020, which approved the introduction and both the overall and commercial area declarations. Since that time minor grammatical changes have been made to both documents, primarily to assure consistency with the recently approved Design Standards.

These documents legally established the design review requirements and establish a mechanism to assess and collect funds from the future Vista Field owners to offset maintenance responsibilities for the common area elements. There are two layers to the design, oversight and assessment with those being the overall neighborhood of which every owner is a “member”; and a commercial association which allows for the commercial properties to decide collectively which activities above and beyond the baseline are worthy to fund. This separate layer is crafted to intentionally exclude the residential use from the commercial uses; and excludes the residential from both the commercial decision process and more importantly the commercial assessments.

During the summer and fall of 2021 much consideration was given to establishing an equitable means of assessment for those maintenance costs, which is based upon the “allocated interest” {think share}. A draft maintenance budget at both the current phase 1 state and buildout was developed and then the costs applied to various property types to yield an actual monthly/yearly assessment number. The budget was established with the intent the assessment would not need to be increased for the first 5 years {although the covenants would allow for adjustments if needed}. Bottom line being the overall neighborhood assessment for each **“Allocated Interest”** would be **\$650 annually** {slightly under \$55 month}. A single-family home over 1,000sf = 1 allocated interest and 1,000sf of commercial space = 1 allocated interest. So, a **single-family home** would pay **\$55 per month** and a 2,000sf restaurant would pay \$110 per month.

Following a brief refresher from Doris S. Goldstein, Attorney on the previously approved declarations for the overall Vista Field neighborhood and specific commercial areas, and a presentation of the actual assessments by type and size of use; an approval/acceptance action by the Commission would be sought.

QUESTION: Does the Commission concur the documents as presented are acceptable for the intended purposes and the initial assessment of \$650 annually per Allocated Interest is deemed reasonable?

Vista Field Association Appointment of Registered Agent and Initial Officers

The Articles of Incorporation and By-Laws for both the Overall neighborhood and the 2nd tier for the Commercial properties are forms and formats strictly dictated by state law, so there are few subjective matters to discuss. The two decisions that really need to be made/confirmed are who will be the “registered agent” and who will be the initial members on the “board of directors.” Both these decisions can be changed as the project evolves and the parties change. Typically, the attorney for the developer is listed as the “registered agent” and employees for the developer serve as the initial board members.

The boards for the Overall & Commercial Associations are charged with decisions such as approving contracts for maintenance work and material purchases for that maintenance work. These boards are not involved with the design review process and/or review of development proposals; that is a task overseen by the Port selected Town Architect. This board is a legal requirement and members will evolve as the development progresses and typically transitions from the developer’s employees to those that have a major stage in the development. At present, and for at least the first 5-years, the Port will have a predominate number of the allocated interests/shares, so it is typical for the developer to control the board when the developer has a majority of the financial responsibility to pay the assessments.

These documents have not been recorded yet, therefore could easily be changed; however, at present the Port’s Attorney Lucinda Luke is listed as the registered agent and the board of directors are listed as Michael Boehnke, Amber Hanchette and Larry Peterson.

QUESTION: Does the Commission concur with the proposed registered agent and initial slate of officers for the Vista Field overall and commercial associations?

(Shared with Commission for information but formal approval not required)

(1) Vista Field Frequently Asked Questions {complementary document}

(5) Vista Field Association Articles of Incorporation-Overall

(6) Vista Field Association Articles of Incorporation-Commercial

(7) Vista Field Association By-Laws-Overall

(8) Vista Field Association By-Laws-Commercial

The above documents are included to provide a complete “package”; however, there is no subjective material involved, except for the questions posed directly above regarding the initial registered agent and board of directors. The Frequently Asked Questions (FAQ) document is not a required document, however this was crafted with the intent to help all involved, whether they be Port staff, Commissioners, developers, realtors or citizens.

- - -



VISTAFIELD

Frequently Asked Questions

How is Vista Field different?

Vista Field is a walkable mixed-use community. In addition to nearly 1,000 residential households, Vista Field will have parks, restaurants, retail, offices and entertainment.

Most of the commercial activity will be located in the Vista Field Town Center. While automobiles are accommodated with parking spaces and driving lanes, the community is designed so that residents can also walk or bike to the Town Center from any part of Vista Field.

Residents can choose to live either in the Town Center or in residential neighborhoods surrounding the Town Center. Additional smaller mixed-use areas in other parts of Vista Field may be developed later.

Who is the developer of Vista Field?

The Port of Kennewick, an independent governmental agency responsible for economic development, owns Vista Field, which is being built on the site of an abandoned airfield. Working collaboratively with the City of Kennewick, the Port as master developer initiated and guided the design process, obtained the entitlements and made the infrastructure improvements.

What is the master plan?

The [Master Plan](#) is a conceptual drawing showing the general location of streets, open space and buildings, the relationship between commercial and residential property and the connections between Vista Field and the surrounding areas of the City of Kennewick. The Master Plan is subject to change and will be modified from time to time.

Are the streets private or public?

Some streets are owned by the property owners' association discussed below, while others are dedicated to the public. Most parks, squares, plazas and neighborhood streets that are owned by the association are open for appropriate use by the public, subject to reasonable regulation.

How is Vista Field being phased?

The first phase will include part of the Town Center and part of a residential neighborhood. Subsequent phases may be added in any order. Although it is the current plan to do so, it is not required that all land shown on the Master Plan be developed as part of Vista Field.

What is the architectural review process?

Vista Field has Design Standards to establish a visual identity and to carry out the walkability features. Plans and specifications for any building must be approved prior to construction, including landscaping and exterior building colors. The Town Architect will assist owners and their architects during the process of design to help in applying the Design Standards. Any later modification during construction or after completion must also be reviewed and approved.

How does the property owners' association operate?

The Vista Field Declaration of Covenants, Conditions and Restrictions (the "Vista Field Declaration") establishes the Vista Field Association, which is responsible for maintaining common areas shared by the entire community. All owners of property, both residential and commercial, will be voting members of the Vista Field Association (the "Association").

The Vista Field Declaration is written to comply with the Washington Uniform Common Interest Ownership Act (WUCIOA), a law enacted in 2018 that regulates residential and mixed-use owners' associations. The Port—known in the documents as the Founder—reserves the right to elect a majority of the board of directors of the Vista Field Association to the greatest extent permitted by the WUCIOA.

How are assessments determined?

Each parcel of property in Vista Field, residential and commercial, is assigned an Allocated Interest.

- **Residential Property:** Most individual dwelling units are assigned one Allocated Interest, although small units and some multi-family dwellings will be assigned 0.8 Allocated Interest per dwelling unit.
- **Commercial Property:** Commercial parcels are assigned Allocated Interests based on square footage, with 1,000 square feet being equal to one Allocated Interest.
- **Mixed-Use Parcels:** Live/work units and other mixed-use parcels are assigned an Allocated Interest based on both the dwelling units and the commercial portion.

The Association's budget, including maintenance of streets, parks and the water feature, as well as general management and other expenses, is divided among all properties based on Allocated Interests. It is estimated that parcels in the initial phase will pay assessments of \$650 per year per Allocated Interest. Assessments will be adjusted annually based on the budget.

Are there additional requirements for commercial property?

A separate document, the Vista Field Declaration of Covenants, Conditions and Restrictions for Commercial Property (the "Commercial Declaration") applies only to commercial property (including the commercial portions of mixed-use property) within Vista Field. The property

owners' association formed under the Commercial Declaration (the "Commercial Association") is responsible for maintenance of shared spaces that mostly serve commercial property. It also regulates and promotes businesses within Vista Field.

Owners of commercial parcels and mixed-use parcels will be members of both the Vista Field Association and the Commercial Association and will pay assessments to both. Assessments to the Commercial Association are determined based on the value of the commercial portion of the parcel as appraised by the Benton County Tax Assessor.

Owners of residential property are not members of the Commercial Association and are not affected by the Commercial Declaration.

Does the Vista Field Declaration restrict leasing? Resale? Pets?

Parcels may be rented, subject to reasonable rules and regulations as adopted by the Association from time to time. Parcels may be resold without restriction, subject to the Vista Field Declaration.

Pets are allowed consistent with City zoning and the Vista Field Association's rules and regulations, including rules on noise, odor and safety. Owners may be required to keep pets on a leash and collect and dispose of animal waste when walking pets in the community.

How can I buy and build in Vista Field?

Builders of commercial, residential and mixed-use properties can find an additional FAQ for builders as well as detailed information about the Collaborative Design Process on-line. Private individuals seeking to live in Vista Field may contact one of the approved Vista Field residential builders for availability.

This FAQ is summary in nature. Please see the Vista Field Declaration for additional information.

2/17/22



VISTA FIELD

Introduction to Governing Documents

Relating to
The Vista Field Declaration of Covenants, Conditions and Restrictions
and to
The Vista Field Declaration of Covenants, Conditions and Restrictions
for Commercial Property

THE PORT OF KENNEWICK (the "Port") executes this Introduction to Governing Documents for Vista Field on the _____ day of _____, year of _____.

HISTORY AND DESIGN

History of the Site. The Vista Field Airport, which began operations in the 1940s, was an auxiliary field for training naval aviators located at the nearby Naval Air Station Pasco during World War II. In the decades after, it served as a public use airport. In 1991, the Port purchased the airport and surrounding lands from the City of Kennewick and took over its management.

Faced with declining use of the airfield, the Port in 2012 opened public discussion of the airport's future, including concepts for redevelopment as a mixed-use community led by the design firm, Duany Plater-Zyberk & Company (DPZ). After substantial stakeholder input over a six-month period, the Port Commission unanimously decided in 2013 that closure and redevelopment of the Vista Field Airport was in the community's best interest.

Vision. The 103-acre site is located in the City of Kennewick at the geographic and commercial heart of the Tri-Cities, Washington, next to the region's sports and convention venues. It is envisioned to have active areas used day and evening for living, working, recreating and entertaining. While subject to change, these uses may include:

- Public and quasi-public open spaces, ranging from small pocket parks to a large central plaza for recreation and entertainment.

- Nearly 1,100 residential units, including single family homes, condominium and apartments.
- Approximately 750,000 square feet of retail, office, service and entertainment, most of it in Vista Field's Village Center.

The City crafted the Urban Mixed Use (UMU) zoning district and adjusted other land use regulations to allow mixed-use, pedestrian-friendly development as envisioned in the 2017 City and Port-adopted Vista Field Master Plan (the "Master Plan").

Master Plan. The Master Plan lays out the overall design and development concept for Vista Field. It is subject to change and refinement during development and is not guaranteed. A legal description of the 103 acres of land, known as the Master Plan Area, is attached as Exhibit A to this Introduction.

Due to its history as an airfield, the site is long and relatively narrow. The Master Plan currently shows a main street and a parallel, secondary pedestrian-oriented street running the length of the site. These two very different streets weave around one another, with utility alleys running parallel to both. The proposed Village Center is at the physical center of the plan.

Projects designed by DPZ interweave residential and commercial uses in a compact form, unlike more typical mixed-use projects that separate homes from businesses. Uses may be mixed within a single building, sometimes known as live/work units, that may have an office or shop at street level and living space above. This tight interconnection between uses directly influences the form of governance of Vista Field.

GOVERNANCE STRUCTURE

Two Governing Documents. The governance structure was developed after thorough examination of the master plan for Vista Field, experience with other DPZ-designed projects, discussions with Port and DPZ staff, and review of applicable Washington law, and resulted in the preparation of two governing documents:

1. The **Vista Field Declaration of Covenants, Conditions and Restrictions** (the "Vista Field Declaration"), which establishes the common interest community to be known as Vista Field and applies to all property within Vista Field (with each individually owned piece of land known as a "Parcel"), and
2. The **Vista Field Declaration of Covenants, Conditions and Restrictions for Commercial Property** (the "Commercial Declaration"), which applies only to commercial Parcels and the commercial portions of mixed-use Parcels within Vista Field.

The Vista Field Declaration and the Commercial Declaration (together, the "Declarations") are recorded immediately following this Introduction. Both concern the development of the Master Plan Area and its long-term operation as a vibrant mixed-use area in the City.

Independent Operation. Even though the Vista Field Declaration affects the entire common interest community, and the Commercial Declaration applies only to its commercial and mixed-use properties, the Vista Field Declaration is not a master declaration as that term is generally used. The two Declarations and the associations they create have separate purposes and are intended to operate independently.

VISTA FIELD DECLARATION

Purpose. The Vista Field Declaration provides for the establishment of a property owners' association (the "Vista Field Association") to manage and maintain those parts of Vista Field that are used by the entire community. Known as Common Elements, these are owned, managed and/or controlled by the Vista Field Association and include certain streets, open space, water features and other facilities and grounds. Some streets will be dedicated to the public and are not part of the Common Elements. Limited Common Elements are owned, managed and/or controlled by the Association but serve only certain Parcels that have the right to use such Limited Common Elements, such as an alley.

Phasing. With the recording of the Vista Field Declaration and submission of the first phase, Vista Field is officially created as a common interest community. Additional land may be added in phases. The Port, known in the documents as the "Founder," may, but is not required to, add any part of the Master Plan Area, in any order. Once land is added to the Vista Field Declaration, it is subject to its terms, including the requirement to pay assessments.

As each phase is created, a supplemental declaration will be recorded, making the additional property part of the Vista Field community that is subject to the Vista Field Declaration.

No portion of the Master Plan Area shall be part of Vista Field or subject to the Vista Field Declaration or the Commercial Declaration until added as a phase by a supplemental declaration.

Washington Uniform Common Interest Ownership Act. The Vista Field Declaration is written to comply with the Washington Uniform Common Interest Ownership Act (as amended, the "Act"). The Act, which was enacted in 2018, applies to common interest communities that include residential property. In the event of any conflict between the Vista Field Declaration and the Act, the Act shall govern and control.

Vista Field Association Membership. Members of the Vista Field Association include all Parcel owners within Vista Field, both residential and commercial. The Declaration allows the Founder to retain control of the Association for the longest period permitted under the Act.

Allocated Interests. The Declaration states a formula to assign to each Parcel an Allocated Interest as required by the Act. The Allocated Interest for a Parcel determines both its share of the assessments and its voting rights. Most residential Parcels are assigned the same assessment per dwelling unit. However, dwelling units of smaller than 1000 square feet and units in apartment buildings pay slightly less. Allocated Interests for commercial space is based on square footage. Parcels that include both residential and commercial space combine the formulas to determine the Parcel's Allocated Interest.

Maintenance Zones. Maintenance Zones are smaller areas within Vista Field that share Limited Common Elements or that require other specialized shared maintenance, such as a landscaped courtyard that is part of a bungalow court. They are a flexible tool to tailor services and cost allocation to particular areas within the community as they are developed. The Maintenance Zone concept allows the Association to provide this additional maintenance and bill the cost to the benefited owners.

Design Review. All new construction and modification of existing buildings are subject to design review. Design review is reserved to the Founder during the entire Development Period, defined in the Declaration as six months after the Founder neither owns a total of at least one acre of land in the Master Plan Area nor holds any Parcels for sale in the normal course of business, but no later than 75 years. A Town Architect will work with applicants and their architects and to review plans. At the end of the Development Period, the review rights for residential property is automatically assigned to the Association, while review rights for commercial and the commercial portion of mixed-use Parcels is assigned to the Commercial Association described below.

Effect of Declaration on Commercial Property. Like residential owners, commercial property owners pay assessments for the maintenance of Common Elements that serve the entire community. However, the Vista Field Association is not responsible for maintaining primarily commercial space or regulating businesses. Instead, the Commercial Declaration, a separate document summarized below, governs the operation of commercial property and the commercial portions of mixed-use property wherever located in Vista Field.

COMMERCIAL DECLARATION

Purpose. The Commercial Declaration provides for the establishment of a Commercial Association, which has three primary purposes:

- *Maintenance:* The Commercial Association will be responsible for maintenance of the commercial common areas, such as plazas, landscaping and street furniture.
- *Management:* The Commercial Association will oversee and regulate businesses' use of shared space, and may regulate some aspects of business operation, such as hours of operation. It may also participate in such services as shared parking arrangements, sanitation and security.
- *Promotion:* The Commercial Association's Marketing Director will promote Vista Field for the mutual benefit of all businesses, including advertising, special event programming, seasonal decoration and other promotional activities.

Application only to Commercial Property. The Commercial Declaration applies to all commercial property anywhere within Vista Field, plus the commercial portion of mixed-use buildings. Any residential Parcel and any residential portions of mixed-use Parcels within Vista Field will be automatically excluded. If the use of the Parcel is later changed to commercial, it becomes subject to the Commercial Declaration as uses change. The reverse is also true; commercial property (or any portion thereof) that is converted to residential use will no longer be subject to the Commercial Declaration.

Commercial Association. All commercial property owners within Vista Field will be members of the Commercial Association and pay assessments based on Assigned Value. As provided in the Commercial Declaration, Assigned Value is based on the appraised value of a commercial Parcel or the commercial portion of a mixed-use property as determined by the Benton County Tax Assessor.

The Commercial Declaration is not subject to the Washington Uniform Common Interest Ownership Act. The documents allow the Founder to choose how long it operates and controls the Commercial Association.

Implementation and Phasing. The Commercial Declaration is recorded at the same time as the Vista Field Declaration and becomes effective at the same time. As phases are added to the Vista Field Declaration, commercial Parcels and the commercial portions of mixed-use Parcels within the additional property will automatically become subject to the Commercial Declaration.

This document is a summary. Further information about specific terms is contained in the Declarations. In the event of a conflict between this Introduction and the Declarations, the Declarations shall govern and control.

The Port has executed this summary of the Vista Field Declaration and Commercial Declaration and caused it to be recorded in the public records.

WITNESSES:

PORT OF KENNEWICK

By: _____

_____ its _____ president

ACKNOWLEDGEMENT

STATE OF _____)

) ss.

COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as _____ of PORT OF KENNEWICK, to be the free and voluntary act of such parties for the uses and purposes mentioned in this instrument.

DATED: _____.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary public in and for
the state of: _____
Residing at: _____
My appointment expires: _____

Exhibit A: Master Plan Area



VISTA FIELD

DECLARATION

of

Covenants, Conditions and Restrictions

Prepared by:

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Glossary

Capitalized words are defined terms, which means they have a specific meaning as defined in this Declaration. Defined terms are usually defined the first time they are used in the text or in a portion of the text where the definition is important. Below is a table listing defined terms and where they can be found.

Act:	<i>Submission to Declaration</i>
Additional Property:	<i>Paragraph 1.3.1</i>
Allocated Interests:	<i>Section 2.2</i>
Articles of Incorporation:	<i>Paragraph 2.1.1 and 2.1.6</i>
Arts Fund:	<i>Paragraph 1.2.4</i>
Association:	<i>Paragraph 2.1.1</i>
Assessments:	<i>Section 5.3</i>
Board:	<i>Paragraph 2.1.2 and the Act</i>
Bylaws:	<i>Paragraph 2.1.1 and 2.1.6</i>
Capital Improvement:	<i>Section 8.1</i>
Commercial:	<i>Paragraph 1.2.2</i>
Commercial Association:	<i>Paragraph 1.2.3</i>
Commercial Declaration:	<i>Paragraph 1.2.3</i>
Common Streets:	<i>Paragraph 3.3.2</i>
Common Elements:	<i>Section 3.1 and the Act</i>
Common Interest Community:	<i>Submission to Declaration</i>
Dependent Attached House:	<i>Section 4.3</i>
Design Standards:	<i>Section 7.2</i>
Design Review Board (DRB):	<i>Section 7.3</i>
Founder:	<i>First paragraph in Declaration; Paragraph 9.3.1</i>
Initial Property:	<i>Recitals and Submission to Declaration</i>
Introduction:	<i>Recitals to Declaration</i>
Limited Common Element:	<i>Section 3.2</i>
Master Plan:	<i>Paragraph 1.1.2</i>
Master Plan Area:	<i>Submission to Declaration and Paragraph 1.1.1</i>
Maintenance Zone:	<i>Section 4.2</i>
Mixed-Use Parcel:	<i>Paragraph 1.2.2</i>
Net Usable Square Footage	<i>Paragraph 2.2.7</i>
Owner:	<i>Submission to Declaration</i>
Parcel:	<i>Submission to Declaration</i>
Plat:	<i>Submission to Declaration</i>
Property:	<i>Submission to Declaration</i>

Residential:	<i>Paragraph 1.2.2</i>
Special Assessment:	<i>Paragraph 5.3.3</i>
Special Use Parcel	<i>Paragraph 2.2.5</i>
Specially Allocated Assessment:	<i>Paragraphs 5.1.2, 5.3.2 and the Act</i>
Supplemental Declaration:	<i>Paragraph 1.3.2</i>
Town Architect	<i>Section 7.1</i>
Town Center:	<i>Paragraph 1.2.2</i>
Woonerf:	<i>Paragraph 3.3.1</i>

VISTA FIELD DECLARATION of Covenants, Conditions and Restrictions

THE PORT OF KENNEWICK, to be known in this document as the "Founder," makes this Declaration of Covenants, Conditions and Restrictions for Vista Field (the "Declaration") on the _____ day of _____, year of _____.

RECITALS:

- A. The Founder is the owner of all of the property in Benton County, Washington, described on Exhibit A (the "Initial Property") and Exhibit B (the "Master Plan Area").
- B. The purpose of this Declaration and the unique characteristics of the common interest community to be known as Vista Field are as described in the Introduction to Governing Documents for Vista Field (the "Introduction"), recorded in the Official Public Records of Benton County, Washington immediately prior to this document and hereby incorporated by reference.

SUBMISSION TO DECLARATION

The Founder hereby submits the Initial Property to this Declaration of Covenants, Conditions and Restrictions and declares that the Initial Property and any other property made subject to this Declaration (together, the "Common Interest Community") shall be held, sold and conveyed subject to the covenants, restrictions and easements of this Declaration.

It is intended that this submission be in accordance with Chapter 64.90, Revised Code of Washington, which, as amended from time to time, shall be known in this Declaration as the Washington Uniform Common Interest Ownership Act, or the Act. The Founder is to be considered the Declarant under the Act.

Vista Field is a plat community under the Act, in which land has been subdivided in accordance with a drawing of a subdivision known in Chapter 58.17, Revised Code of Washington, as a Plat. A Plat is also known as a Map under the Act.

A "Parcel" is the smallest piece of land that can be owned within the Common Interest Community; it is usually a platted lot but can also be a condominium unit. A Parcel shall be considered a Unit under the Act.

A person, group of people or entity that owns a Parcel is known in this Declaration as an "Owner." The Founder may also be an Owner for so long as the Founder is record owner of any Parcel.

This Declaration shall run with the land and be binding upon each owner of a parcel within the Common Interest Community, their heirs, successors and assigns, and upon all other parties, heirs, successors and assigns having any right, title or interest in all or any part of the Common Interest Community.

The Founder also hereby provides notice of certain restrictions, as further described in Paragraph 1.1.4, for the property described on Exhibit B (the "Master Plan Area") but does not submit the entire Master Plan Area to all the terms of this Declaration at this time.

The following attachments to this Declaration are hereby fully incorporated by reference:

- Exhibit A, Legal Descriptions, The Initial Property
- Exhibit B, Legal Description, The Master Plan Area

Part I:

Development Plan

- 1.1 Master Plan
- 1.2 Description of Community
- 1.3 Phasing and Development
- 1.4 Easements
- 1.5 Special Declarant Rights

1.1 Master Plan

1.1.1 Master Plan Area. The Master Plan Area is all that property described on Exhibit B comprising approximately 103 acres, including the Initial Property. The Master Plan Area is owned initially by the Founder and may be developed in any sequence. Although it is the current plan to do so, it is not required that all land within the Master Plan Area be developed as part of Vista Field and made subject to this Declaration.

1.1.2 Master Plan. The Master Plan is a conceptual drawing created by the design firm, Duany Plater-Zyberk & Company (DPZ) to illustrate a plan for development of the Master Plan Area. The Master Plan shows the general location of streets, open space and buildings, the relationship between commercial and residential property and the connections between Vista Field and the surrounding areas of the City of Kennewick. The Master Plan is general in nature and subject to change at the Founder's discretion. It is not a Plat and does not confer any legal rights to Owners of property within Vista Field.

1.1.3 Modification of Master Plan Area. The Founder may modify the Master Plan Area by adding or removing property at any time during the Development Period. Any additional land must be within one-half mile of the then-current boundaries of the Master Plan Area. Subject to City requirements, the Founder may record an amendment to this Declaration providing notice of such change, which shall not require the consent of any party other than the Founder and the owner of the property being added or removed, if different from the Founder.

1.1.4 Conveyances of Property within Master Plan Area. Property within Development Area is not subject to this Declaration unless it is part of the Initial Property or added to the Declaration under the phasing provisions of Section 1.3. If the Master Developer conveys any property within the Development Area during the Development Period without declaring the property to be subject to this Declaration, the Master Developer shall have the right to record a corrective instrument submitting such property to this Declaration unless the deed or other recorded

Part I: Development Plan

instrument executed by the Master Developer explicitly states that the property is not subject to the Declaration.

1.2 Description of Community

1.2.1 Name. Vista Field, a plat community, is the name by which the community may be known to the public and may include all of the property within the Master Plan Area, whether or not submitted to this Declaration.

1.2.2 Mixed Use.

- (a) **Community.** Vista Field is a mixed-use community, where residents as well as the general public can enjoy shops, restaurants and activities. Commercial activity is primarily located within a centralized mixed-use area known as the Town Center. The general boundaries of Town Center are shown on the Master Plan. In addition, smaller commercial areas may be developed in other parts of Vista Field. Concerts, festivals and other events that invite the public may take place within Vista Field, contributing to an active civic life. Commercial property is subject to a Commercial Declaration as described in paragraph 1.2.3. Except as expressly provided in this Declaration, this Declaration and the Association do not regulate the operation of the businesses within the Common Interest Community.
- (b) **Definitions of Residential and Commercial.** This Declaration uses the words “residential” and “commercial” in their common sense. The capitalized term “Residential” shall be as defined under the Act and shall also include residential apartments and apartment developments (but not hotels), plus all portions of a Parcel qualified as a home occupation under the City of Kennewick Municipal Code, section 18.42.090 as revised and interpreted from time to time. The capitalized term “Commercial” shall mean every use that is not Residential.
- (c) **Mixed-Use Parcels.** The Master Plan for Vista Field encourages the development of Mixed-Use Parcels that include both Commercial and Residential space under single ownership. An example of a small Mixed-Use Parcel, also known as a live/work unit, may be a townhouse with an office or small shop below and a Residential unit above. A Mixed-Use Parcel could be a larger building with both Commercial space and Residential units, some of which would likely be rented. Note that a mixed-use condominium building would not usually be a Mixed-Use Parcel because the condominium units, some of which would be Residential and some of which would be Commercial, would be separately owned Parcels.

1.2.3 Commercial Declaration. In addition to this Declaration, all Commercial property within Vista Field is subject to a separate instrument known as the Vista Field Declaration of Covenants, Conditions and Restrictions for Commercial Property (“Commercial Declaration”), which creates a separate association known as the Commercial Association. The Commercial Declaration applies only to Commercial Parcels within Vista Field, plus the Commercial portion of Mixed-Use Parcels. Only Owners of a Commercial or Mixed-Use Parcel shall be a member of the Commercial Association. Assessments and voting rights in the Commercial Association are based on Commercial Parcels, or the Commercial portion of Mixed-Use Parcels. Residential Parcels are not

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members of the Commercial Association and do not pay assessments to the Commercial Association.

1.2.4 Arts Fund. The Founder shall establish a fund (the “Arts Fund”) and contribute to the Arts Fund an amount equal to one percent of the sales price of sales from the Founder to the first purchaser of all Parcels within Vista Field. The Arts Fund shall be administered by the Founder and used by the Founder to select and install art within Vista Field in accordance with its Art Policy, Port of Kennewick Resolution 2016-29. In general, art will be located in accessible outdoor spaces and other areas where it can be enjoyed by the public. Installations are intended to be made by artists to engage the public and enhance the natural and built environment. Art may be functional, such as specially designed playground equipment, light posts or bicycle racks. At the Founder’s discretion, works purchased with the fund may be contributed to the Association as part of the Common Elements, or privately administered and maintained by the Founder or its assigns. The Founder may discontinue the contribution for any future phase by so noting in the Supplemental Declaration creating that phase.

1.25 Number of Parcels. The Initial Property includes 40 Parcels. The maximum number of Parcels that may be created is 2,500.

1.26 Restrictions on Sale or Lease. There are no restrictions on the sale of Parcels or the amount that can be received from any sale or property transfer. Residential Parcels may be leased, subject to regulation by the Association in Paragraph 6.1.2. Commercial Parcels may be leased subject to the Commercial Declaration.

1.2.7 Interpretation. This Declaration shall be liberally construed to allow for the operation of a mixed-use community within the Common Interest Community. The Association is prohibited from regulating the operation of Commercial uses within the Common Interest Community, including without limitation days and hours of operation of individual businesses.

1.3 Phasing and Development

1.3.1 Additional Property. Property within the Master Plan Area will be platted and made subject to this Declaration in phases. Property to be added to this Declaration (“Additional Property”) may be authorized in either the following ways:

- (a) **By the Founder.** The Founder shall have the right, but not the obligation, at any time during the Development Period, to add to the Common Interest Community any part of the Master Plan Area, including any land added to the Master Plan Area as provided in paragraph 1.1.3. Such action shall not require the consent of the Association or any Owners other than the owner of the Additional Property if different from the Founder.
- (b) **By the Association.** Subject to the Act, property of any type may be added to the Common Interest Community at any time by a majority vote of the Board. During the Development Period, such action shall require the consent of the Founder and the Owner of the Additional Property if different.

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1.3.2 Procedure for Submission. Additional Property authorized under Paragraph 1.3.1 may be added by Supplemental Declaration or, for property added by the Founder, by Deed as follows:

- (a) **Supplemental Declaration.** A Supplemental Declaration shall describe the property to be added, including a cross-reference by recording number to the Plat, and executed with the formality of a deed (and by the recording of any amendments to this Declaration and the Plat required by the Washington Uniform Common Interest Ownership Act). The Supplemental Declaration shall require execution or consent and joinder of the parties listed in Paragraph 1.31 (a) or (b) as applicable.
- (b) **Submission by Deed.** Alternatively, for property added by the Founder, the Founder may submit the property to this Declaration by specifically declaring the land to be subject to this Declaration in the deed conveying the property from the Founder to the first Owner other than the Founder (and by recording any amendments to this Declaration and the Plat required by the Washington Uniform Common Interest Ownership Act).
- (c) **Optional Provisions.** The Supplemental Declaration or deed may identify Common Elements as described in Section 3.1 or Limited Common Elements as described in Section 3.2, may set forth Allocated Interests for Parcels within the Additional Property in accordance with the provisions of Section 2.2 of this Declaration, may create a new Maintenance Zone as described in Section 4.2 and may modify or add to the provisions of this Declaration as to the Additional Property if needed to reflect the different character of the Additional Property.
- (d) **Effect.** A Supplemental Declaration or deed adding the Additional Property shall become effective upon being recorded in the county's public records.

1.3.3 Withdrawal of Property. During the Development Period, the Founder reserves the right to withdraw property from the Common Interest Community so long as all Owners within the area to be withdrawn consent, reasonable access to the remaining portions of the Common Interest Community is preserved, and subject also to any City requirements. Withdrawal shall be accomplished by recording of an instrument in the public records executed by the Founder and any other Owner of the property to be withdrawn and by the recording of any amendments to this Declaration and the Plat required by the Act.

1.3.4 Modification of Parcel Boundaries. During the Development Period, the Founder may redefine Parcels prior to sale by dividing or combining Parcels or portions of Parcels and adjusting the boundary of a Parcel. The Founder shall also have the right to modify Plats of the land within the Common Interest Community to make adjustments to Parcel boundary lines with consent only of those Owners whose Parcel boundaries are to be changed. Any subdivision or combination of Parcels other than by the Founder shall require approval under the design review provisions of Part VII and shall also require the consent of the Founder during the Development Period. The division or combination of Parcels may also be subject to the Washington Uniform Common Interest Ownership Act and zoning or other governmental regulation.

1.3.5 Development Period. Wherever used in this Declaration, the Development Period shall be defined as that period of time that begins with the recording of this Declaration and continues for

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six months after the Founder neither owns a total of at least one acre of land in the Master Plan Area nor holds any Parcels in the Common Interest Community for sale in the normal course of business. However, in no event shall the Development Period extend beyond seventy-five (75) years from the recording of this Declaration.

1.4 Easements

1.4.1 Reservation of Easements. The Founder hereby reserves the easements in this Section 1.4 for itself, its successors and assigns, and for the Association and its assigns as perpetual, nonexclusive easements, which shall benefit the Common Interest Community and all other properties owned by Founder or its assigns which are adjacent to, or reasonably near, the Common Interest Community (including property separated from the Common Interest Community by a public road).

1.4.2 Utility Easements. An easement is hereby reserved on, over, under and through the Common Interest Community for ingress, egress, installation, replacement, repair and maintenance of all public and private utility and service systems. These systems include, but are not limited to, water, sewer, irrigation systems, drainage, telephone, electricity, gas, television, cable or communication lines and other equipment. Except where indicated on the Plat or as described in specific recorded easements, such easements shall be located within the street right-of-way or other Common Elements, or in alley easement areas. By virtue of this easement the Founder, and its successors or assigns, may install and maintain facilities and equipment, excavate for such purposes and affix and maintain wires, circuits and conduits.

1.4.3 Police Powers. A blanket easement is hereby reserved throughout the Common Interest Community for private patrol services, and for police powers and services supplied by the local, state and federal governments.

1.4.4 Drainage. A blanket easement and right are hereby reserved on, over, under and through the ground within the Common Interest Community for drainage of surface water and other erosion controls.

1.4.5 Encroachment. An easement is hereby reserved for any improvements constructed on the Common Elements that encroach on any Parcel, whether due to any minor deviation from a Plat or the settling or shifting of any land or improvements.

1.4.6 Maintenance of Common Elements. To the extent reasonably necessary, an easement is hereby reserved over any Parcel for maintenance of the Common Elements or to perform any duties required or permitted to be performed by the Association, its agent or assigns.

1.4.7 Special Events. The Founder reserves for itself and for the Commercial Association an easement for use of the Common Elements within the Town Center for special events such as concerts and festivals. After any such events, the Commercial Association shall provide any additional maintenance required by the event, including trash collection, clean-up and restoration.

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1.5 Special Declarant Rights

1.5.1 Special Declarant Rights. The provisions of this Section 1.5 are intended as Special Declarant Rights under the Act and are effective during the entire Development Period with respect to the entire Common Interest Community, unless the provision specifies otherwise. There are no assurances as to the portions of the Common Interest Community that may be affected by these rights, or the order in which these rights may be exercised. Any Special Declarant Rights may be exercised with respect to different real estate at different times. Exercise of a Special Declarant Right in any portion of the Common Interest Community does not require that the Special Declarant Right be exercised in any other portion of the Common Interest Community.

1.5.2 Development Rights. The Founder has the right to exercise any Development Right (without the consent of the Association or the Owners) permitted under the Act with respect to the entire Common Interest Community, including the following:

- (a) Add real estate or improvements to the Common Interest Community (including Capital Improvements);
- (b) Create Parcels, Common Elements, or Limited Common Elements within the Common Interest Community;
- (c) Subdivide or combine Parcels or convert Parcels into Common Elements;
- (d) Add and withdraw real estate from the Master Plan Area as further provided in Paragraph 1.1.3 and withdraw real estate from the Common Interest Community as further provided in Paragraph 1.3.3;
- (e) Adjust the boundaries of a Parcel during the Development Period prior to sale, as provided in Paragraph 1.3.4, and
- (f) Reallocate Limited Common Elements with respect to Parcels that have not been conveyed by the Founder.

1.5.3 Additional Reserved Rights. In addition to the Development Rights, the Founder reserves the following rights with respect to the entire Common Interest Community:

- (a) Complete any improvements indicated on a Plat or described in this Declaration or a public offering statement delivered pursuant to paragraph 64.90.610(1)(h) of the Act;
- (b) Maintain sales offices, management offices, signs advertising the Common Interest Community, and models;
- (c) Use easements through the Common Elements for the purpose of making improvements within the Common Interest Community or within real estate that may be added to the Common Interest Community, including those specified in Section 1.4;
- (d) Make the Common Interest Community subject to a master association;
- (e) Merge or consolidate the Common Interest Community with another common interest community of the same form of ownership;

Part I: Development Plan

- (f) Appoint or remove any officer or board member of the Association or any master association or veto or approve a proposed action of any Board or Association, pursuant to section 64.90.415 of the Act;
- (g) Control any construction, design review, or aesthetic standards committee or process as further provided in Part VII;
- (h) Attend meetings of the Owners and, except during an executive session, the Board; and
- (i) Have access to the records of the Association to the same extent as a Parcel Owner.

Part II:

The Association

2.1 Establishment

2.2 Allocated Interests

2.1 Establishment

2.1.1 Membership. The Vista Field Association (the "Association") is established under Washington law as a nonprofit corporation responsible for the operation of a mixed-use plat community under the Act. This Declaration, the Articles of Incorporation and the Bylaws describe its powers and duties. All Owners are members of the Association. Membership is automatically attached to ownership of the Parcel and cannot be separated from title to the Parcel.

2.1.2 Board. The Owners shall elect the Board to represent them and make decisions about the operation of the Common Interest Community. Except for those matters described in this Declaration or the Act requiring a vote of the Owners or consent of Owners, the Board makes all decisions necessary for the operation of the property under this Declaration. The Bylaws contain procedures for electing the Board.

Approval by Owners

As a convenient reference and not as a limitation, actions that may require a vote of the Owners, or assent in writing, include the following:

Election of the Board	Paragraph 2.1.2
Ratification of Maintenance Zone budget.....	Paragraph 5.1.2
Ratification of Association budget	Paragraph 5.1.5
Repeal of Additional Services	Paragraph 5.2.4
Repeal of Rules and Regulations adopted by the Board	Paragraph 6.2.1
Repeal of Modifications to Design Standards	Paragraph 7.2.4
Ratification of Expenditures for Capital Improvements	Paragraph 8.1.1
Conveyance or Dedication of the Common Elements.....	Section 8.1
Amendment or Termination of Declaration	Sections 9.1, 9.2

Except for those matters specifically requiring approval of the Owners, the Board has the power to act without membership approval.

Part II: The Association

2.1.3 Voting Interests. The voting interest assigned to each Parcel shall be the same as its Allocated Interest, as provided in Section 2.2.

2.1.4 Voting Procedure. Wherever used in this Declaration, approval by a majority or other proportion of the Owners refers to a vote based on the total voting interests within the Association or applicable group of Owners, either at a properly called membership meeting or through another voting procedure established under the Bylaws and the Act. However, where the Declaration specifies consent in writing, or request in writing, then the necessary number is based on the total voting interests within the Association or applicable group of Owners, and signatures may be collected without a membership meeting or other voting procedure. To the greatest extent permitted by law, the Association may institute voting by electronic or other means.

2.1.5 Period of Declarant Control. The Founder reserves the right to retain control of the Association to the greatest extent permitted by the Washington Uniform Common Interest Ownership Act.

2.16 Additional Provisions. Additional provisions concerning the operation of the Association and the Board and voting procedure are contained in the Articles of Incorporation and the Bylaws. The Articles of Incorporation or Bylaws may establish provisions for classes of voting and Board representation. Operation of the Association is also subject to the Act.

2.2 Allocated Interests

2.2.1 Generally. As required by the Act, Allocated Interests are used for voting rights in the Association as well as for determining Assessments. Each Parcel subject to this Declaration is assigned an Allocated Interest in accordance with this Section 2.2. Net Usable Square Footage as used in this Section is as defined in Paragraph 2.2.7.

2.2.2 Residential Parcel. Each Residential Parcel's Allocated Interest shall be the sum of the Allocated Interests for all separately leasable dwelling units on that Parcel. Each such dwelling unit, whether a detached home, townhouse, condominium unit, a unit within a duplex or other multifamily dwelling, or a garage apartment or other accessory building, shall be assigned One Allocated Interest, except that 0.8 Allocated Interest shall be assigned to the following:

- a. all dwelling units of less than 1000 square feet of Net Usable Square Footage and
- b. dwelling units that are part of an apartment building or group of buildings that has at least four units and is under single ownership and management.

The above formula is intended to balance fairness against ease of administration, to encourage the development of affordable housing and to recognize the economies to the Association of collecting Assessments for multiple units from a single Owner.

2.2.3 Commercial Parcels. Commercial parcels shall be assigned one Allocated Interest per one thousand (1,000) square feet of net usable Commercial square footage, as defined in paragraph 2.2.7. Commercial space may be assigned fractional interests and shall be rounded to the nearest 100 net usable square feet, or one-tenth of an Allocated Interest.

Part II: The Association

2.2.4 Mixed-Use Parcels. Mixed-Use Parcels that include both Residential and Commercial uses shall have an Allocated Interest that is equal to the sum of the Residential and Commercial uses.

2.2.5 Special Use Parcels. Special Use Parcels are unique Parcels that do not fit in the customary categories. The Supplemental Declaration adding the property that includes the Special Use Parcel shall designate the Parcel as a Special Use Parcel and assign an Allocated Interest for the Parcel which may be different from the formulas for other Residential or Commercial use. Any such Allocated Interest must be fair and reasonable, consistent with other Allocated Interests based on the expected use of the Parcel and its impact on the Common Elements.

2.2.6 Unimproved Parcels. Parcels that do not have a building that is substantially complete shall be assigned 0.25 Allocated Interest.

2.2.7 Definition of Net Usable Square Footage.

- (a) **Generally.** For purposes of calculating Allocated Interests for both Residential and Commercial uses, Net Usable Square Footage shall include all heated or air-conditioned space, measured to the center of the wall for interior common walls (such as the walls between condominium units) and measured to the exterior surface of the wall for all other exterior walls. There shall be no deduction for interior non-common walls.
- (b) **Commercial Space.** Commercial square footage shall include all interior space that may be used for commerce, office, storage and other support areas for the Commercial use but shall not include any Residential Unit, or any lobbies, stairwells or walkways used primarily to access any Residential space. Decks and other un-airconditioned space that are designed to be used on a regular basis for outdoor dining, bar or entertainment may be considered as part of the Net Usable Square Footage at a reduced rate in accordance with rules established from time to time by the Association.
- (c) **Rule-making and Adjustments.** The Association in its reasonable discretion may determine the amount of assessed Net Usable Square Footage for a particular Parcel and may make rules for the process of calculating Net Usable Square Footage. The Association shall adjust or revise Allocated Interests if buildings are remodeled or uses for the Parcel change.

Part III:

Shared Spaces

- 3.1 Common Elements
- 3.2 Limited Common Elements
- 3.3 Streets
- 3.4 Parking
- 3.5 Landscaping and Lighting

3.1 Common Elements

3.1.1 Generally. The Association may own open space, recreational facilities, streets and other commonly used portions of the Common Interest Community or may hold use rights in the form of easements, leases or other rights. Those common areas for which the Association owns such interests, or for which the undivided interests are vested in all of the Owners, are called the Common Elements. Common Elements may be labeled as such on the Plat, the Declaration or Supplemental Declaration, or conveyed by deed, easement, lease, license or other agreement, as applicable, to the Association.

3.1.2 Maintenance Responsibility. The Association is responsible for managing the Common Elements and must keep the Common Elements clean and in good repair (except as provided herein with respect to Limited Common Elements). The Association may also make Capital Improvements to the Common Elements and may modify the uses of the Common Elements as provided in paragraph 8.1.1.

3.1.3 Association's Easements for Maintenance. To the extent reasonably necessary, the Association has, and is hereby granted, an easement over each Parcel for maintenance of the Common Elements. The Association also has, and is hereby granted, an easement with respect to any improvements constructed on the Common Elements that encroach on a Parcel, whether due to any minor deviation from the Plat or the settling or shifting of any land or improvements.

3.1.4 Use by Public. Passive recreational facilities such as parks, squares or plazas that are part of the Common Elements are intended to be open for appropriate use by the public, subject to reasonable regulation by the Association to prevent nuisances. If active recreational facilities such as swimming pools, tennis courts or other facilities are created as part of the Common Elements, the Board may from time to time determine whether or not they may be open for use by the general public, or may be open under certain limited conditions.

3.1.5 Owners' Easement of Enjoyment. Every Owner has, and is hereby granted, an easement for appropriate use and enjoyment of the Common Elements. For Limited Common Elements,

Part III: Shared Spaces

such easement shall only benefit the Owner or Owners of the Parcels that are served by such Limited Common Elements. This easement passes with title to the Owner's Parcel and is automatically extended to the family members, tenants or guests who reside on the Parcel or are accompanied by the Owner. The easement is subject to the Association's right of regulation in accordance with this Declaration and the Act and is also subject to any limitations that may be contained in the conveyance of that portion of the Common Elements to the Association.

3.1.6 Damage or Destruction of Common Elements by Owner. If any Owner or any of his guests, tenants, licensees, agents, employees or members of his family damages any of the Common Elements as a result of negligence or misuse, the Owner hereby authorizes the Association to repair the damage. In the case of vandalism or other reckless or intentional damage, the cost of repair shall be the responsibility of that Owner and shall become a Specially Allocated Assessment payable by the responsible Owner. The Association may, but is not required to, seek compensation for damage from the guest, tenant or other party who caused the damage, in which case the Owner shall be jointly and severally liable. This paragraph shall not be used to reduce the obligation of any insurer to the Association for any policy held by the Association.

3.1.7 Limitation. The Association shall use reasonable judgment in maintaining and regulating the Common Elements, but neither the Association nor the Founder makes any representation or assumes any liability for any loss or injury. The Founder and the Association make no representations concerning security and shall not be liable in any way for failure to provide services or quality of such services.

3.1.8 Additional Common Elements. The Founder may convey to the Association additional Common Elements which the Association shall accept for maintenance. The design, construction method and cost of each of the additional Common Elements shall be at the discretion of the Founder.

3.2 Limited Common Elements

3.2.1 Designation. Portions of the Common Elements that are intended for use by one or more, but not all Owners, are known as Limited Common Elements. An alley or shared courtyard is an example of a Limited Common Element. Limited Common Elements may be designated in a Plat, this Declaration or a Supplemental Declaration, or a deed, easement, lease, license, or other document conveying the property to the Association. In addition, the Board may reasonably determine that portions of the Common Elements are designed for use by only certain Owners. Unless otherwise specified or clear from the context, the term Common Elements includes Limited Common Elements.

3.2.3 Maintenance. Generally, the Association is responsible for maintenance of Limited Common Elements. The Association may by rule make Owners of Parcels responsible for some or all of the maintenance of the Limited Common Elements serving such Parcels.

3.2.4 Expenses. If the Limited Common Elements is maintained by the Association, the Association shall assess the cost in either of the following ways:

Part III: Shared Spaces

- (a) The Association may distribute the cost of such maintenance among the Owners served by the Limited Common Elements, which may be by the establishment of a Maintenance Zone as provided in Section 4.2 or other Specially Allocated Expenses.
 - (b) The Association may reasonably determine that the benefit of separately billing and accounting for the cost of maintenance is not sufficient to justify the burden and may reasonably choose to maintain any particular Limited Common Element as part of the Common Elements. Such practice shall not preclude the Association from assessing the Owners for more significant expenses relating to the Limited Common Elements.
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3.3 Streets

3.3.1 Design. The streets in Vista Field have been designed to encourage drivers to drive at safer speeds, and to make the streets compatible for cars, bikes and people on foot. Such design elements include narrower street width, on-street parking, planting of street trees, building homes closer to the street, choice of paving materials and design and frequency of intersections. The plan for Vista Field includes a special street type called a Woonerf, which is intended primarily for pedestrians and cyclists but may be used by vehicles traveling at very low speeds.

3.3.2 Common Streets. Any streets that are not dedicated to the public and shown on the Plat as a Common Element shall be part of the Common Elements and shall be known as the Common Streets.

3.3.3 Access. The Common Streets are hereby made subject to an easement for pedestrian and vehicular access to and from other parts of Vista Field, including the Town Center, other parts of the Master Plan Area whether or not subject to this Declarant or developed as part of Vista Field, and areas outside Vista Field. However, the Association may reserve alleys or driveways as Limited Common Elements for the private use of Owners served by such alley or driveways.

3.3.4 Regulation. Subject to local government regulation, the Association may reasonably regulate driving within the Common Interest Community.

3.3.5 Maintenance of Rights-of-Way. To the extent permitted by governmental authorities, the Association may, but is not obligated to, maintain sidewalks and on-street parking, even if located within the public right-of-way, in order to improve safety or attractiveness of the Common Interest Community.

3.3.6 Modification. The Association shall not remove on-street parking shown on the Plat in order to increase driving lanes. The Association may remove spaces on a case-by-case basis as needed, such as for visibility, pick-up and drop-off zones or access. Except for occasional closure for street fairs or other events or as reasonably necessary to maintain their private nature, the Common Streets are not to be gated or access otherwise restricted. Alleys are required to be kept accessible for fire safety. Traffic calming measures, if needed, shall be as unobtrusive as possible.

Part III: Shared Spaces

3.4 Parking

3.4.1 Design. Much of the parking within Vista Field is intended to be shared, so that guests can park once and walk to various businesses. Through streets have a significant amount of on-street parking, which serves both residents and the Town Center. Because on-street parking narrows the street width and slows traffic, it also serves as a traffic-calming measure. Larger parking lots or garages are intended to be shielded from view wherever possible.

3.4.2 Residential Parking Regulation. The Association may regulate or prohibit parking on the Woonerfs or designate areas where parking is permitted. The Association may regulate parking on other Common Streets in residential areas, including limiting the time periods for parking. Parking within the residential areas is intended to serve as overflow for the Town Center during unusually busy periods. If parking within residential areas is frequently and unduly impacted, the Association may limit its use to residents or guests of residents during certain time periods or establish other reasonable regulation, including charging for parking.

3.4.3 Commercial Parking Areas. Commercially-oriented parking may be managed by the Commercial Association or the owner of the parking area, as applicable, including the charging of fees for parking. Subject to local government regulation, surplus parking areas may be redeveloped.

3.5 Landscaping and Lighting

3.5.1 Common Landscaping and Rights-of-Way. The Association shall maintain any landscaping or signage that is part of the Common Elements. To the extent permitted by governmental authorities, the Association may, but is not obligated to, maintain street trees and any landscaping between the sidewalk and the street as if they were part of the Common Elements, even if located within the public right-of-way, and any other easement areas, public rights-of-way and other public or private properties located within reasonable proximity to the Common Interest Community if its deterioration would affect the appearance of or access to the Common Interest Community.

3.5.2 Surface Water Management. The Association shall have a blanket easement and right on, over, under and through the ground within the Common Interest Community to inspect, maintain and correct drainage of surface water and other erosion controls. This easement includes the right to cut or remove any vegetation, grade soil or to take any other action reasonably necessary for health or safety or to comply with governmental requirements. The Association shall notify affected Owners (except in an emergency) and shall restore the affected property to its original condition as nearly as practical.

3.5.3 Street Lights. The Association may purchase or lease, or lease to purchase, lighting for the streets and Common Elements from the local utility. Alternatively, the Association may enter into such agreements with the Founder or other entity if the lighting equipment to be provided meets the requirements of the Design Standards and the terms are reasonable. To make outdoor lighting as unobtrusive as possible, the Association shall have an easement to hang or fix lighting

Part III: Shared Spaces

for the Common Elements from houses on Parcels as provided in the Design Standards. Owners of the houses to which lighting is attached may be required to maintain the lighting in good condition. The Association may repair lighting and replace light bulbs and is hereby granted an easement to do so. In most cases, such lighting is wired as part of the original construction to draw electricity from the house to which it is attached. Owners of such houses shall be responsible for paying the electricity for the light and shall not cut off the electricity to the light or remove or damage the fixture or bulb.

3.5.4 Welcome Lights. To help create a sense of safety, security and neighborliness at Vista Field after dark, houses may be required to have one or more Welcome Lights on porches and in alleys as described in the Design Standards. The Design Standards may establish rules concerning light sensors or timers to ensure that lights operate efficiently and properly. The Owner of the house must keep the Welcome Lights in good repair and working order, subject to regulation by the Association. The Association may establish procedures to notify Owners if Welcome Lights are not working properly, and, after notice, may repair the light and charge the cost, including a reasonable management fee, to the Owner. The Association may contract to maintain the Welcome Light for the Owner for a reasonable fee.

Part IV:

Relationships between Parcels

- 4.1 Easements Between Parcels
- 4.2 Maintenance Zones
- 4.3 Dependent Attached Homes
- 4.4 Sub-Associations

4.1 Easements Between Parcels

Vista Field is a compact community, with homes close together and, in some cases, attached. The easements apply wherever the described housing type exists.

4.1.1 Structural Party Walls. Each Owner grants to the Owner of each adjacent Parcel the right and easement to maintain and to utilize any exterior or interior wall of a Building that forms a party wall between them. A wall will be considered a party wall only if it provides structural support for the Buildings, or parts of a Building, on more than one Parcel. Maintenance of the surface of the party wall shall be the sole responsibility of the Owner whose Building faces such wall. Each Owner shall be liable and responsible if, in connection with that Owner's use and maintenance of the party wall, the Owner damages the adjacent Owner's Parcel or the wall itself. The adjacent Owners shall share the cost of any other repairs to the party wall equally.

4.1.2 Exterior Walls along a Parcel Line. An exterior wall which supports the Building on only one Parcel, or which encloses a courtyard on one Parcel, shall not be considered a party wall. The Association may make rules and regulations concerning use and maintenance of such walls, including assigning responsibility between the adjoining Owners for painting and repair and granting access over the adjoining Parcel as reasonably necessary to maintain the wall. All such maintenance and repair shall be in accordance with the Design Standards.

4.1.3 Side-Yard Easements. Rather than have narrow, useless side yards on both sides, houses may be designed so that each home has an accessible yard on one side, and a "privacy side" on the other. Such easements may be designated on a Plat, the Design Standards or on the deed from the Founder to the first Owner other than the Founder. Side-yard easements shall generally run the length of the lot and shall encompass the area between the home and the boundary line. The Owner of such a Parcel subject to an easement shall be the beneficiary of a similar easement along another portion of the Parcel, unless the Parcel is a corner lot, is larger than the surrounding lots or has other special conditions. Subject to regulation under the Design Standards, the beneficiary of such an easement shall have the use and maintenance responsibility for the easement area and may place air-conditioning equipment, fences, decks or patios and other fixtures (but not a primary structure) upon the easement area.

Part IV: Relationships Between Parcels

4.1.4 Roof Overhang; Footings. For certain building types that are to be built near or along a property line, the Design Standards may permit roofs, gutters, soffits and downspouts to overhang this property line, and may allow footings and rain leaders to intrude below the surface of the same property line. To the extent allowed by the Design Standards and local governmental regulations the adjacent property shall be subject to an easement for such intrusion, and the adjacent landowner shall not excavate or otherwise operate in such a way that would impair the structural integrity of the footing.

4.1.5 Attached Roof. If a wall or parapet is constructed along or very near the property line, the Owner of a building to be constructed on the adjacent property shall have the right to flash into the existing building, in accordance with normal building practices and in order to make the new building watertight. This right shall include the right to make minor cuts on the existing building and to secure flashing or other materials to the existing building, so long as the structural integrity and water-tightness of the existing building is not impaired. The cost for flashing shall be incurred by the Owner of the new building, but the maintenance of this connection shall be a shared expense between adjacent property Owners.

4.1.6. Regulation. The Association may reasonably interpret these easements and make reasonable rules for maintenance and use of easement areas and shared improvements, which shall be applied uniformly to all Parcels similarly configured.

4.1.7 Additional Easements. The Founder shall have the right to establish additional easements as necessary to provide for different design conditions that may be created in the future.

4.2 Maintenance Zones

4.2.1 Purpose. Maintenance Zones are smaller areas within the Common Interest Community that share the cost of certain services. The system of Maintenance Zones is intended to permit efficient delivery of services based on property type without the formation of multiple incorporated sub-associations. Reasons for establishment of a Maintenance Zone include the following:

- (a) Parcels share Limited Common Elements such as a courtyard, alley or parking court,
- (b) Parcels within the Zone are of a type that require specialized Association maintenance of Parcels, such as front-yard maintenance or,
- (c) Dependent Attached Houses as described further in Section 4.4, require coordinated maintenance of a shared roof or other types of building maintenance.

4.2.2 Authority. Maintenance Zones are established in reliance upon the following provisions of the Act:

- (a) Section 64.90.480, which provides that certain expenses shall be assessed against Parcels on a basis other than Allocated Interests if the declaration so provides, including expenses associated with the operation, maintenance, repair, or replacement of any specified limited common element and expenses specified in the declaration as benefiting fewer than all of the units; and

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- (b) Paragraph 64.90.235(4)(a) of the Act, which allows for different allocations of votes on particular matters specified in the declaration.

4.2.3 Designation. Maintenance Zones may be created by Supplemental Declaration or designated by the Board in its reasonable discretion. A Parcel may be in more than one Maintenance Zone. For instance, a Parcel could be in one Maintenance Zone for alley maintenance and another for front yard landscaping.

4.2.4 Condominiums. Property that is submitted to condominium ownership shall be maintained by the applicable condominium association and shall not be considered a Maintenance Zone. However, a condominium may be part of a larger Maintenance Zone.

4.2.5 Advisory Councils. The Board shall permit the establishment of an advisory council from each Maintenance Zone. A Maintenance Zone advisory council shall be formed when at least 90% of the Parcels anticipated for the Maintenance Zone have received certificates of occupancy and been conveyed to Owners other than the Founder or a builder. Unless the Board determines otherwise on a Maintenance Zone basis, there shall be up to five members of the advisory council. After the first such council, which shall be appointed by the Board, Owners from each Maintenance Zone shall elect subsequent councils as part of the regular Board election process. If there are no candidates for the Advisory Council, the Board may act without such input from an advisory council.

4.2.6 Budget. Each Maintenance Zone has separate maintenance requirements and a separate budget. The Maintenance Zone budget shall include the following as applicable:

- (a) **Limited Common Elements.** Limited Common Element alleys, shared driveways and parking lots may be a Maintenance Zone Expense. Other Limited Common Elements such as a courtyard intended primarily for the use of the surrounding Parcels may be designated a Maintenance Zone Expense for such Parcels.
- (b) **Parcel Maintenance.** Any maintenance that this Declaration, Supplemental Declaration or Amendment to this Declaration requires to be provided to a particular Maintenance Zone shall be included in the Maintenance Zone budget.
- (c) **Landscape Maintenance.** In order to provide better service and reduce the number of landscaping vehicles on the Common Interest Community, the Board may at any time determine that the Association shall provide landscape maintenance services to some or all of the Parcels within the Common Interest Community. The cost for such maintenance shall be considered a Maintenance Zone expense, based upon the type of Parcel. If such service is provided, the Board shall make and apply policies concerning the type of maintenance to be provided and allocation of costs.
- (e) **Additional Services.** Any Maintenance Zone may, by majority vote of the Owners within that Maintenance Zone and approval of the Board, vote to assess all Owners within the Maintenance Zone for maintenance or services in addition to those normally provided by the Association, including yard maintenance (if not already provided) or other maintenance to the Parcel or Maintenance Zone Common Elements. Any service thus

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approved shall continue until revoked by majority vote of the Owners within that Maintenance Zone.

The advisory council for a Maintenance Zone shall review and give suggestions to the Board for the annual Maintenance Zone budget, proposed services and any modifications to the Maintenance Zone. The Board of the Association shall review each advisory council's recommendations and adopt a proposed budget for each Maintenance Zone as part of its regular budgeting process as provided in Section 5.1.

4.2.7 Allocation of Maintenance Zone Expenses. Unless provided otherwise in the Supplemental Declaration creating the Maintenance Zone, the Maintenance Zone budget will be assessed to and allocated to all Owners within that Maintenance Zone in proportion to their Allocated Interests or such other proportion that the Board reasonably determines based on the proportionate benefits provided to the Owners within that Maintenance Zone.

4.2.8 Capital Improvements. Any Maintenance Zone may, by majority vote of the Owners within that Maintenance Zone and approval of the Board, vote to assess all Owners within the Maintenance Zone for Capital Improvements to Common Elements (including Limited Common Elements) within that Maintenance Zone.

4.3 Dependent Attached Houses

Dependent Attached Houses are a special type of Maintenance Zone.

4.3.1 Definition. A Dependent Attached House is attached to another home on one or more sides and needs to be maintained together with the attached home because it is structurally dependent on the neighboring home, or because it is intended to have a uniform appearance with the neighboring home, or both. A Dependent Attached House is structurally dependent if it shares a roof structure, so that damage to the roof over one Dependent Attached House could cause water to travel to another Dependent Attached House, or if other damage to the structure of the Dependent Attached House could cause structural impairment to the other Dependent Attached House.

4.3.2 Maintenance Zone Designation. Each group of Dependent Attached Houses of similar design, materials and time of construction shall be considered a Maintenance Zone. A Supplemental Declaration submitting the property to this Declaration may designate such a Maintenance Zone and establish special maintenance and insurance provisions, or an instrument may be recorded by the Association. If not so designated, the Board may determine in its reasonable discretion whether a building shall be considered a Dependent Attached House that requires unified maintenance. The Board shall then designate the boundaries of the Maintenance Zone and the type of maintenance required.

4.3.3 Expenses. The budget for a Maintenance Zone for Dependent Attached Houses may include any expense reasonably necessary to ensure structural and weatherproof integrity of all houses within the group based on the construction methods used. Expenses may include but not be limited to roof maintenance and repair (including a reserve fund for roof replacement), and property insurance to ensure that funds are available for rebuilding in the event of fire or other

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damage. Where a uniform exterior appearance is required, expenses may include exterior repair and repainting of siding and trim.

4.3.4 Damage and Repair. An Owner shall promptly notify the Association and the appropriate Maintenance Zone Council of any damage that affects, or has the potential to affect, more than one attached house. In addition to the other remedies provided by this Declaration, the Association shall have the right to take any action reasonably necessary to ensure prompt and appropriate rebuilding to protect the structural integrity of the Dependent Attached Houses, and to assess the cost to the affected Parcels as a Specially Allocated Assessment.

4.4 Sub-Associations

In rare cases, Dependent Attached Houses or other Maintenance Zones may need more care than can be provided within the Maintenance Zone structure. This Section 4.4 is provided for those instances.

4.4.1 Formation. Owners within a Maintenance Zone may create an incorporated association to provide services to that Maintenance Zone:

- (a) **Single Entity.** During the Development Period, if all of the Allocated Interests within that Maintenance Zone are owned by a single entity, then formation of the Maintenance Zone association shall require approval of the Founder and the Owner of the Allocated Interests, if different. A declaration and association documents shall be recorded and shall not require any other approvals.
- (b) **Vote of Owners.** Any Maintenance Zone may form an owners' association and adopt articles of incorporation and bylaws, if approved by written consent representing at least a majority of the Allocated Interests within that Maintenance Zone, by the Board of the Association and, if during the Development Period, by the Founder. The documents so adopted, or a notice as to the documents, may be recorded in the public record as an amendment to this Declaration or Supplemental Declaration.

4.4.2 Operation. Upon creation, the new association shall assume the Maintenance Zone maintenance responsibilities and shall have the same rights to assess, collect and lien for assessments for Maintenance Zone expenses as provided to the Association under Section 4.2 and Paragraph 5.1.2. All Owners within that Maintenance Zone shall continue to be members of the Association, to pay Assessments for Association expenses, and to be subject to the terms of this Declaration.

4.4.3 Termination. Any association so created may be terminated, and the Maintenance Zone responsibilities resumed by the Association, by consent in writing of a majority of the Allocated Interests within that Maintenance Zone and approval of the Board of the Association and, if during the Development Period, by the Founder.

Part V:

Association Budget and Assessments

- 5.1 Association Budget
- 5.2 Services
- 5.3 Assessments
- 5.4 Effect of Nonpayment of Assessment; Remedies
- 5.5 Initial Budget and Guarantee of Assessments
- 5.6 Working Capital Contribution

5.1 Association Budget

5.1.1 Budget Items. The budget shall estimate total expenses to be incurred by the Association in carrying out its responsibilities. These expenses shall include, without limitation, the cost of professional management of the Association, insurance premiums, taxes, services, supplies, professional services (including accounting and legal counsel), and other expenses for the rendering of all services properly approved in accordance with this Declaration. The budget may also include reasonable amounts, as determined by the Board, for working capital.

5.1.2 Maintenance Zones and other Specially Allocated Expenses. The Board shall adopt a separate budget for each Maintenance Zone for Maintenance Zone expenses after consultation with the appropriate Maintenance Zone Advisory Council, as applicable, as described in Section 4.2.

- (a) **Ratification.** Each Maintenance Zone budget shall be subject to ratification in accordance with RCW 64.90.525, except that the number of votes required to reject a Maintenance Zone budget shall be those representing a majority of Allocated Interests in that Maintenance Zone.
- (b) **Assessment.** Maintenance Zone Assessments and other charges designated in this Declaration or the Act that are assessed to a particular Parcel or group of Parcels shall be considered Specially Allocated Expenses under the Act. Where such services may be reasonably estimated in advance, the Association may budget for such expenses and assess the cost in advance to the affected Parcels. All such charges shall be distributed in accordance with Allocated Interests or such other proportion that the Board reasonably

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determines based on the proportionate benefits provided to the Owners within that Maintenance Zone.

5.1.3 Reserves. The Association shall establish reserves as required by the Act and may establish additional reserve funds. Reserves for Maintenance Zones shall be accounted for separately but may be commingled with other Association accounts.

5.1.4 Insurance. The Association must maintain in its own name, to the extent reasonably available and subject to reasonable deductibles, the various types of insurance required by RCW 64.90.470, directors' and officers' liability insurance, and other types of insurance deemed prudent by the Board.

5.1.5 Approval. The Board shall review and approve the budget prior to the beginning of the fiscal year for which it applies in accordance with the Bylaws and the Act., subject to ratification by the Owners in accordance with RCW 64.90.525. The Board's failure or delay in preparing or adopting the annual budget for any fiscal year shall not waive or release an Owner's obligation to pay Assessments whenever the amount of such Assessments is finally determined. In the absence of an annual Association budget each Owner shall continue to pay Assessments at the rate established for the previous fiscal period until notified otherwise.

5.1.6 Contracting Parties. The Association may contract with any party, including the Founder, for the performance of all or any portion of the management of the Association and its maintenance and repair obligations. All such contracts shall be fair and reasonable. The cost of the contract shall be included within the General Assessment, Special Assessment or Individual Parcel Assessment as applicable.

5.2 Services

5.2.1 Snow Removal. The Association shall provide snow removal services to all Common Streets, alleys and parking areas that are part of the Common Elements, including Limited Common Elements. The Association shall establish a policy from time to time whether to assess such services to Limited Common Elements as a Maintenance Zone Expense or to include it in the budget for general Association expenses.

5.2.2 Street Sweeping. The Association may, but is not obligated to, provide street sweeping, on a regular or as-needed basis.

5.2.3 Security. The Association may, but is not obligated to, provide private security services.

5.2.4 Additional Association Services. In addition to the specific powers provided in this Declaration, and to the extent permitted by governmental authorities, the Association, by majority vote of the Board, may provide any other service allowed by law to be provided by a community association organized as a nonprofit corporation. If requested by petitions signed by at least 10% of the Owners, a membership meeting may be called and, if a quorum is present, the offering of the additional service may be repealed by majority vote of the Owners. For three years after such a repeal, the Board may not reinstitute the service unless also approved by majority vote of the Owners.

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5.2.5 Parcel Services. The Association may, but is not obligated to, act as agent for an Owner, if so requested by that Owner, to contract for routine maintenance and other services not required to be provided by the Association, the cost of which would be assessed to that Owner as a Specially Allocated Assessment. The terms and conditions of all such contracts shall be at the discretion of the Board.

5.2.6 Utilities. If the Association provides any utility services, the costs may be assessed on any reasonable basis determined by the Association, including actual usage, per unit, by Allocated Interest or upon the way such utility charges are made by the utility provider.

5.3 Assessments

5.3.1 Establishment of General Assessments. The budgeted amount for general expenses shall be divided among all Owners according to Allocated Interest and assessed as General Assessments. The Board shall set the date or dates such Assessments become due and may provide for collection of Assessments annually or in monthly, quarterly or semiannual installments.

5.3.2 Obligation for Assessments. Each Owner of any Parcel by acceptance of a deed or other transfer instrument is deemed to agree to pay to the Association the following (to be known collectively as "Assessments"):

- (a) General Assessments,
- (b) Special Assessments for the purposes provided in this Declaration, and
- (c) Maintenance Zone Assessments and other Specially Allocated Expenses for any charges particular to that Parcel.

5.3.3 Special Assessment. In addition to the General Assessment, the Board may at any time levy a Special Assessment:

- (a) **Capital Improvements.** A Special Assessment may be levied for a Capital Improvement approved in accordance with Paragraph 9.1.1.
- (b) **Emergency Assessment.** By a two-thirds (2/3) vote, the Board may impose a Special Assessment for any unusual or emergency maintenance or repair or other expense that this Declaration or the law requires the Association to pay (including, after depletion of reserves, any unexpected expenditures not provided by the budget or unanticipated increases in the amounts budgeted).

Before the Special Assessment can be charged, the Act requires that the Board follow the procedures for ratification of a budget described in Paragraph 5.1.6. The Board may provide that the Special Assessment be due and payable in installments over any period it determines and may provide a discount for early payment.

5.4 Effect of Nonpayment of Assessment; Remedies

5.4.1 Late Fees. To the greatest extent permitted by the Act, each Owner also agrees to pay a reasonable late fee and interest, as established by the Board, and cost of collection when

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delinquent, including a reasonable attorney's fee whether or not suit is brought. Upon default in the payment of any one or more installments, the Board may, to the extent permitted by the Act, accelerate the entire balance of such Assessment, which shall be declared due and payable in full.

5.4.2 Personal Obligation. All Assessments, together with any late fee, charges, fines, interest and cost of collection when delinquent, including a reasonable attorney's fee whether or not suit is brought (collectively, the "Assessment Charge") shall be the personal obligation of the person or entity who was the Owner of the Parcel at the time when the assessment was levied, and of each subsequent Owner. No Owner may waive or otherwise escape liability for the Assessment Charge by abandonment of the Parcel. The Association may bring an action at law against the Owner personally obligated to pay the Assessment Charge.

5.4.3 Statutory Lien. The Association shall have a statutory lien against the Parcel in accordance with the Act, which shall secure all Assessments, costs and attorneys' fees and other permitted charges under the Act. The statutory lien may be foreclosed as provided by the Act. RCW 64.90.485

5.4.4 Acquisition of Parcel. The Association, acting on behalf of the Owners, shall have the power to bid for an interest in any Parcel foreclosed at foreclosure sale and to acquire, hold, lease, mortgage and convey the Parcel. The Association may take a deed in lieu of foreclosure.

5.5 Working Capital Contribution

This Section 5.5 applies only to the sale of a Parcel from the Founder to the first Owner.

5.5.1 Working Capital Contribution. At the closing and transfer of title of each Parcel to the first Owner (other than the Founder or an affiliate of the Founder), the new Owner shall contribute to the Association three months' Assessments or \$250, whichever is greater, based upon the agreed upon use and anticipated Allocated Interest upon completion. If not paid at closing, the Working Capital Contribution may be collected as a Specially Allocated Expense.

5.5.2 Purpose. This contribution may be used by the Association for the purpose of initial and nonrecurring expenses of the Association, for providing initial working capital for the Association and for other expenses and shall not be considered as a pre-payment of Assessments. A Working Capital Contribution may not be used to defray expenses that are the obligation of the Founder.

5.5.3 Exempt Transactions. The Working Capital Contribution is not required to be paid by an institutional first mortgagee that acquires title as the result of a foreclosure or deed in lieu but shall be paid by a third-party purchaser at foreclosure or upon the conveyance by the mortgagee to a subsequent Owner. The Founder has the right in its discretion to exempt transfers to an affiliate of Founder. If the Founder conveys a Parcel without a building to a builder, then that sale may be exempt from the Working Capital Contribution so long as the contribution is made upon conveyance from the builder to a subsequent buyer (other than re-conveyance to the Founder) or occupation of the Parcel, whichever comes first.

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Notice to Purchasers concerning Unpaid Assessments

Under Section 64.90.640 of the Act, a Parcel Owner is required to provide, prior to the execution of any contract for sale, a resale certificate, signed by an officer or authorized agent of the Association. If there are any Assessments unpaid on the Parcel, you will automatically become liable for those Assessments when you accept a deed.

Part VI:

Residential Property

6.1 Covenants and Restrictions

6.2 Rule-Making and Enforcement

This Part VI applies only to Residential Parcels, and to the Residential portion of Mixed-Use Parcels. The Association shall not have any authority to regulate Commercial uses.

6.1 Covenants and Restrictions

This Declaration doesn't have long lists of rules. General rules of civility shall apply, so that neighbors shall have freedom to enjoy music, entertainment and other aspects of life so long as such enjoyment does not unreasonably infringe on the enjoyment of others.

6.1.1 Generally. Each Parcel Owner is responsible for keeping that Parcel in good repair, free of debris, hazardous conditions and unpleasant odors, and for observing reasonable Association rules concerning placement of trash cans, yard maintenance and other rules for the appearance and safety of the community.

6.1.2 Renting. Parcels may be rented, subject to reasonable rules and regulations as promulgated by the Association from time to time.

6.1.3 Pets. Pets are allowed consistent with City zoning, rules and regulations. Pets shall not create unreasonable noise or odor, and Owners may be required to collect and dispose of animal waste. The Association may designate specific areas within the Common Elements where pets may be walked, may prohibit pets on other areas, and may require pets to be on leash.

6.2 Rule-Making and Enforcement

6.2.1 Rules and Regulations. The Board may from time to time adopt reasonable rules or amend previously adopted rules and regulations to address specific problems concerning the operation, use, maintenance and control of the Parcels, Common Elements and any facilities or services made available to the Owners. Notice shall be provided to Owners as provided in the Act. Rules and Regulations shall take effect immediately upon approval by the Board, or at a later date selected by the Board. If requested in writing by at least 10% of all Owners, a membership meeting may be called and any Rule or Regulation may be repealed by majority vote of the Owners.

Part VI: Residential Property

6.2.2 Owner's Responsibility. Each Owner, family members of Owners and Owners' guests and tenants shall abide by the covenants contained in this Declaration and any Rules and Regulations which may be adopted from time to time by the Board. Each Owner shall be responsible for assuring such compliance, and any violation by family members, guests or tenants may be considered to be a violation by the Owner.

6.2.3 Enforcement. The Association shall give notice and opportunity to be heard concerning any violation of the Declaration or its rules and regulations and shall have all rights of enforcement against the Owner or tenant, all as provided in the Act.

6.2.4 Design Review. After the Development Period, the Association may adopt rules to establish and enforce construction and design standards as provided in the Act and in Part VII of this Declaration.

Part VII:

Design Review

- 7.1 Town Architect
- 7.2 Design Standards
- 7.3 Review Process
- 7.4 Basis for Decision; Variances
- 7.5 Remedies
- 7.6 Additional Terms

7.1 Town Architect

7.1.1 Role. Vista Field shall have a Town Architect, whose job it is to help realize the vision of the Master Plan and improve the quality of construction within Vista Field by working with applicants and their architects. The Town Architect shall interpret the Design Standards and propose changes when necessary.

7.1.2 Selection. During the Development Period, the Town Architect is appointed by the Founder and serves at its pleasure. After the Development Period, the Town Architect is appointed by the Board of the Association and serves at its pleasure.

7.1.3 Qualifications. The Town Architect must have a professional degree in architecture, landscape architecture or urban design from an accredited university or comparable qualifications. If the individual is not licensed as an architect in the state of Washington and if necessary to comply with state law concerning licensure of architects, the Town Architect may be known as the "Town Planner" or other such term but shall have the same rights and responsibilities under this Declaration.

7.1.4 Compensation. The Founder, during the Development Period, and the Association after the Development Period, shall pay the Town Architect reasonable compensation. The Town Architect may be employed on a contract basis and is not necessarily a full-time position.

7.2 Design Standards

7.2.1 Establishment of Design Standards. The Founder hereby establishes the Design Standards for Vista Field, which shall set design criteria and aesthetic standards for the Common Elements and for all aspects of the Parcel visible from the outside. Although the Design Standards do not need to be recorded to be effective, the Founder or the Association may at any time record the

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Design Standards, or any amendment to the Design Standards, in the public record as an additional exhibit to this Declaration.

7.2.2 Changes to the Design Standards. The Town Architect may propose changes to any part of the Vista Field Design Standards from time to time. During the Development Period, the Town Architect shall submit any Design Standards modification to the Founder, who shall approve or reject the change in its reasonable discretion. After the Development Period, the Board of the Association, after proper notice to the Owners as required by the Act, by majority vote may approve or reject the Town Architect's proposed modifications to the Design Standards as it applies to Residential Parcels, and the Commercial Association shall have the same power as it applies to Commercial and Mixed-Use Parcels.

7.2.4 Repeal. If requested by petitions signed by at least 10% of the Owners, a membership meeting may be called and, if a quorum is present, the modification to the Design Standards shall be repealed by majority vote of the Owners.

7.2.5 Applicable Design Standards. Applications are approved based upon compliance with the Design Standards in effect at the time of the submittal. However, Parcel Owners who have not yet constructed a primary building may elect to use the version of the Design Standards in effect at the time the Parcel was conveyed, provided that construction begins within two years of the date of conveyance.

7.2.6 Interpretation of Design Standards. The Town Architect may establish, and periodically update, interpretations of the Design Standards, describe techniques and configurations, and list approved doors, windows, colors, hardware, plants and other materials.

7.2.7 Designation of Uses. The Design Standards may regulate the type, placement, size and number of Residential or Commercial units that may be constructed on a Parcel. The Design Standards may also designate shared driveways and courtyards or similar shared uses among Parcels, which shall be effective and enforceable without the necessity for a recorded easement so long as the provision was part of the Design Standards at the time of approval of the plans and the initial construction is consistent with such shared use.

7.2.8 Governmental Codes. The Design Standards are intended to be consistent with all applicable requirements of state and local law. In the event of a conflict, the Owner shall comply with the governmental code in the way most consistent with the Design Standards, subject to review and approval as provided in this Part VII.

7.3 Review Process

7.3.1 Exercise of Review Rights.

- (a) **During the Development Period.** As provided in Paragraph 1.5.3, the Founder has reserved the right to review all construction and modification during the Development Period. The Founder initially assigns these rights to the Town Architect to act on the Founder's behalf. However, the Founder may at any time create a Design Review Board (DRB) to act on behalf of the Founder, and such DRB shall review all construction and

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modification. The Founder may select the members of the DRB, who shall serve at the Founder's pleasure, or the Founder may establish another method for designating members of the DRB. In either case, the Town Architect shall be a member of the DRB.

- (b) **Assignment.** At the end of the Development Period, all reserved rights for design review for Residential parcels and land owned by the Association shall be automatically assigned to the Association, and all reserved design review rights for Commercial parcels, Mixed-Use Parcels and land owned by the Commercial Association shall be assigned to the Commercial Association. The Founder may earlier assign its rights to the Association, Commercial Association or other entity, in whole or in part, at any time, but is not obligated to do so.
- (c) **Review Process after Assignment.** Upon termination of the Development Period or if sooner authorized by the Founder, the Association, Commercial Association and other entity if applicable shall each establish its own DRB, which shall act as the agent of the entity to which the rights are assigned. Each DRB may include a Town Architect or other paid professionals.

7.3.2 Original Construction. No clearing or construction of any type may begin except in accordance with approved plans and specifications. Any modification to the approved plans and specification must be reviewed and approved by an amendment to the application before the modified plans may be used. The applicant shall submit plans to the Town Architect or DRB, as applicable, to include the following:

- (a) the construction plans and specifications, including all proposed clearing and landscaping,
- (b) elevations of all proposed improvements and
- (c) all other items required by the Town Architect (or DRB if applicable).

The Town Architect or DRB as applicable may establish procedures for the review of applications, including review costs and fees, if any, to be paid by the applicant. For review after assignment to the Association, the Board shall set the DRB's review fees to cover all or part of the expected cost of its operation and shall fund any deficit. Fees shall not be intended to create a surplus, other than an ordinary operating fund for the DRB to which any excess fees shall be contributed.

7.3.3 Parcel Modification Subject to Review. After the completion of original construction, all modifications (except interior alterations not affecting the external structure or appearance of any building) must be approved in advance. Improvements and modifications subject to review specifically include, but are not limited to, the following:

- (a) painting or other alteration of a building (including doors, windows and trim) other than with originally approved paint and colors, except as provided in paragraph 7.6.2;
- (b) replacement of roof or other parts of building other than with duplicates of the original material, except as provided in paragraph 7.6.2;
- (c) installation of antennas, satellite dishes or receivers, solar panels or other devices;
- (d) construction of fountains, swimming pools, whirlpools or other pools;

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- (e) construction of privacy walls or other fences or gates;
- (f) addition of awnings, flower boxes, shelves, statues, or other outdoor ornamentation; and
- (g) any significant modifications to the landscaping and any removal or substantial pruning of trees or plants.

The listing of a category does not imply that such construction is permitted.

7.3.4 Common Elements. Any modification of the Common Elements, including reconstruction or repair after a loss, modification of any existing structure, or any material alteration of the landscaping or topography of any Common Elements must be approved in advance by the Town Architect or DRB as applicable.

7.3.5 Simplified Review. The Town Architect or DRB may provide lists of approved materials and may allow for staff review and approval of routine or minor matters.

7.4 Basis for Decision, Variances

7.4.1 Basis for Approval. In addition to compliance with the Design Standards, the Town Architect or DRB as applicable may also consider other factors, including compatibility with surrounding Parcels and Common Elements, overall quality of design and purely aesthetic considerations, so that it may require changes to a plan to improve its appearance even if the design meets the technical requirements of Design Standards. If the Town Architect or DRB rejects an application due to overall design quality, the Town Architect or DRB as applicable may make suggestions for improving the design.

7.4.2 Exceptions. A request for an exception to the Design Standards must be submitted by written application. The Town Architect or DRB as applicable may, but is not required to, grant an exception in its discretion if it finds at least one of the following:

- (a) the deviation from the Design Standards is exceedingly minor and insignificant,
- (b) the submission has particular architectural merit,
- (c) the exception is in response to existing site conditions or other extenuating or unusual circumstance,
- (d) the design achieves particular harmony with adjacent properties, or
- (e) the application is consistent with the design intention of the Standards.

In order to grant the exception, the Town Architect or DRB should also find that the exception results in a project that is superior to what would be built without the exception. The decisions shall be accompanied by a written statement explaining the basis for its decision. Any exception granted by a DRB requires unanimous vote of the DRB. Each exception should be considered unique and shall not set a precedent for future exceptions.

7.4.3 Interpretation. The provisions of this Section 7.4 apply to review by both the Town Architect or DRB. However, any provision of the Act or other legal determination that limits the

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DRB's discretionary ability shall not apply to review by the Town Architect during the Development Period.

7.5 Remedies

7.5.1 Generally. If any construction or installation is begun which has not been approved or which deviates from approved plans and specifications, the Founder, Association or Commercial Association as applicable shall be entitled to take any of the following actions, or any combination:

- (a) Require the Owner to resolve the dispute through mediation or binding arbitration,
- (b) Seek an injunction requiring the Owner to immediately stop construction and remove or correct any improvements that are not in compliance with approved plans.
- (c) Bring suit seeking other remedies, including any combination of damages, specific performance, declaratory decree, temporary or permanent injunction or other remedy at law or in equity.

If the Founder, Association or Commercial Association brings suit and the court finds that the construction was not approved or that the construction deviated from the approved plans or specifications, then the Founder, Association or Commercial Association as applicable shall also be awarded reasonable attorney's fees and costs, even if the relief requested is not granted.

7.5.2 Inspections. The Founder, Association or Commercial Association, as applicable, or their respective agents, may inspect the property during construction but has no obligation to make any such inspection. Inspectors are concerned primarily with aesthetic considerations and are not responsible for compliance with governmental requirements or design or construction defects or use of materials affecting the safety or structural integrity of the building.

7.5.3 Deposit, Fines. The Founder, Association or Commercial Association, as applicable, may require the builder or Owner to post a deposit from which the Founder, Association or Commercial Association, as applicable, may deduct fines for failure to comply with the approved plans and specifications, damage to the Common Elements, tree regulations and rules for builder conduct. The collection of a fine shall not in any way diminish the available remedies at law or equity.

7.5.4 Tree Protection. Improper cutting, removal or intentional damage to existing trees is subject to fines as set by the Founder, Association or Commercial Association, as applicable, plus a requirement that the tree be replaced with one or more of approved species and size.

7.5.5 Governmental Compliance. Owners are responsible for making sure that construction conforms to governmental regulations and all local building codes. All plans must comply with applicable drainage, water conservation, erosion control and storm water detention requirements. If the Founder, Association or Commercial Association or applicable DRB notes noncompliance, the Owner will be required to make the necessary changes. However, the Founder, Association or Commercial Association or DRB are not responsible for the construction's compliance with governmental requirements.

Part VII: Design Review

7.5.6 No Liability. Approval by Founder, Association or Commercial Association or applicable DRB, as applicable, or their respective agents, of an application, builder or architect shall not constitute a basis for any liability for failure of the plans to conform to any applicable building codes or inadequacy or deficiency in the plans resulting in defects in the improvements, or for the performance or quality of work of any contractor or architect approved by it, or for non-compatible or unstable soil conditions or soil erosion, or any other condition or event.

7.5.7 No Waiver. Failure to enforce any provision of this Declaration, the Design Standards or construction rules shall not be deemed a waiver of the right to do so at any time thereafter.

7.6 Additional Terms

7.6.1 Builders Guild. The Founder may establish a Builders Guild and may allow only members of the Guild to construct or modify buildings in Vista Field. Membership in the Guild shall be based on understanding of the Design Standards, completion of education requirements, willingness to build in accordance with approved plans and specifications, quality of past work, client satisfaction and financial history. Builders must agree to comply with construction regulations, to properly contain and dispose of construction debris, and to build in accordance with the approved plans and specifications.

7.6.2 Notification and Registry. The Founder, during the Development Period, or the Association or Commercial Association, after assignment of the review process, may notify any Owner in writing that replacement with the original colors or materials will not be permitted, in which case review will be required. The Founder, Association or Commercial Association as applicable shall maintain a registry of such notifications, indexed by address and by the name of the Owner to whom the notice was originally given, so that any purchaser of a Parcel may check to see if such notice has been given. If the registry is properly maintained, it shall serve as notice to any subsequent Owner.

7.6.3 Dependent Attached Houses. Because Dependent Attached Houses must be compatible with its companion home or homes, including uniformity of maintenance, any repair or replacement of any part of the exterior of a Dependent Attached House Parcel is subject to review, even with materials and colors identical to those originally approved. The Design Standards restrict Owners' ability to enlarge or enclose space or to make any other changes in the exterior appearance of a Dependent Attached House or yard to a much greater degree than for other housing types. Review of any private antenna, satellite dish or other structure to be placed on the roof must include assurances that the roof will not be damaged.

7.6.4 Signage. All signs, advertisements or notices of any type (other than building permits) on any Parcel visible from outside the Parcel are subject to review. However, the Association is encouraged to respect polite expressions of civic interest and permit reasonable political signage supporting candidates or causes. For Sale or For Rent signs may be prohibited or limited to a uniform size and type.

7.6.5 Temporary Commercial Space. The Founder anticipates the incremental development of commercial districts using farmers' markets and other open-air markets, pushcarts, kiosks, food

Part VII: Design Review

trucks and other nontraditional commercial space. These structures may be placed within the footprint intended for a permanent building and may be relocated to other such spaces if and when a permanent building is constructed in that location. Such structures may also be placed in parking lots. The right to create such space is limited to the Founder or its assigns and is not subject to the Design Standards or design review.

7.6.6 Solar Energy Panels. As permitted under the Act, this Declaration and the Design Standards encourage the use of solar energy panels but regulate them as follows:

- (a) A roof-mounted solar energy panel shall not be visible above the roof line.
- (b) A solar energy panel may be attached to the slope of a roof facing a street only if:
 - (i) The solar energy panel conforms to the slope of the roof; and
 - (ii) The top edge of the solar energy panel is parallel to the roof ridge.
- (c) A solar energy panel frame, support bracket or any visible piping or wiring shall be painted to coordinate with the roofing material.
- (d) A ground-mounted solar energy panel shall be shielded if shielding the panel does not prohibit economic installation of the solar energy panel or degrade the operational performance quality of the solar energy panel by more than ten percent.

The Design Standards may include other reasonable rules regarding the placement and manner of a solar energy panel. As permitted by the Act, the Association may require Owners or residents who install solar energy panels to indemnify or reimburse the Association or its members for loss or damage caused by the installation, maintenance, or use of a solar energy panel.

7.6.7. Antennas and Satellite Dishes. The Design Standards may regulate antennas and satellite dishes to the greatest extent permitted by federal law.

Part VIII:

Modification, Repair and Reconstruction

8.1 Modification of Common Elements

8.2 Repair and Reconstruction

8.1 Modification of Common Elements

8.1.1 Capital Improvements.

- (a) **Definition.** A Capital Improvement is an alteration or addition or improvement to the Common Elements, or the purchase of additional real property to be added to the Common Elements. A Capital Improvement shall be considered substantial if the cost to the Association of the alteration, addition or improvement, whether by itself or when added to other Capital Improvements for such fiscal year, totals more than ten percent (10%) of the annual budget. However, any reasonably necessary repair or replacement of existing improvements with materials of similar price and utility shall not be considered a substantial Capital Improvement and may be authorized by the Board without Owner approval.
- (b) **Authority.** The Board may authorize Capital Improvements to the Common Elements and may modify the uses of the Common Elements; provided expenses for substantial Capital Improvements must be approved by written consent representing a majority of the Allocated Interests of Parcel Owners other than the Founder, plus the consent of the Founder during the Development Period.

8.1.2 Limitation on Modification of Certain Common Elements. The Founder may, in the instrument conveying certain Common Elements to the Association, restrict or prohibit the sale or modification of the Common Elements being conveyed. In such an instance, the provisions of the instrument of conveyance will take precedence over the provisions of this Section.

8.1.3 Purchase of Additional Common Elements. The Association may acquire additional real property to be owned as Common Elements. The decision to acquire additional real property as a Common Elements (other than that added by the Founder), whether by purchase or lease or other means, shall be authorized by a two-thirds vote of the Board. If the purchase or lease is costly enough to be considered a substantial Capital Expense, it must be approved as described in Paragraph 8.1.1.

Part VIII: Modification, Repair and Reconstruction

8.1.4 Mortgage. The Association may borrow money, mortgage and grant security interests in the Common Elements as permitted under the Act provided that such mortgage is required to pay for major expenses such as Capital Improvements, damage from a natural disaster or significant deferred maintenance. The Association must have a realistic plan for repaying the mortgage, which may include the levy of a Special Assessment. This provision may not be used with the intent of avoiding the restrictions on sale of the Common Elements.

8.1.5 Corrective Instruments. The Association, by approval of two-thirds vote of the Board and without a vote of the Owners, may also adopt, execute and record such corrective and other amendments to this Declaration permitted under the Act.

8.1.6 Condemnation. If all or part of the Common Elements is taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be paid to the Association and, if applicable, with respect to Limited Common Elements, divided among the Owners as required under the Act. The Board shall have the right to act on behalf of the Association with respect to the negotiation and litigation of the taking or condemnation affecting such property.

8.1.7 Dedication to the Public. The Founder may dedicate streets and parks within the Common Interest Community to the public rather than establishing such areas as Common Elements. Any areas that are Common Elements or have been conveyed to the Association may be conveyed to the appropriate public agency or authority and dedicated to the public upon approval of a two-thirds vote of the Board and, if required under the Act, approval by Owners representing the minimum percentage of the voting interests required under the Act for the conveyance of Common Elements.

Any such dedication may include additional terms and conditions as negotiated between the Board and the public entity.

8.1.8 Sale or Lease of Common Elements. Subject to the Act, the Association may sell, donate or grant short- or long-term leases for small portions of the Common Elements or exchange parts of the Common Elements for other property inside or outside the Common Interest Community when the Board finds that it benefits the Common Interest Community in at least one of the following two ways:

- (a) The conveyance is intended to benefit the Common Interest Community in ways other than the revenue, if any, to be derived from the transaction. For instance, the Association may convey or exchange property, if necessary to improve access to the Common Interest Community or to improve utility service.
- (b) The revenue to be derived is significant and the use and appearance of the Common Elements is not significantly impaired. For instance, the Association might sell or lease small amounts of space for cellular telephone transmission equipment if such equipment were not obtrusive.

Any decision to donate, sell, exchange or lease any portion of the Common Elements must be approved by two-thirds of the Board and must have the consent of the Founder if within the Development Period and, if required under the Act, must be approved by Owners representing

Part VIII: Modification, Repair and Reconstruction

the minimum percentage of the voting interests required under the Act for conveyance of Common Elements. A transaction for lease for a term of more than one year, including all tenant renewal options, cannot be completed until thirty days after notice to Owners. If requested by Owners representing at least 10% of the voting interests within the 30-day period, a meeting of Owners must be held following at least seven days' notice and, if a quorum is present in person or proxy, the decision to lease may be rescinded by majority vote of the Owners present. Any contract with a third party for the purchase, sell, exchange or lease of the Common Elements must comply with the Act and should be contingent upon this right of rescission, unless the Board has previously passed a resolution describing the intended transaction and given 30 days' notice.

8.1.9 Limitation. Other than dedication to the public as provided in Paragraph 8.1.7, sale or lease under the provisions of Paragraph 8.1.8 or the grant of customary easements as provided under the Act, the Common Elements may not be sold or leased.

8.2 Repair and Reconstruction

8.2.1 Common Elements. If fire or other casualty damages or destroys any of the improvements on the Common Elements, the Board shall arrange for and supervise the prompt repair of the improvements. The Board may restore the Common Elements to substantially original condition or may improve or modify the design or use subject to design review. The reconstruction may be considered a substantial Capital Improvement in accordance with Paragraph 8.1.2 only if and to the extent that it modifies the Common Elements and considering the total cost of the project, both insurance proceeds and any additional Assessments.

8.2.2 Parcels. If fire, severe weather or other loss damages or destroys a building or any other improvements on a Parcel, the Owner is required to restore the property as follows:

- (a) **Clean-Up.** The Owner of the Parcel shall immediately clear and secure the Parcel. If the Owner fails to clear and secure a Parcel within 30 days after a loss, the Association shall notify the Owner. If the violation continues for ten days after notice to the Owner, the Association shall have the right without liability to enter the Parcel to remove debris, raze or remove portions of damaged structures and perform any other clean up the Association deems necessary to make the Parcel safe and attractive. The cost of such clean-up shall be assessed to the Parcel Owner as a Specially Allocated Assessment.
- (b) **Rebuilding.** Within 18 months of the loss, the Owner shall proceed to rebuild and restore the improvements and shall continue such improvement until completion without undue delay. The improvements shall be restored to the plans and specifications existing immediately prior to such damage or destruction, unless the Owner submits other plans for approval in accordance with Part VII. If an Owner fails to begin rebuilding within the time allowed or abandons reconstruction, then the Association has the right but not the obligation to purchase the Parcel at 80% of fair market value in "as is" condition. The reduction in value is intended to allow the Association to market and resell the Parcel to an Owner who will restore the property.

Part IX:

General Provisions

- 9.1 Amendment
- 9.2 Effect and Termination
- 9.3 Additional Terms

9.1 Amendment

9.1.1 Generally. Except for amendments that may be executed by the Founder or the Association as provided in the Act or elsewhere in this Declaration and except as limited by the Act, this Declaration, including vested rights, may be amended at any time by affirmative vote or written agreement signed by Parcel Owners representing at least sixty percent (60%) of the Allocated Interests in the Association except as follows:

- (a) Part VI (Residential Property) may be amended by 60% approval of Residential Allocated Interests (with no approval of Commercial Allocated Interests needed).
- (b) Any amendment which affects only Commercial property requires approval by 60% of Commercial Allocated Interests.
- (c) Any action described in this Declaration that requires approval of a greater percentage, amendment of that provision shall require the same percentage vote as would be required to accomplish that action directly.
- (d) Any amendment during the Development Period shall require Founder's consent. Rights reserved to the Founder may not be amended at any time without the specific consent of the Founder.

To the extent permitted by law, a meeting shall not be required to obtain such consents and the individual consents do not need to be recorded.

9.1.2 Technical Amendments. Except as limited by the Act, the Founder specifically reserves the right, at any time during the Development Period, to amend this Declaration without the consent or joinder of any Owner, the Board or any other party as follows:

- (a) to conform to the Act or other applicable law,
- (b) to conform to the requirements of the Federal Home Loan Mortgage Corporation, Veterans Administration, Federal National Mortgage Association, HUD or any other generally recognized institution involved in the guarantee or purchase and sale of home loan mortgages,

Part IX: General Provisions

- (c) to conform to the requirements of institutional mortgage lenders or title insurance companies, or
- (d) to clarify, explain or make more certain any the Declaration's provisions or to correct errors, omissions or inconsistencies.

9.1.3 Recording of Amendments. Any amendment shall be recorded and unless provided otherwise, shall take effect immediately upon recording. All amendments must contain a cross-reference by recording number to this Declaration and to any prior amendments to the Declaration.

9.1.4 Rerecording of Declaration. Unless this Declaration is terminated, the Association shall rerecord this Declaration or other notice, if necessary under Washington law to preserve its effect.

9.1.5. Incorporation of Provisions of the Act. This Declaration references provisions of the Act rather than restate the requirements of the law. The Declaration shall be deemed to automatically incorporate any changes to the law, including changes in numbering. The Association may but is not required to record an amendment showing the updated information. Such amendment shall require only Board approval.

9.2 Effect and Termination

9.2.1 Covenants Run with the Land. The covenants and restrictions contained in this Declaration shall run with and bind the Common Interest Community and shall inure to the benefit of and be enforceable by the Founder, the Association, and all Owners of property within the Common Interest Community, their respective legal representatives, heirs, successors or assigns.

9.2.2 Termination. This Declaration may be terminated as provided by the Act. If permitted by the Act, this Declaration may be terminated by the consent in writing of Owners representing 75% of the Allocated Interests in the Association if all of the Common Elements are accepted for dedication by the City and Limited Common Elements either (i) accepted by the City with the benefited Owners being granted easements rights to use such Limited Common Elements substantially similar to the rights held by the benefitted Owners under this Declaration prior to such acceptance by the City or (ii) deeded to the benefited Owners jointly with the benefited Owners each having rights to use such Limited Common Elements substantially similar to the rights held by the benefitted Owners under this Declaration prior to such deeding.

9.3 Additional Terms

9.3.1 Assignability and Waiver.

- (a) **Successors and Assigns.** Wherever used in this Declaration, the term "Founder" shall mean the Port of Kennewick, its successors and assigns, or any successor or assign of all or substantially all of its interests in the development of the Property unless the instrument conveying such interests provides otherwise. Founder may assign all or any portion of its rights at any time to any successor or assigns, or to the Association.

Part IX: General Provisions

- (b) **Termination.** Founder may terminate some or all of its rights sooner by a signed writing, in which case the Founder reserves the right to record an instrument specifying that, prior to the end of the Development Period, certain actions of the Association must be approved by the Founder before they become effective.

9.3.2 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a uniform and consistent plan for the development and operation of the Common Interest Community as a high-quality mixed-use community. Boxed text and italicized portions may be used as an aid to interpretation. However, if the boxed or italicized portion conflicts with the operative provision, the operative provision shall govern.

9.3.3 Enforcement of Declaration.

- (a) **Enforcement.** Suit may be brought against any person, persons or entity violating or attempting to violate the provisions of this Declaration, either to restrain violation or to recover damages, and against his or its property to enforce any lien created by this Declaration. To enforce this Declaration or the Rules and Regulations, the Association, the Founder or any Owner may bring an action for damages, specific performance, declaratory decree or injunction, or any other remedy at law or in equity. The Board shall be empowered to bring suits on behalf of the Association.
- (b) **No Waiver.** Failure to enforce any provision of this Declaration, the Design Standards or the Rules and Regulations shall not be deemed a waiver of the right to do so at any time thereafter.
- (c) **Association's Legal Fees.** To the greatest extent permitted by the Act, any and all costs, including but not limited to attorneys' fees and court costs, which may be incurred by the Association in the enforcement of any of the provisions of this Declaration, whether or not suit is brought, may be assessed as a Specially Allocated Assessment to the Owner against whom such action was taken.

9.3.4 Notices. Any notice required to be sent to the Owner shall be deemed to have been properly sent when delivered in accordance with the Bylaws and Act.

9.3.5 Number. The use of the singular shall be deemed to include the plural, whenever the context so requires.

9.3.6 Invalidity and Law to Govern. The invalidity of any part of this Declaration shall not impair or affect the validity or enforceability of the rest of the Declaration, which shall remain in full force and effect. This Declaration shall be construed in accordance with the Act and other laws of the State of Washington.

IN WITNESS WHEREOF, the undersigned does hereby make this Declaration of Covenants, Conditions and Restrictions for the Common Interest Community and has caused this Declaration to be executed as of the day and year first above written.

Exhibit A: Legal Description, The Initial Property

Exhibit B: Legal Description, The Master Plan Area



VISTA FIELD DECLARATION

of

Covenants, Conditions and Restrictions

For

Commercial Property

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2/17/22

Vista Field Declaration of Covenants, Conditions and Restrictions
For
Commercial Property

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Glossary

Capitalized words are defined terms, which means they have a specific meaning as defined in this Commercial Declaration. Defined terms are usually defined the first time they are used in the text or in a portion of the text where the definition is important. Below is a table listing defined terms and where they can be found. Note that the Introduction and Vista Field Declaration are separate documents recorded immediately prior to this Commercial Declaration.

Assigned Value:	Section 2.3
Act:	Washington Common Interest Ownership Act
Articles of Incorporation:	Paragraph 2.1.1
Assessments:	Section 6.1
Board:	Section 2.2
Bylaws:	Paragraph 2.1.1
Capital Improvement:	Section 8.1.1
Commercial:	Submission to Declaration
Commercial Association:	Paragraph 2.1.1
Commercial Commons:	Section 3.1
Commercial Declaration:	This instrument
Commercial Private Property:	Submission to Declaration
Design Code:	As defined in the Vista Field Declaration
Development Period:	As defined in the Vista Field Declaration
Founder:	Submission to Declaration
Introduction:	Recitals to Submission to Declaration
Mixed-Use Parcel:	Submission to Declaration
Master Plan:	As defined in the Introduction
Master Plan Area:	As defined in the Introduction; legally described on Exhibit A to this Commercial Declaration
Owner:	Submission to Declaration
Parcel:	Submission to Declaration
Residential:	Submission to Declaration
Special Assessment:	Paragraph 6.1.3
Specially Allocated Assessment:	Paragraph 6.1.2
Town Center:	Paragraph 1.1.3
Vista Field:	As defined in the Vista Field Declaration
Vista Field Association:	As defined in the Introduction; Same as Association as defined in the Vista Field Declaration
Vista Field Declaration:	As defined in the Introduction
Vista Field Common Elements:	Same as Common Elements as defined in the Vista Field Declaration
Washington Uniform Common Interest Ownership Act:	As defined in the Introduction

VISTA FIELD

Declaration of Covenants, Conditions and Restrictions For Commercial Property

THE PORT OF KENNEWICK, to be known in this document as the "Founder," makes this Vista Field Declaration of Covenants, Conditions and Restrictions ("Commercial Declaration") on the _____ day of _____, year of _____.

RECITALS:

- A. The Founder is the owner of all of the property in Benton County, Washington, described on Exhibit A (the "Master Plan Area"), which is intended to be developed as a mixed-use community to be known as Vista Field.
- B. The unique characteristics of the community are described in the Introduction to Governing Documents for Vista Field (the "Introduction"). The Introduction, along with the Declaration of Covenants, Conditions and Restrictions for Vista Field ("Vista Field Declaration") are recorded in the Official Public Records of Benton County, Washington, immediately prior to this Commercial Declaration.
- C. As noted in the Glossary, certain terms used in this Commercial Declaration are defined in the Introduction and Vista Field Declaration. The terms of the Introduction and the Vista Field Declaration are hereby incorporated by reference.
- D. Portions of the Master Plan Area are being submitted to the Vista Field Declaration in phases. As further provided below, this Commercial Declaration applies only to commercial property subject to the Vista Field Declaration, plus the commercial portion of mixed-use parcels.

SUBMISSION TO DECLARATION

The Founder hereby submits to this Commercial Declaration all Commercial Private Property within the portion of the Master Plan Area made subject to the Vista Field Declaration, both the Initial Property as that term is defined in the Vista Field Declaration and any other property later made subject to the Vista Field Declaration (together, "Vista Field"), together with Commercial Commons as designated in this Commercial Declaration.

The word "Commercial" shall mean every use that is not Residential.

The term "Residential" shall be as defined under the Washington Common Interest Ownership Act (the "Act") as revised and interpreted from time to time and shall also include residential apartments and apartment developments (but not hotels), plus all portions of a Parcel qualified as a home occupation under the City of Kennewick Municipal Code, section 18.42.090 as revised and interpreted from time to time.

A "Parcel" is the smallest piece of land that can be owned within Vista Field; it is usually a lot but can also be a condominium unit.

A Commercial Parcel is a Parcel that is entirely non-Residential in use.

A Mixed-Use Parcel is a Parcel that includes both Commercial and Residential space under single ownership. An example of a small Mixed-Use Parcel, also known as a live/work unit, may be a townhouse with an office or small shop below and a Residential unit above.

The Commercial Portion of a Mixed-Use Parcel is the Parcel less and except all Residential use. Commercial Parcels and Commercial Portions shall be known together as "Commercial Private Property."

A person, group of people or entity that owns Commercial Private Property is known in this Commercial Declaration as an "Owner." The Founder may also be an Owner for so long as the Founder is record owner of any Parcel.

The Founder declares that all property made subject to this Commercial Declaration shall be held, sold and conveyed subject to its covenants, restrictions and easements.

As a declaration limited to non-Residential property, this Commercial Declaration is not subject to the Act.

This Commercial Declaration shall run with the land and be binding upon each Owner of Commercial Private Property within Vista Field, their heirs, successors and assigns, and to the extent described in Paragraph 9.2.1, upon all other parties, heirs, successors and assigns having any right, title or interest in all or any part of the community.

Part I:

Development Plan

- 1.1 Master Plan and Phasing
- 1.2 Relationship to Residential Property
- 1.3 Design Review

1.1 Master Plan and Phasing

1.1.1 Master Plan. As further described in the Introduction, the Master Plan describes the mixed-use development to be known as Vista Field. The Master Plan is general in nature and subject to change.

1.1.2 Master Plan Area. The Master Plan Area is as described on Exhibit A. The Master Plan Area may be modified as described in the Vista Field Declaration.

1.1.3 Town Center. Most of the Commercial property is located in a portion of Vista Field known as Town Center. The approximate boundaries of the Town Center are described on Exhibit B to the Vista Field Declaration. Commercial uses may occur in other parts of Vista Field.

1.1.4 Phasing. As property is made subject to the Vista Field Declaration, Commercial Private Property within the phased addition shall automatically become subject to this Commercial Declaration unless the Supplemental Declaration or Amendment to the Declaration specifically provides otherwise. No amendment to this Commercial Declaration shall be required.

1.1.5 Temporary Commercial Space. The Founder anticipates the incremental development of commercial districts using farmers' markets and other open-air markets, pushcarts, kiosks, food trucks and other nontraditional commercial space. These structures may be placed within the footprint intended for a permanent building and may be relocated to other such spaces if and when a permanent building is constructed in that location. Such structures may also be placed in parking lots, plazas and other open spaces. The right to create such space is limited to the Founder or its assigns and is not subject to the Design Code.

1.2 Relationship to Residential Property

1.2.1 Exclusion. Owners of Residential Parcels within Vista Field are not members of the Commercial Association. Notwithstanding anything herein to the contrary, Owners of Residential Parcels and Owners of Mixed-Use Parcels (with respect to the portion used for Residential uses)

Part I: Development Plan

do not pay any assessments or other costs for any share of real estate taxes, insurance premiums, maintenance, improvement of, or services or other expenses related to, Commercial Commons.

1.2.2 Assigned Values. Assigned Values, which determine both voting rights and Assessments for the Commercial Association as provided in Section 2.3, are based only on non-Residential uses, including the non-Residential portions of Mixed-Use Parcels.

1.2.3 Applicable Provisions. Residential Parcels and the Residential portions of Mixed-Use Parcels are not subject to, or benefitted by, this Commercial Declaration except for the following:

- (a) **Easements.** Owners of Residential property have an easement over the Commercial Commons as provided in paragraph 3.1.4.
- (b) **Design Review.** As described in Section 1.3.2 of this Commercial Declaration, after the Development Period, Design Review for Mixed-Use Parcels shall be assigned to the Commercial Association.
- (c) **Repair and Reconstruction.** Mixed-Use Parcels are subject to the provisions of 8.2.2 regarding repair and reconstruction after a fire or other loss.

1.3 Design Review

1.3.1 Incorporation of Terms. Part VII of the Vista Field Declaration, which sets out provisions for design review, is hereby incorporated by reference. As provided therein, the Founder retains the right of design review during the Development Period, as defined in the Vista Field Declaration.

1.3.2 Operation After Assignment. At the end of the Development Period, the right is to be assigned to the Commercial Association for Commercial and Mixed-Use Parcels as provided in the Vista Field Declaration. After assignment of the review right, the Commercial Association may adopt rules for operation of design review. In addition, after assignment, the Commercial Association may by amendment of this Commercial Declaration modify the provisions of Part VII of the Vista Field Declaration that are incorporated herein as they apply to Commercial Parcels and Mixed-Use Parcels, provided such modifications are not unreasonable as they apply to all Commercial and Mixed-Use Parcels.

1.3.3 Mixed-Use Parcels. If the Commercial Association exercises a right to review a Mixed-Use Parcel, it shall not charge any costs, fees or other amounts to the Owner of the Mixed-Use Parcel in connection with the review of the Residential portion of such Mixed-Use Parcel.

Part II:

The Commercial Association

- 2.1 Establishment
- 2.2 Board
- 2.3 Assigned Values

2.1 Establishment

2.1.1 Nonprofit Corporation. The Vista Field Commercial Association ("Commercial Association") is established under Washington law by its Articles of Incorporation as a nonprofit corporation comprised of Owners of Commercial Parcels and, with respect to the portions used for non-Residential uses, Owners of Mixed-Use Parcels. This Commercial Declaration, the Articles of Incorporation, and the Bylaws describe its powers and duties.

2.1.2 Membership. Each Owner of Commercial Private Property subject to this Commercial Declaration shall be a member of the Commercial Association. Assessments and voting rights are based only on Commercial uses, including the non-Residential portion of Mixed-Use Parcels, as further provided in Section 2.3. Membership is automatically attached to ownership of the Parcel and cannot be separated from title to the Parcel. Residential Parcels and portions of Mixed-Use Parcels used for Residential uses are not assessed and have no voting rights.

2.1.3 Relationship to Vista Field. The Commercial Association shall operate independently of the Vista Field Association but shall coordinate and cooperate, particularly in the use of Vista Field Common Elements within or adjacent to Town Center or other commercial areas.

2.1.4 Professional Management. The Commercial Association may employ a manager or other personnel, who may work on a contract basis.

2.1.5 Additional Provisions. Additional provisions concerning the operation of the Commercial Association and the Board and voting procedure are contained in its Articles of Incorporation and Bylaws. The Articles of Incorporation or Bylaws may establish provisions for classes of voting and Board representation.

2.2 Board

2.2.1 Selection. The Commercial Association shall be governed by an elected Board in accordance with its Articles of Incorporation and Bylaws. The Founder shall have the right to select the Board during the entire Development Period, unless it waives the right in writing.

Part II: The Commercial Association

2.2.2 Decision Making. Except for those matters described in this Commercial Declaration requiring a vote or consent of the Owners or consent of the Founder, the Board makes all decisions necessary to perform the rights and duties of the Commercial Association under this Commercial Declaration.

2.2.3 Voting Procedure. Wherever used in this Commercial Declaration, approval by a majority or other proportion of the Owners refers to a vote of the Owners, either at a properly called membership meeting or through another voting procedure established under the Bylaws. However, where the Declaration specifies consent in writing, or request in writing, then the necessary proportion is based on the total voting interests within the Commercial Association or applicable group of Owners, and signatures may be collected without a membership meeting or other voting procedure. To the greatest extent permitted by law, the Commercial Association may institute voting by electronic or other means.

2.3 Assigned Value

2.3.1 Definition. The Commercial Association shall assign to each Parcel subject to this Commercial Declaration a numerical value ("Assigned Value") based on its appraised value by the Benton County Tax Assessor as follows:

- (a) **For Commercial Parcels,** the Assigned Value shall be equal to its then-current assessed dollar value of the real property divided by 1,000 and rounded to the closest whole digit. For incubator space that has not been appraised by the tax assessor, the Commercial Association may promulgate rules and establish a reasonable value.
- (b) **For Mixed-Use Parcels,** the Assigned Value shall be calculated similarly but based only on the commercial portions of the Parcel.

The Relative Assigned Value for each Parcel shall be calculated by dividing the Assigned Value for that Parcel by the sum of the Assigned Values of all Parcels within Vista Field. The Commercial Association may express Relative Assigned Value as percentages, fractions or absolute values.

2.3.2 Purpose. Assigned Values are used for voting rights in the Commercial Association as well as for determining Assessments for the Commercial Association's general budget.

2.3.3 Adjustments. The Commercial Association shall periodically adjust Assigned Value and Relative Assigned Value to reflect assessed value as determined by the Tax Assessor and to identify Parcels that are added to or withdrawn from this Commercial Declaration.

2.3.4 Rules. The Commercial Association may from time to time make and amend rules concerning the calculation of Assigned Values and Relative Assigned Values, including methods for rounding, adjustments due to improvements or other change in the assessed value, determining whether a Parcel is Residential, Commercial or mixed-use and ascertaining the value of the Commercial portion of Mixed-Use Parcels, and the frequency and date or dates at which Assigned Values and Relative Assigned Values shall be calculated. The Commercial Association

Part II: The Commercial Association

may by rule reduce Assigned Value by up to half for Parcels that are outside of Town Center or for grocery stores or essential services.

Part III:

Shared Spaces and Facilities

3.1 Commercial Commons

3.2 Relationship to Vista Field Common Elements

3.3 Private Agreements

3.1 Commercial Commons

3.1.1 Definition. Commercial Commons are commercially-oriented property owned by the Commercial Association, as well as easements, leases and other use rights held by the Commercial Association. Commercial Commons are primarily located in the Town Center and are likely to include, without limitation, shared facilities and furnishings such as lighting, street furniture, signage and trash receptacles, and may include certain streets, parking, plazas, greens and other landscaping, restrooms and water fountains.

3.1.2 Establishment. Commercial Commons may be labeled as such on any plat or conveyed by deed, easement, lease, license, or other agreement to the Commercial Association. The Founder may convey to the Commercial Association additional Commercial Commons, which the Commercial Association shall accept for maintenance and management. The design, construction method and cost of each of the additional Commercial Commons shall be at the discretion of the Founder.

3.1.3 Maintenance. Commercial Commons are maintained and managed as provided in Part IV of this Commercial Declaration.

3.1.4 Owners' Easement of Enjoyment. Every Owner within Vista Field, both Residential and commercial, has, and is hereby granted, an easement for appropriate use and enjoyment of the Commercial Commons, including access to Parcels as necessary. This easement passes with title to the Parcel and is automatically extended to the commercial tenants, customers, invitees, family members, Residential tenants or guests who occupy or reside on the Parcel or are accompanied by the Owner. The easement is subject to the Commercial Association's right of regulation in accordance with this Commercial Declaration and is also subject to any limitations that may be contained in any Supplement Declaration or the conveyance of that portion of the Commercial Commons to the Commercial Association. Owners of Residential Parcels shall not be required to pay any share of real estate taxes, insurance premiums, maintenance, or improvement of, or services or other expenses related to, the Commercial Commons.

3.1.5 Use by Public. At the election of the Commercial Association from time to time, passive recreational facilities such as parks, squares or plazas that are part of the Commercial Commons

Part IV: Commercial Association Responsibilities

may be open for appropriate use by the public, subject to reasonable regulation by the Commercial Association to prevent nuisances, including without limitation the right to limit hours and days of use and the right to remove individuals who are in violation of the rules and to temporarily or permanently close any Commercial Commons to public use.

3.2 Relationship to Vista Field Common Elements

3.2.1 Definition. Vista Field Common Elements, which are owned or managed by the Vista Field Association and intended to be shared by the entire community of Vista Field, may be located within Town Center and other commercial areas. Such Vista Field Common Elements may include streets, plazas, greens and other landscaping, water features and other open space.

3.2.2 Maintenance Responsibility. As provided in the Vista Field Declaration, the Vista Field Association shall provide maintenance, repair and replacement of all Vista Field Common Elements, including those within Town Center and other commercial districts.

3.3.3 Reservation of Use. As provided in the Vista Field Declaration, the Founder reserves for itself and for the Commercial Association an easement for use of the Vista Field Common Elements within the Town Center for special events such as concerts and festivals. After any such events, the Commercial Association, at its cost, shall provide any additional maintenance required by the event, including trash collection, clean-up and restoration as provided in the Vista Field Declaration.

3.3 Private Agreements

3.3.1 Privately-Owned Space. Certain facilities may be solely owned by the Founder or others and may be shared in accordance with agreements between the parties, including agreements between the owner and the Commercial Association. Such spaces and facilities include but are not limited to parking lots or garages, plazas, courtyards and dumpsters.

3.3.2 Use Rights. The Commercial Association may hold use rights in the form of easements, leases or other rights for property to be used and maintained in the same manner as Commercial Commons and be included in the term Commercial Commons unless otherwise specified or clear from the context.

Part IV: Commercial Association Responsibilities

4.1 Maintenance of Commercial Commons

4.2 Management and Services

4.3 Marketing and Special Events

The Commercial Association has three primary purposes: maintenance of Commercial Commons, management of the business use of Commercial Commons and other shared areas and services, and promotion of businesses and activity within Vista Field.

4.1 Maintenance of Commercial Commons

4.1.1 Maintenance Responsibility. The Commercial Association is responsible for managing the Commercial Commons and must keep the Commercial Commons clean and in good repair. The Commercial Association may also make Capital Improvements to the Commercial Commons and may modify the uses of the Commercial Commons if approved in accordance with paragraph 8.1.1.

4.1.2 Association's Easements for Maintenance. To the extent reasonably necessary, the Commercial Association has, and is hereby granted, an easement over each Parcel for maintenance of the Commercial Commons, including repair, replacement and improvement. The Commercial Association also has, and is hereby granted, an easement with respect to any improvements constructed on the Commercial Commons that encroach on a Parcel, whether due to any minor deviation from the Plat or the settling or shifting of any land or improvements.

4.1.3 Common Landscaping and Rights-of-Way. The Commercial Association shall maintain any landscaping or signage that is part of the Commercial Commons. To the extent permitted by governmental authorities, the Commercial Association may, but is not obligated to, maintain the following:

- (a) street trees and any landscaping between the sidewalk and the street as if they were part of the Commercial Commons, even if located within the public right-of-way or on a Parcel, and
- (b) public rights-of-way and other public or private properties located within reasonable proximity to Town Center or other commercial property in Vista Field if its deterioration would affect the appearance of or access to the property.

Part IV: Commercial Association Responsibilities

4.1.4 Surface Water Management. The Commercial Association shall have a blanket easement and right on, over, under and through the ground within Town Center to inspect, maintain and correct drainage of surface water and other erosion controls. This easement includes the right to cut or remove any vegetation, grade soil or to take any other action reasonably necessary for health or safety or to comply with governmental requirements. The Commercial Association shall notify affected Owners (except in an emergency) and shall restore the affected property to its original condition as nearly as practical.

4.1.5 Street Lights. The Commercial Association may purchase or lease, or lease to purchase, lighting for the streets and Commercial Commons. Alternatively, the Commercial Association may enter into such agreements with the Founder or other entity if the lighting equipment to be provided meets the requirements of the Design Code and the terms are comparable to arms' length transaction with a utility or other third party.

4.1.6 Damage or Destruction of Commercial Commons by Owner. If any Owner or any of his guests, tenants, licensees, agents, employees or members of his family damages any of the Commercial Commons as a result of negligence or misuse, the Owner hereby authorizes the Commercial Association to repair the damage. In the case of vandalism or other reckless or intentional damage, the cost of repair shall be the responsibility of that Owner. The Commercial Association may, but is not required to, seek compensation for damage from the guest, tenant or other party who caused the damage, in which case the Owner shall be jointly and severally liable. This paragraph shall not be used to reduce the obligation of any insurer to the Commercial Association for any policy held by the Commercial Association.

4.1.7 Limitation. The Commercial Association shall use reasonable judgment in maintaining and regulating the Commercial Commons, but neither the Commercial Association nor the Founder makes any representation or assumes any liability for any loss or injury.

4.2 Management and Services

4.2.1 Commercial Commons. The Commercial Association shall oversee and regulate use of Commercial Commons including uses by businesses. The cost of management shall be part of the Commercial Association's budget to be assessed in accordance with Assigned Values.

4.2.2 Sidewalks and Plazas. The Commercial Association may permit, regulate and manage sidewalks and plazas to be used for commercial and other activities including, without limitation, café seating or the sale of merchandise.

4.2.3 Parking Management.

- (a) **Design.** Parking within Vista Field is meant to be used efficiently as part of the walkable design of the community. Much of the parking is intended to be shared, so that guests can park once and walk to various businesses. Through streets have a significant amount of on-street parking, which serves both residents and the Town Center. Because on-street parking narrows the street width and slows traffic, it also serves as a traffic-calming

Part IV: Commercial Association Responsibilities

measure. Larger parking lots or garages are intended to be shielded from view wherever possible.

- (b) **Management.** The Commercial Association shall efficiently manage parking that is either part of the Commercial Commons or that it controls with use rights or other agreements. Management may include a paid parking system or parking validation system as necessary to ensure proper turn-over of spaces and to encourage efficient shared use.
- (c) **Revenue.** Revenue generated from paid parking within the Commercial Commons in excess of expenses shall be used for a fund for improvement of the Town Center or for programming and activities.
- (d) **Redevelopment.** Subject to local government regulation and any private agreements, including mortgage requirements, any parking areas may be redeveloped by the owner of thereof (including the Founder) at any time without the consent of the Owners or the Commercial Association provided done in accordance with the Design Code.

4.2.4 Security. The Commercial Association may, but is not required, to provide private security services. The Founder and the Commercial Association make no representations concerning security and shall not be liable in any way for failure to provide services or quality of such services.

4.3 Marketing and Special Events

4.3.1 Generally. The Commercial Association shall promote Vista Field for the mutual benefit of all businesses. To the extent of available revenue, its responsibilities shall include advertising, special event programming, seasonal decoration and other promotional activities.

4.3.2 Special Events. The Commercial Association may use and allow others to use the Commercial Commons for special events, including but not limited to music, performance, art or craft shows and various festivals, parades, block parties or other events intended to enrich and enliven the community. Such events may be open to the public and some events may charge an entrance fee.

4.3.3 Use of Vista Field Common Elements. As provided in the Vista Field Declaration, the Commercial Association shall also have the right to use Vista Field Common Elements within the general boundaries of the Town Center. As provided in the Vista Field Declaration, the Commercial Association shall be responsible for any clean-up or wear-and-tear on the Vista Field Common Elements attributable to use for special events.

4.3.4 Outdoor Markets. The Commercial Association may also sponsor farmers' markets or other outdoor markets on an occasional or regular basis. Portions of the Vista Field Common Elements and Commercial Commons may be designated as an open-air market for the rental of space for pushcarts, kiosks, stands or similar temporary sales structures.

4.3.5 Advertising and Seasonal Decoration. The Commercial Association may install seasonal decorations and promotional signage upon the Vista Field Common Elements within the boundaries of the Town Center, and Commercial Commons, including but not limited to banners,

Part IV: Commercial Association Responsibilities

lights and other decorations. The Commercial Association may also engage in media programming and advertising for Vista Field and for special events.

4.3.6 Costs. Costs for marketing shall be assessed as provided in Section 5.2.

Part V:

Association Budget

- 5.1 Association Budget
- 5.2 Marketing and Special Events
- 5.3 Additional Services

5.1 Association Budget

5.1.1 Budget Items. The budget shall estimate total expenses to be incurred by the Commercial Association in carrying out its responsibilities. These expenses shall include, without limitation, the cost of professional management of the Commercial Association, insurance premiums, taxes, services, supplies, professional services (including accounting and legal counsel), and other expenses for the rendering of all services properly approved in accordance with this Commercial Declaration. The budget may also include reasonable amounts, as determined by the Board, for working capital and reserves.

5.1.2 Reserves. The Commercial Association may establish reserve funds for deferred maintenance but is not required to do so.

5.1.3 Insurance. The Commercial Association may carry whatever types of insurance deemed prudent by the Board.

5.1.4 Approval. The Board shall review and approve the budget prior to the beginning of the fiscal year for which it applies in accordance with the Bylaws. The Board's failure or delay in preparing or adopting the annual budget for any fiscal year shall not waive or release an Owner's obligation to pay General Assessments whenever the amount of such Assessments is finally determined. In the absence of an annual Association budget each Owner shall continue to pay the assessment at the rate established for the previous fiscal period until notified otherwise.

5.1.5 Contracting Parties. The Commercial Association may contract with any party, including the Founder, for the performance of all or any portion of the management of the Commercial Association and its maintenance and repair obligations. All such contracts shall be at arms-length market rates. The cost of the contract shall be included within the General Assessment, Special Assessment or Individual Parcel Assessment as applicable.

5.1.6 Allocation of Assessments. Except as otherwise provided in this Part V, the Commercial Association's budget shall be divided among all members in accordance with Assigned Values.

Part VII: Business Regulation

5.2 Marketing and Special Events

5.2.1 Budget. The Commercial Association shall budget separately for promotional activities. The marketing budget shall show the net expense to the Commercial Association, taking into account anticipated income, such as admission prices for concerts or the rental of farmers' market stands, and shall include the expenses of set-up, clean-up and restoration of any damage to Vista Field Common Elements or Commercial Commons caused by events.

5.2.2 Distribution of Costs. Marketing shall be part of the Commercial Association budget. However, office space shall be excluded from that portion of the Assessments attributable to marketing expenses that exceeds ten percent (10%) of the Commercial Association budget.

5.3 Limited Commercial Commons

5.3.1 Limited Commercial Commons. Portions of the Commercial Commons that are intended for use by one or more, but not all, Owners are known as Limited Commercial Commons. An alley, shared parking area, small plaza or shared courtyard is an example of a Limited Commercial Commons. Limited Commercial Commons may be designated in a Plat, this Commercial Declaration or a Supplemental Declaration, or a deed or other document conveying the property to the Commercial Association. In addition, the Board may reasonably determine that portions of the Commercial Commons are designed for use by only certain Owners as Limited Commercial Commons.

5.3.2 Cost of Maintenance. The designation of a portion of the Commercial Commons as a Limited Commercial Commons is both to provide exclusive use rights and to distribute costs fairly. The Commercial Association shall choose on an annual basis one of the following methods of assessing the cost for each of the various Limited Commercial Commons:

- (a) **Assigned Values for Affected Parcels.** The cost shall be divided among the benefited Parcels in accordance with their relative Assigned Values.
- (b) **Usage.** If the Commercial Association determines that it is reasonable to do so, it may assess the cost based on actual usage or a reasonable estimate of such usage.
- (c) **General Budget.** The Commercial Association may reasonably determine that the benefit of separately billing and accounting for the cost of maintenance is not sufficient to justify the burden and may reasonably choose to maintain any particular Limited Common Element as part of the Commercial Commons and the cost shall be assessed to Owners of all Commercial Parcels and Mixed-Use Parcels in accordance with relative Assigned Values.

5.3.3 Relationship to Commercial Commons. Unless otherwise specified or clear from the context, the term Commercial Commons includes Limited Commercial Commons.

Part VII: Business Regulation

5.4 Additional Services

5.4.1 Additional Association Services. In addition to the specific powers provided in this Commercial Declaration, and to the extent permitted by governmental authorities, the Commercial Association, by majority vote of the Board, may provide any other service allowed by law to be provided by an association organized as a nonprofit corporation. If requested by petitions signed by at least 10% of the Owners, a membership meeting may be called and, if a quorum is present, the offering of the additional service may be repealed by majority vote of the Owners. For three years after such a repeal, the Board may not reinstitute the service unless also approved by majority vote of the Owners.

5.4.2 Parcel Services. The Commercial Association may, but is not obligated to, act as agent for an Owner, if so requested by that Owner, to contract for routine maintenance and other services not required to be provided by the Commercial Association, the cost of which would be assessed to that Owner as a Specially Allocated Assessment. The terms and conditions of all such contracts shall be at the discretion of the Board.

Part VI:

Assessments

6.1 Assessments

6.2 Effect of Nonpayment of Assessment; Remedies

6.1 Assessments

6.1.1 Establishment of General Assessments. The Board shall set the date or dates Assessments become due and may provide for collection of Assessments annually or monthly, quarterly or in semiannual installments.

6.1.2 Obligation for Assessments. Each Owner of any Commercial Private Property by acceptance of a deed or other transfer instrument is deemed to agree to pay to the Commercial Association the following (to be known collectively as "Assessments"):

- (a) General Assessments for all budgeted expenses,
- (b) Special Assessments for the purposes provided in this Commercial Declaration,
- (c) Assessments for Limited Commercial Commons as applicable, and
- (d) other Specially Allocated Expenses for any charges particular to that Parcel.

6.1.3 Special Assessment. The Board may at any time levy a Special Assessment:

- (a) **Capital Improvements.** A Special Assessment may be levied for a Capital Improvement approved in accordance with Paragraph 6.1.1.
- (b) **Emergency Assessment.** By a two-thirds (2/3) vote, the Board may impose a Special Assessment for any unusual or emergency maintenance or repair or other expense that this Commercial Declaration or the law requires the Commercial Association to pay (including, after depletion of reserves, any unexpected expenditures not provided by the budget or unanticipated increases in the amounts budgeted).

The Board may provide that the Special Assessment be due and payable in installments over any period it determines and may provide a discount for early payment.

6.2 Effect of Nonpayment of Assessment; Remedies

6.2.1 Personal Obligation. All Assessments, together with any late fee, charges, fines, interest and cost of collection when delinquent, including a reasonable attorney's fee whether or not suit

Part VII: Business Regulation

is brought (collectively, the "Assessment Charge") shall be the personal obligation of the person or entity who was the Owner of the Parcel at the time when the assessment was levied, and of each subsequent Owner. No Owner may waive or otherwise escape liability for the Assessment Charge by abandonment of the Parcel. The Commercial Association may bring an action at law against the Owner personally obligated to pay the Assessment Charge.

6.2.2 Charge on Parcel. Each Owner of a Parcel, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to all Assessments, costs and attorneys' fees and other permitted charges under this Commercial Declaration duly levied by the Common Association as provided herein. Such Assessments, together with interest, costs, late charges and reasonable attorneys' fees, shall also be a charge on a Parcel and shall be a continuing lien upon such Parcel against which each such Assessment is made even after such Parcel is transferred or conveyed.

6.2.3 Delinquency. In the event any Assessment or installment thereof remains delinquent for more than 30 days, the Commercial Association may, upon 15 days' prior written notice to the Owner of the Parcel of the existence of the default, accelerate and demand immediate payment of all past due Assessments, interest, costs, late charges, and reasonable attorneys' fees.

6.2.4 Recording of Notice. The amount of any Assessment assessed or charged to any Owner plus interest, costs, late charges, and reasonable attorneys' fees, shall be a lien upon the Parcel. A notice of Assessment may be recorded in the office where real estate conveyances are recorded for the Parcel. Such notice of Assessment may be filed at any time at least 15 days after notice of default has been given to the Owner. The lien for payment of such Assessment and charges shall have priority over all other liens and encumbrances, recorded or unrecorded, limited as otherwise expressly provided herein. Suit to recover a money judgment for unpaid Assessments or charges shall be maintainable without foreclosure or waiver of the lien securing the same. Said liens may be foreclosed as provided in Section 6.2.3 below.

6.2.5 Foreclosure of Assessment Lien; Attorneys' Fees and Costs. The Commercial Association (or its authorized agent) may initiate an action to foreclose the lien of, or collect any Assessment and any associated interest, costs, late charges, and reasonable attorneys' fees. In any action to foreclose the lien of, or otherwise collect delinquent Assessments, interest, costs, late charges, and reasonable attorneys' fees, any judgment rendered in favor of the Commercial Association shall include a reasonable sum for attorneys' fees and all costs and expenses reasonably incurred in preparation for or in the prosecution of said action, in addition to all costs permitted by law. Said liens may be foreclosed as a mortgage under RCW 61.12 or by nonjudicial foreclosure of a deed of trust under RCW 61.24.

6.2.6 Curing of Default. The Commercial Association (or its authorized agent) shall prepare and record a satisfaction and release of the lien for which a notice of Assessment has been filed and recorded in accordance with this Section 6.2 upon timely payment or other satisfaction of all delinquent Assessments set forth in the notice and all other Assessments which have become due and payable following the date of such recordation with respect to the Parcel to which such notice of Assessment was recorded, together with all costs, late charges and interest which have accrued

Part VII: Buiness Regulation

thereon. A fee of one hundred dollars (\$100.00) or such other amount as may from time to time be set by the Commercial Association covering the cost of preparation and recordation shall be paid to the Commercial Association prior to such action. The satisfaction and release of the lien created by the notice of Assessment shall be executed by Commercial Association or by any authorized agent of the Commercial Association. For the purpose of this paragraph, the term "costs" shall include costs and expenses actually incurred or expended by the Commercial Association in connection with the cost of preparation and recordation of the notice of Assessment and any efforts to collect the delinquent Assessments, including a reasonable sum for attorneys' fees and costs. Unless otherwise prohibited by law, any mortgagee holding a lien on a Parcel may pay any unpaid Assessments or charges with respect to such Parcel, and, upon such payment, shall have a lien on such Parcel for the amounts paid of the same priority as its lien.

6.2.7 Acquisition of Parcel. The Commercial Association, acting on behalf of the Owners, shall have the power to bid for an interest in any Parcel foreclosed at foreclosure sale and to acquire, hold, lease, mortgage and convey the Parcel. The Commercial Association may take a deed in lieu of foreclosure.

Notice to Purchasers concerning Unpaid Assessments

If there are any Assessments unpaid on the Parcel, you will automatically become liable for those Assessments when you accept a deed. **You should contact the Commercial Association before purchasing a Parcel to make sure no Assessments are owed.** You should also inquire about Special Assessments which may have been assessed but which are not yet owed.

Part VII: Business Regulation

7.1 Business Standards

7.2 Enforcement

The provisions in this section are based on experience in other successful shopping and entertainment districts. They do not automatically take effect but require action by the Commercial Association to adopt specific standards for Vista Field within the areas of regulation permitted by this Part VII.

7.1 Business Standards

7.1.1 Merchant Mix.

- (a) **Generally.** To assure an appropriate mix of varied, quality establishments, the Commercial Association may establish standards for various aspects of Owner's business, including without limitation types, quality, style and prices of stock. Such standards may differ for different areas and may apply to an individual store or on a block-by-block basis, in which case standards may be different for opposite sides of the street, corner Parcels or for different sizes or types of Parcels.
- (b) **Exclusives.** The Commercial Association's efforts to assure varied, quality businesses within Vista Field may include the restriction or prohibition of types of merchandise which may be offered and the granting of exclusive rights to certain merchandise. Such exclusive rights may be granted on an individual basis at the Commercial Association's discretion, based on its own evaluation of the quality of merchandise, potential for success and other factors.
- (c) **Limitation.** The Commercial Association may change the standards from time to time; however, no business which meets existing standards may be required to conform to new standards so long as the business continues to operate under the same name and ownership.

7.1.2 Name of Business; Advertising.

- (a) **Review.** The Commercial Association shall have the right to review in advance and approve the name, logo or any identifying symbols to be used with the business.
- (b) **Approval of Advertising.** All advertising for the business to be conducted on the Parcel, whether for print, television, radio, handbills, outside sign or other media, may be subject to the Commercial Association's approval. The Commercial Association may prohibit or regulate the distribution of handbills within Vista Field.

Part VII: Buiness Regulation

- (c) **Signage.** The Commercial Association may promulgate signage standards and may require that those signs, advertising placards, names, insignia, trademarks, descriptive material or other identification business on the exterior of the building or upon any exterior glass surfaces be specifically approved by the Commercial Association or meet signage standards. Such signage may also be subject to the Design Code.

7.1.3 Appearance, Hours of Operation. The Commercial Association may regulate store displays and general decor, cleanliness and days and hours of operation.

7.1.4 Quality Control. The Commercial Association, its agents and employees shall have the right to inspect the business, stock and services on a monthly basis. Failure to conduct monthly inspections on a regular basis shall not waive the Commercial Association's rights to do so. The Commercial Association shall notify Owner of any deficiencies noted during such inspection. If any such deficiency is not resolved within a reasonable amount of time, the Commercial Association shall give a second notice to Owner, which shall be noted as a "second notice of deficiency." If the deficiency is not cured within 30 days of the second notice, then the Commercial Association shall have all rights of enforcement under this Commercial Declaration.

7.2 Enforcement

7.2.6 Enforcement. The Commercial Association shall have the right to promulgate and enforce any regulations adopted in accordance with Part VII.

7.2.7 Leases. Any regulations adopted in accordance with this Part VII shall be deemed included in any lease of commercial space within Vista Field. The Commercial Association shall have the right to review such leases in advance and may promulgate a standard form lease to simplify its review. If any tenant is in violation of these provisions the Commercial Association may enforce these provisions against the Owner, the tenant or both, and is granted the right as Owner's agent and attorney in fact in accordance to evict any tenant in violation of these provisions.

Part VIII:

Modification, Repair and Reconstruction

8.1 Modification of Commercial Commons

8.2 Repair and Reconstruction

8.1 Modification of Commercial Commons

8.1.1 Capital Improvements.

- (a) **Definition.** A Capital Improvement is an alteration or addition or improvement to the Commercial Commons, or the purchase of additional property (by deed, easement, lease, license, or other agreement) to be added to the Commercial Commons. A Capital Improvement shall be considered substantial if, when added to other Capital Improvements for the then-current fiscal year, totals more than ten percent (10%) of the then-current annual budget. However, any reasonably necessary repair or replacement of existing improvements with materials of similar price and utility shall not be considered a Capital Improvement and may be authorized by the Board without Owner approval.
- (b) **Approval.** The Board may authorize Capital Improvements to the Commercial Commons and may modify the uses of the Commercial Commons. Expenses for substantial Capital Improvements must be approved by written consent representing a majority of the Assigned Values of Parcel Owners other than the Founder, plus the consent of the Founder during the Development Period.

8.1.2 Purchase of Additional Commercial Commons. The Commercial Association may acquire additional real property (by deed, easement, lease, license, or other agreement) to be owned as Commercial Commons. The decision to acquire additional Commercial Commons (other than that contributed by the Founder), whether by purchase or lease or other means, shall be authorized by a two-thirds vote of the Board. If the initial acquisition cost of a purchase, lease or agreement is costly enough to be considered a substantial Capital Expense, it must be approved as described in Paragraph 8.1.1.

8.1.3 Sale or Lease for Community Benefit. The Commercial Association may sell, donate or grant long-term leases for small portions of the Commercial Commons or exchange parts of the Commercial Commons for other property inside or outside Vista Field when the Board finds that it benefits Vista Field in at least one of the following two ways:

Part VIII: Modification, Repair and Reconstruction

- (a) The conveyance is intended to benefit Vista Field in ways other than the revenue, if any, to be derived from the transaction. For instance, the Commercial Association may convey or exchange property if necessary to improve access to Vista Field or its Town Center or other Commercial areas or to improve utility service.
- (b) The revenue to be derived is significant and the use and appearance of the Commercial Commons is not significantly impaired. For instance, the Commercial Association might sell or lease small amounts of space for cellular telephone transmission equipment if such equipment were not obtrusive.

Any decision to donate, sell, exchange or lease any portion of the Commercial Commons must be approved by two-thirds of the Board and must have the consent of the Founder if within the Development Period. A transaction for sale, exchange or lease for a term of more than one year, including all tenant renewal options, cannot be completed until thirty days after notice to Owners. If requested by Owners representing at least 10% of the voting interests within the 30-day period, a meeting of Owners must be held following at least seven days' notice and, if a quorum is present in person or proxy, the decision to purchase, sell, exchange or lease may be rescinded by majority vote of the Owners present. Any contract with a third party for the purchase, sell, exchange or lease of the Commercial Commons should be contingent upon this right of rescission, unless the Board has previously passed a resolution describing the intended transaction and giving 30 days' notice.

8.1.4 Corrective Instruments. The Commercial Association, by approval of two-thirds vote of the Board, may also execute corrective instruments, settle boundary line disputes and resolve other title matters concerning the Commercial Commons.

8.1.5 Condemnation. If all or part of the Commercial Commons is taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be paid to the Commercial Association. The Board shall have the right to act on behalf of the Commercial Association with respect to the negotiation and litigation of the taking or condemnation affecting such property.

8.1.6 Mortgage. The Commercial Association may borrow money, mortgage and grant security interests in the Commercial Commons provided that such mortgage is required to pay for major expenses such as Capital Improvements, damage from a natural disaster or significant deferred maintenance. The Commercial Association must have a realistic plan for repaying the mortgage, such as the levy of a Special Assessment. This provision may not be used with the intent of avoiding the restrictions on sale of the Common Elements.

8.1.7 Limitation on Modification of Certain Commercial Commons. The Founder may, in the instrument conveying certain Commercial Commons to the Commercial Association, restrict or prohibit the sale or modification of the Commercial Commons being conveyed. In such an instance, the provisions of the instrument of conveyance will take precedence over the provisions of this Commercial Declaration.

Part VIII: Modification, Repair and Reconstruction

8.1.8 Dedication to the Public. The Founder may dedicate streets and parks within Town Center to the public rather than establishing such areas as Commercial Commons. Any areas that have been conveyed to the Commercial Association may be conveyed to the appropriate public agency or authority and dedicated to the public as follows:

- (a) **Streets.** For any streets that have not previously been dedicated to the public and are established as Common Streets, the Commercial Association, by approval of a two-thirds vote of the Board, shall have the right to dedicate the Common Streets to the public.
- (b) **Other Commercial Commons.** After a meeting for which Owners are given notice and an opportunity for discussion, the Commercial Association, by approval of a two-thirds vote of the Board, may dedicate parks, other Commercial Commons or any property that it owns. No vote or approval of the Owners shall be required.

Any such dedication may include additional terms and conditions as negotiated between the Board and the public entity.

8.1.9 Limitation. Other than dedication to the public as provided in Paragraph 8.1.8, sale or lease under the provisions of Paragraph 8.1.3 or the grant of customary easements and ordinary short-term leases and use rights, the Common Elements may not be sold or leased.

8.2 Repair and Reconstruction

8.2.1 Commercial Commons. If fire or other casualty damages or destroys any of the improvements on the Commercial Commons, the Board shall arrange for and supervise the prompt repair of the improvements. The Board may restore the Commercial Commons to substantially original condition or may improve or modify the design or use, subject to design review. The reconstruction may be considered a substantial Capital Improvement in accordance with Paragraph 9.1.1 only if and to the extent that it modifies the Commercial Commons and considering the total cost of the project, both insurance proceeds and any additional Assessments.

8.2.2 Parcels. If fire, severe weather or other loss damages or destroys a building or any other improvements on a Parcel, the Owner is required to restore the property as follows:

- (a) **Clean-Up.** The Owner of the Parcel shall immediately clear and secure the Parcel. If the Owner fails to clear and secure a Parcel within 30 days after a loss, the Commercial Association shall notify the Owner. If the violation continues for ten days after notice to the Owner, the Commercial Association shall have the right without liability to enter the Parcel to remove debris, raze or remove portions of damaged structures and perform any other clean up the Commercial Association deems necessary to make the Parcel safe and attractive. For non-Residential parcels, the cost of such clean-up may be assessed to the Parcel Owner as a Specially Allocated Assessment.
- (b) **Rebuilding.** Within six (6) months of the loss, the Owner shall proceed to rebuild and restore the improvements and shall continue such improvement until completion without

Part VIII: Modification, Repair and Reconstruction

undue delay. The improvements shall be restored to the plans and specifications existing immediately prior to such damage or destruction, unless other plans are approved through the design review process. If an Owner fails to begin rebuilding within the time allowed or abandons reconstruction, then the Commercial Association has the right but not the obligation to purchase the Parcel at 80% of fair market value in "as is" condition. The reduction in value is intended to allow the Commercial Association to market and resell the Parcel to an Owner who will restore the property.

Part IX:

General Provisions

9.1 Amendment

9.2 Additional Terms

9.1 Amendment

9.1.1 Generally. This Commercial Declaration, including vested rights, may be amended at any time by consents signed by Parcel Owners representing at least sixty percent (60%) of the Assigned Values in the Commercial Association except as follows:

- (a) Provisions affecting the rights of Residential Parcels or the Residential portions of Mixed-Use Parcels shall require, in addition, approval of Owners representing 60% of the Allocated Interests of such properties within Vista Field.
- (b) If any action described in this Commercial Declaration requires approval of a greater percentage, amendment of that provision shall require the same percentage vote as would be required to accomplish that action directly.
- (c) Any amendment during the Development Period shall require Founder's consent. Rights reserved to the Founder may not be amended at any time without the specific consent of the Founder.

To the extent permitted by law, a meeting shall not be required to obtain such consents and the individual consents do not need to be recorded. Such consents shall be preserved by the Commercial Association, which shall certify as to the consents in the recorded amendment.

9.1.2 Technical Amendments. The Founder specifically reserves the right, at any time during the Development Period, to amend this Commercial Declaration without the consent or joinder of any party as follows:

- (a) to conform to the requirements of the Federal Home Loan Mortgage Corporation, Veterans Administration, Federal National Mortgage Association, HUD or any other generally recognized institution involved in the guarantee or purchase and sale of home loan mortgages,
- (b) to conform to the requirements of institutional mortgage lenders or title insurance companies,
- (c) to clarify, explain or make more certain any the Declaration's provisions or to correct errors, omissions or inconsistencies, or

Part IX: General Provisions

- (d) exercise any right of Founder under this Commercial Declaration that does not require the consent of the Board and/or any Owners.

9.1.3 Recording of Amendments. Any amendment shall be recorded and unless provided otherwise, shall take effect immediately upon recording. All amendments must contain a cross-reference by recording number to this Commercial Declaration and to any prior amendments to the Declaration.

9.1.4 Rerecording of Declaration. Unless this Commercial Declaration is terminated, the Commercial Association shall rerecord this Commercial Declaration or other notice as necessary under Washington law to preserve its effect.

9.1.5 Termination. This Commercial Declaration may be terminated in any of the following ways:

- (a) **Consent.** The Declaration may be terminated at any time by the consent in writing of Owners representing 90% of the Assigned Values in the Commercial Association, agreeing to terminate the Declaration as of a specified date.
- (b) **Dedication of Commercial Commons.** The Declaration may be terminated by Owners representing 75% of the Assigned Values, if all of the Commercial Commons have been accepted for dedication or taken by eminent domain by the appropriate unit of local government (or, if alleys or footpaths are not accepted for dedication, they have been conveyed to the adjacent Parcel Owner, reserving an easement for continued use).

Notwithstanding Section 9.1.1, no approval or consent of any owners of Residential Parcels or the Residential portion of Mixed-Use Parcels or the Vista Field Association shall be required to terminate this Commercial Declaration.

9.2 Additional Terms

9.2.1 Covenants Run with the Land. The covenants and restrictions contained in this Commercial Declaration shall run with and bind, and shall inure to the benefit of and be enforceable by, the Founder, the Commercial Association, and all Owners of Commercial Private Property subject to this Commercial Declaration, their respective legal representatives, heirs, successors or assigns.

9.2.2 Assignability and Waiver.

- (a) **Successors and Assigns.** Wherever used in this Commercial Declaration, the term "Founder" shall mean the Port of Kennewick, its successors and assigns, or any successor or assign of all or substantially all of its interests in the development of the Property unless the instrument conveying such interests provides otherwise. Founder may assign all or any portion of its rights at any time to any successor or assigns, or to the Commercial Association.
- (b) **Termination.** Founder may terminate some or all of its rights sooner by a signed writing, in which case the Founder reserves the right to record an instrument specifying that, prior to

Part IX: General Provisions

the end of the Development Period, certain actions of the Commercial Association must be approved by the Founder before they become effective.

9.2.3 Interpretation.

- (a) **Generally.** The provisions of this Commercial Declaration shall be liberally construed to effectuate their purpose of creating a uniform and consistent plan for the development and operation of Town Center and other commercial property as a high-quality mixed-use community.
- (b) **Boxed or Italicized Text.** Boxed text and italicized portions may be used as an aid to interpretation. However, if the boxed or italicized portion conflicts with the operative provision, the operative provision shall govern.
- (c) **Applicability of Act.** It is intended that this Commercial Declaration not be subject to the Act. If any provision of this Commercial Declaration, including, without limitation, the assignment of Design Review for Mixed-Use Parcels to the Commercial Association after the Development Period, as described in Section 1.2, or the applicability of the repair and reconstruction provisions of 8.2.2 to Mixed-Use Parcels, is held to cause this Commercial Declaration to be subject to the Act, then those provisions shall be reformed or deleted to the extent necessary to cause this Commercial Declaration to be exempt from the Act.

9.2.4 Exclusion of Residential Property. Notwithstanding anything herein to the contrary, Owners of Residential Parcels and Owners of Mixed-Use Parcels (with respect to the portion used for Residential uses) do not pay any Assessments or for any share of real estate taxes, insurance premiums, maintenance, or improvement of, or services or other expenses related to, common elements (as defined in the Act), other units (as defined in the Act), or other real estate described in this Commercial Declaration.

9.2.5 Enforcement of Declaration.

- (a) **Enforcement.** Suit may be brought against any person, persons or entity violating or attempting to violate the provisions of this Commercial Declaration, either to restrain violation or to recover damages, and against his or its property to enforce any lien created by this Commercial Declaration. To enforce this Commercial Declaration or the Rules and Regulations, the Commercial Association, the Founder or any Owner may, without limitation, bring one or more actions for damages, specific performance, declaratory decree and/or injunction, or any other remedy at law or in equity. The Board shall be empowered to cause the Commercial Association to bring suits on behalf of the Commercial Association.
- (b) **No Waiver.** Failure to enforce any provision of this Commercial Declaration or the Rules and Regulations shall not be deemed a waiver of the right to do so at any time thereafter.
- (c) **Association's Legal Fees.** To the greatest extent permitted by law, any and all costs, including but not limited to attorneys' fees and court costs, which may be incurred by the Commercial Association in the enforcement of any of the provisions of this Commercial

Part IX: General Provisions

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary public in and for

the state of: _____

Residing at: _____

My appointment expires: _____

INSTRUCTIONS – NONPROFIT ARTICLES OF INCORPORATION RCW

24.03

General Instructions: Use dark ink only. Complete the entire form and enter all requested information in the fields provided. A fillable .pdf version of this form is available for download, or you can file online at www.sos.wa.gov/corps

Mail: Send the completed form and payment to the address listed above.

Payment: Make checks or money orders payable to “Secretary of State.” Checks cannot be backdated more than 60 days from the date the check is received.

Expedited Service: If expedited service is requested, include an *additional* \$50 fee and check the box indicating expedited service on page 1.

Fees: The filing fee for the Nonprofit Articles of Incorporation is \$30.00

ALL FILING FEES ARE NON-REFUNDABLE. ALL DOCUMENTS ARE PUBLIC RECORD

(1) Unified Business Identifier (UBI): If the entity has previously filed with another state agency such as the Department of Revenue, the Department of Labor and Industries, or the Employment Security Department, the entity may already have a 9-digit UBI number that can be entered. Do not enter the UBI number of a Sole Proprietorship or General Partnership. If the entity does not have a UBI number, select “No” and continue with the filing. If “No” is selected, the entity will be issued a UBI number upon successful completion of the filing.

(2) Entity Name: In accordance with RCW 23.95.305, a Nonprofit corporation **may not contain** any of the following designations or abbreviations of: Corporation, Company, Incorporated, Limited, Limited Partnership, Nonprofit Articles of Incorporation, or Limited Liability Partnership, but may use club, league, association, services, committee, fund, society, foundation, a nonprofit corporation, or any name of like import. A nonprofit corporate name must be distinguishable upon the records of the Secretary of State from any other entity already registered with the Secretary of State’s office.

If a name has been reserved and a Name Reservation Number has been provided, enter the Number and Name in the appropriate section. If a Name Reservation has not been provided, select “no” and enter a name to submit for review.

(3) Purpose of Corporation: Indicate the purpose for which the nonprofit is being organized. Any other provisions may be attached if needed. **Do not attach or refer to the bylaws.**

(4) Period of Duration: Select a period of duration. Only one selection will be accepted. Perpetual duration means “on-going” until the entity is either administratively or voluntarily dissolved. A specified date or specified number of years may be selected. If a specified date or years is selected the entity will administratively dissolve as recorded in this section. If no selection is provided, it will default to perpetual.

(6) Effective Date: Select the date this filing is to be effective. If “Date of Filing” is selected, the effective date will be the date the submission is completed by our office. A future effective date may be specified which may not be more than 90 days **after** the date of filing.

(5) Registered Agent: All entities must have a Registered Agent in Washington State per RCW 23.95.415. Select only **one** type of agent. The Consent of the Registered Agent **must** be signed, regardless of the type of Registered Agent. Print the name and title of the person signing and provide the date of signature.

- **Option 1:** Commercial Registered Agent is an entity or individual registered with the Office of the Secretary of State, whose nature of business it is to receive legal documents, notice, or demand required or permitted by law to be served on behalf of the entity. A Commercial Registered Agent has a verified address on record with the Office of the Secretary of State.
 - Select “Yes” or “No.”
 - If “Yes,” provide the name of the Commercial Registered Agent. An address is not required.
 - If “No,” continue to Option 2: Noncommercial Registered Agent directions below.
- **Option 2:** Noncommercial Registered Agent is an entity or individual who agrees to receive legal documents, notice, or demand required or permitted by law to be served on behalf of the entity.
 - Make **one** selection: Individual, Entity, or Office/Position, and fill out accordingly.
 - Individual: Write the individual’s first and last name.
 - Entity: Write the entity’s full name.
 - Office/Position: Write the office or position such as President, Secretary, or Member.
 - Provide the required **physical** street address of the Noncommercial Registered Agent. You may also provide the mailing address if needed. Addresses **must** be in Washington State.
 - Provide a contact phone number and email address (optional). This information will be used if there are any questions regarding the submission.

(7) Initial Board of Directors: List the names and address of all initial directors of the nonprofit corporation. If necessary additional names and addresses may be attached. **Do not include social security numbers, federal tax identification or other personal identifiers.**

(8) Distribution of Assets: In the event of a voluntary dissolution, a plan for distribution of any assets remaining after payment or arrangement for payment of all liabilities must be in place. Please submit this information. **Do not attach or refer to the bylaws.**

(9) Return Address for this Filing: This section is optional. This address will be sent document(s) regarding this specific filing in addition to the document(s) being sent to the Registered Agent's street/ mailing address.

(10) Incorporator Information: Enter the name, address and signature of the Incorporator(s). An Incorporator is the person(s) forming the corporation. List the full name, and address of each incorporator. All incorporator signatures are required. An additional list may be attached if necessary.

If you have questions, need assistance, or would like to provide feedback, please visit the Corporations Division website at corps@sos.wa.gov or call 360-725-0377.



Office of the Secretary of State

Corporations & Charities Division

Physical/Overnight address

801 Capitol Way S
Olympia, WA 98501-1226
Tel: 360.725.0377

Mailing Address

PO Box 40234
Olympia, WA 98504-0234
www.sos.wa.gov/corps

This Box For Office Use Only

☐ **Filing Fee \$30**☐ **To Expedite Filing Add \$50****ARTICLES OF INCORPORATION****Washington Nonprofit Corporation****RCW 24.03****All fields required unless otherwise specified****(1) Do you already have a UBI Number?** (Check one) ☐ Yes ☐ No If Yes, provide UBI # _____

If No, a new UBI# will be issued to you upon successful completion of the filing.

(2) ENTITY NAME: _____For name requirements review the following RCW(s): [RCW 23.95.305](#)Does the entity have a name reserved? (Check one) ☐ Yes ☐ No

If Yes, provide the Name Reservation Number and Name above. If No, provide only the name above.

Reservation Number: _____

(3) PURPOSE OF CORPORATION: *Purpose for which the nonprofit is organized

Any other provisions: Attach if necessary**(4) PERIOD OF DURATION:** Please check ONE of the following☐ This Corporation shall have a perpetual duration (default) ☐ This Corporation shall have a duration of _____ years.☐ This Corporation shall expire on _____**(5) EFFECTIVE DATE:** Please check ONE of the following:☐ Date of filing ☐ Specify a date _____ cannot be more than 90 days following received date

(6) REGISTERED AGENT:

Is the Registered Agent a Commercial Registered Agent? ☐ Yes ☐ No

If Yes, provide the name of the Commercial Registered Agent: _____

A Commercial Registered Agent is an entity or individual that is registered with the Office of the Secretary of State to receive legal documents on behalf of a corporation. A Commercial Registered Agent has the entities/individual's address on record with the office.

A Registered Agent consent is still required for a Commercial Registered Agent located below.

If No, please continue below

Please complete **ONE** type of Registered Agent below. Be sure to include the name below the checked box.
Then continue to provide the required street address. Mailing address if needed.

☐ **Individual**

First and last name of a Non-commercial Registered Agent. (Any person not registered as a Commercial Registered Agent.)

☐ **Entity**

Name of a Non-commercial Registered Agent. (Any business not registered as a Commercial Registered Agent.)

☐ **Office or Position**

List the Office or Position serves as agent. (Only if using the specific office or position as the registered agent, no matter who holds the position like: Secretary, Member or Treasurer.)

Phone: _____

Email: _____

Registered Agent Street Address (required)
(Must be a physical address No PO Box or PMB)

Country: United States State: Washington

Address : _____

Zip: _____ City: _____

Registered Agent Mailing Address (optional)

☐ Check if mailing address is the same as street address

Country: United States State: Washington

Address : _____

Zip: _____ City: _____

CONSENT TO SERVE AS REGISTERED AGENT - REQUIRED FOR ALL TYPES

I hereby consent to serve as Registered Agent in the State of Washington for the named entity. I understand it will be my responsibility to accept service of process, notices, and demands on behalf of the entity; to forward mail to the entity; and to immediately notify the Office of the Secretary of State if I resign or change the Registered Office Address.

Signature of Registered Agent

Printed Name/Title

Date

(7) INITIAL BOARD OF DIRECTORS: *Name and address of each initial director are required

Name: _____ Address: _____

City _____ State _____ Zip _____

Name: _____ Address: _____

City _____ State _____ Zip _____

Name: _____ Address: _____

City _____ State _____ Zip _____

(8) DISTRIBUTION OF ASSETS:

In the event of voluntary dissolution, the net assets will be distributed as follows:

(9) RETURN ADDRESS FOR THIS FILING: (Optional)

This address will be sent document(s) regarding this specific filing in addition to document (s) being sent to the Registered Agent's street/ mailing address.

Attention to: _____ Email: _____

Address: _____

City _____ State _____ Zip _____

(10) INCORPORATOR INFORMATION:

Name, address, and signature required. Attach additional sheets if necessary.

I hereby certify, under penalty of law, that the above information is accurate and complies with the filing requirements of state law.

Name: _____

Address: _____

City _____ State _____ Zip _____ Country _____

Signature of Incorporator

Printed Name/Title

Date

Exhibit A: Legal Description, Master Plan Area

INSTRUCTIONS – NONPROFIT ARTICLES OF INCORPORATION RCW

24.03

General Instructions: Use dark ink only. Complete the entire form and enter all requested information in the fields provided. A fillable .pdf version of this form is available for download, or you can file online at www.sos.wa.gov/corps

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(4) Period of Duration: Select a period of duration. Only one selection will be accepted. Perpetual duration means “on-going” until the entity is either administratively or voluntarily dissolved. A specified date or specified number of years may be selected. If a specified date or years is selected the entity will administratively dissolve as recorded in this section. If no selection is provided, it will default to perpetual.

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 - Select “Yes” or “No.”
 - If “Yes,” provide the name of the Commercial Registered Agent. An address is not required.
 - If “No,” continue to Option 2: Noncommercial Registered Agent directions below.
- **Option 2:** Noncommercial Registered Agent is an entity or individual who agrees to receive legal documents, notice, or demand required or permitted by law to be served on behalf of the entity.
 - Make **one** selection: Individual, Entity, or Office/Position, and fill out accordingly.
 - Individual: Write the individual’s first and last name.
 - Entity: Write the entity’s full name.
 - Office/Position: Write the office or position such as President, Secretary, or Member.
 - Provide the required **physical** street address of the Noncommercial Registered Agent. You may also provide the mailing address if needed. Addresses **must** be in Washington State.
 - Provide a contact phone number and email address (optional). This information will be used if there are any questions regarding the submission.

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If you have questions, need assistance, or would like to provide feedback, please visit the Corporations Division website at corps@sos.wa.gov or call 360-725-0377.



Office of the Secretary of State

Corporations & Charities Division

Physical/Overnight address

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Olympia, WA 98501-1226
Tel: 360.725.0377

Mailing Address

PO Box 40234
Olympia, WA 98504-0234
www.sos.wa.gov/corps

This Box For Office Use Only

6-Vista Field Articles of Incorporation COMMERCIAL (wa 24.03---washington-nonprofit-corporation-)

- ☐ **Filing Fee \$30**
- ☐ **To Expedite Filing Add \$50**

ARTICLES OF INCORPORATION
Washington Nonprofit Corporation
RCW 24.03

All fields required unless otherwise specified

(1) Do you already have a UBI Number? (Check one) ☐ Yes ☐ No If Yes, provide UBI # _____

If No, a new UBI# will be issued to you upon successful completion of the filing.

(2) ENTITY NAME: _____

For name requirements review the following RCW(s): [RCW 23.95.305](#)

Does the entity have a name reserved? (Check one) ☐ Yes ☐ No

If Yes, provide the Name Reservation Number and Name above. If No, provide only the name above.

Reservation Number: _____

(3) PURPOSE OF CORPORATION: *Purpose for which the nonprofit is organized

Any other provisions: Attach if necessary

(4) PERIOD OF DURATION: Please check ONE of the following

- ☐ This Corporation shall have a perpetual duration (default) ☐ This Corporation shall have a duration of _____ years.
- ☐ This Corporation shall expire on _____

(5) EFFECTIVE DATE: Please check ONE of the following:

- ☐ Date of filing ☐ Specify a date _____ cannot be more than 90 days following received date

(6) REGISTERED AGENT:

Is the Registered Agent a Commercial Registered Agent? ☐ Yes ☐ No

If Yes, provide the name of the Commercial Registered Agent: _____

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A Registered Agent consent is still required for a Commercial Registered Agent located below.

If No, please continue below

Please complete **ONE** type of Registered Agent below. Be sure to include the name below the checked box.
Then continue to provide the required street address. Mailing address if needed.

☐ **Individual**

First and last name of a Non-commercial Registered Agent. (Any person not registered as a Commercial Registered Agent.)

☐ **Entity**

Name of a Non-commercial Registered Agent. (Any business not registered as a Commercial Registered Agent.)

☐ **Office or Position**

List the Office or Position serves as agent. (Only if using the specific office or position as the registered agent, no matter who holds the position like: Secretary, Member or Treasurer.)

Phone: _____

Email: _____

Registered Agent Street Address (required)
(Must be a physical address No PO Box or PMB)

Country: United States State: Washington

Address : _____

Zip: _____ City: _____

Registered Agent Mailing Address (optional)

☐ Check if mailing address is the same as street address

Country: United States State: Washington

Address : _____

Zip: _____ City: _____

CONSENT TO SERVE AS REGISTERED AGENT - REQUIRED FOR ALL TYPES

I hereby consent to serve as Registered Agent in the State of Washington for the named entity. I understand it will be my responsibility to accept service of process, notices, and demands on behalf of the entity; to forward mail to the entity; and to immediately notify the Office of the Secretary of State if I resign or change the Registered Office Address.

Signature of Registered Agent

Printed Name/Title

Date

(7) INITIAL BOARD OF DIRECTORS: *Name and address of each initial director are required

Name: _____ Address: _____

City _____ State _____ Zip _____

Name: _____ Address: _____

City _____ State _____ Zip _____

Name: _____ Address: _____

City _____ State _____ Zip _____

(8) DISTRIBUTION OF ASSETS:

In the event of voluntary dissolution, the net assets will be distributed as follows:

(9) RETURN ADDRESS FOR THIS FILING: (Optional)

This address will be sent document(s) regarding this specific filing in addition to document (s) being sent to the Registered Agent's street/ mailing address.

Attention to: _____ Email: _____

Address: _____

City _____ State _____ Zip _____

(10) INCORPORATOR INFORMATION:

Name, address, and signature required. Attach additional sheets if necessary.

I hereby certify, under penalty of law, that the above information is accurate and complies with the filing requirements of state law.

Name: _____

Address: _____

City _____ State _____ Zip _____ Country _____

Signature of Incorporator

Printed Name/Title

Date

2/17/22

BY-LAWS

for

VISTA FIELD ASSOCIATION,

a Washington Nonprofit Corporation

Introduction

The Vista Field Association (the "Association") is organized as a nonprofit corporation under Chapter 24.03, RCW (the "Washington Nonprofit Corporation Act"). These Bylaws were written to comply with the Washington Nonprofit Corporation Act and Chapter 64.90, RCW, and the Washington Uniform Common Interest Ownership Act (the "Act") at the time the Association was formed. However, those laws may change, and the Association is required to comply with changes to the laws, which by their terms do not require adoption by the Board or the Owners, as applicable. In case of any conflict between Washington Nonprofit Corporation Act and the Act, the Act controls.

These Bylaws provide for operation of the plat community known as Vista Field (the "Common Interest Community"), which is established by the Declaration of Covenants, Conditions and Restrictions for Vista Field (the "Vista Field Declaration"), as recorded in the public records of Benton County, Washington, and created under the Act. They apply to the entire Common Interest Community, each Parcel therein, and all Common Elements.

The Articles of Incorporation forming the Association and these Bylaws are not required to be recorded.

Unless otherwise defined in these Bylaws, all capitalized terms are as defined in the Vista Field Declaration.

I. Membership

1.1 Members. As provided in Section 2.2 of the Vista Field Declaration, membership is comprised of each of the Owners of a Parcel within the Common Interest Community. An individual, domestic or foreign profit or nonprofit corporation, a general or limited partnership, an association or other entity may be a member of the Association.

1.2 One Class of Membership. There is one class of membership, comprised of each of the Owners of the Parcels within the Common Interest Community.

1.3 Transfer of Membership with Parcel. Upon the sale, transfer or other disposition of the ownership interest in a Parcel, the owner's membership in the Association shall automatically be transferred to the new Parcel owner. The Founder may assign its rights created under these Bylaws in whole or in part at any time as provided in the Vista Field Declaration and in accordance with the Act.

II. Voting, Notices and Membership Meetings

2.1 Voting by Multiple Owners. If only one of the multiple Owners of a Parcel is present at a meeting of the Association, the Owner is entitled to cast all the votes allocated to that Parcel. If more than one of the multiple Owners are present, the votes allocated to that Parcel may be cast only in accordance with the agreement of a majority in interest of the multiple Owners. There is majority agreement if any one of the multiple Owners casts the votes allocated to that Parcel without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Parcel.

2.2 Voting Representative. Corporations, partnerships, limited liability companies, and other entities and organizations shall notify the Association in writing of the natural person who shall exercise its vote. An Owner may, by written notice to the Board, designate a voting representative for its Parcel. The voting representative need not be an Owner. The designation may be revoked at any time by written notice to the Board from a person having an ownership interest in the Parcel, or by actual notice to the Board of the death or judicially declared incompetence of any person with an ownership interest in the Parcel. This power of designation and revocation may be exercised by the guardian of an Owner, the attorney-in-fact of the Owner under a durable power of attorney, or the administrators or executors of an Owner's estate. If no designation has been made, or if a designation has been revoked and no new designation has been made, the voting representative of the Parcel shall be the group composed of all of its Owners. If a Unit is owned by husband and wife and only one of them is at a meeting, the one who is present will represent the marital community.

2.3 Allocated Interests. Section 2.2 of the Vista Field Declaration assigns each Parcel an Allocated Interest. Each Owner shall have a vote in the Association, with votes to be equal to its Allocated Interest(s) in all owned Parcel(s).

2.4 Voting Procedures. It is the intent of these Bylaws to permit electronic voting and other secure, convenient forms of voting to the greatest extent permitted by law. This section incorporates the provisions of the Act and shall be considered automatically updated to conform to the provisions of the Act as the Act may be amended from time to time.

- (a) **Types of Acceptable Voting.** A member may vote in person, by absentee ballot, by proxy in the form of a record executed by the member or a duly authorized attorney-in-fact, or by any other method permitted by the Act as designated by the Board from time to time. The use of proxies shall be subject to the terms and requirements of the Act.
- (b) **Identification of Candidates and Proposals.** Whenever proposals or directors or officers are to be elected by members, the vote may be taken by mail or by electronic transmission or by any other method permitted by the Act as designated by the Board from time to time if the name of each candidate and the text of each proposal to be

voted upon are set forth in a record accompanying or contained in the notice of meeting.

- (c) **Requirements for Electronic Voting.** If the election is conducted by electronic transmission, the Association shall provide such notices and follow such procedures and processes as are required by the Act.

2.5 Annual Meeting. The Association shall hold an annual meeting of its membership within Vista Field or at another appropriate and convenient place in the state of Washington. The Board of Directors shall determine the place and time of the annual meeting. At the annual meeting, the Owners shall elect members to the Board or fill vacancies (as appropriate, per the term limits of the Board as set forth below), and transact other business of the Association.

2.6 Budget Meeting. Within 30 days after adoption of any proposed budget for the Association, the Board shall provide a summary of the budget all of the members and set a date for a meeting of the members to consider ratification of the budget, which date shall be not less than 14 nor more than 50 days after mailing the summary. Unless at the meeting members holding a majority of the votes in the Association vote to reject the budget, the budget is ratified, whether or not a quorum is present for the meeting. In the event the proposed budget is rejected or the required notice for the meeting is not given, the budget last ratified by the Owners shall be continued until a budget proposed by the Board is ratified.

2.7 Special Meetings. Unless specifically provided otherwise in these Bylaws or in the Vista Field Declaration, meetings of the membership other than the annual meeting shall be held when directed by the President or the Board of Directors or when requested in writing by members holding ten percent (10%) of the votes having the right to vote at such meeting.

2.8 Notice. Notice of all members' meetings, regular or special, shall be provided in accordance with the Act.

2.9 Waiver. To the extent permitted by the Act and the Washington Nonprofit Corporation Act, any Owner may waive notice of a meeting or consent to the holding of a meeting without notice or consent to action taken without a meeting, by execution of a waiver or consent in writing. Such waiver or consent may be executed prior to, at, or subsequent to the meeting or Association action to which the waiver or consent relates.

2.10 Percentage Required for Quorum. A quorum shall be 20% of the Allocated Interests.

2.11 Order of Business. The order of business at meetings of the Association shall be as follows unless dispensed with on motion or as otherwise required by the Act:

- (a) Roll call
- (b) Proof of notice of meeting or waiver of notice

- (c) Minutes of preceding meeting
- (d) Reports of officers
- (e) Reports of committees
- (f) Election of inspectors of election
- (g) Election of directors (annual meeting or special meeting called for such purpose)
- (h) Unfinished business
- (i) New business
- (j) Adjournment

2.12 Majority Vote. Except as otherwise provided by the Washington Nonprofit Corporation Act, the Vista Field Declaration, the Act, or by these Bylaws, passage of any matter submitted to vote at a meeting of the Owners where a quorum is present, shall require the affirmative vote of at least 51% of the votes present.

2.13 Meetings by Conference. Meetings may be conducted by telephone, video, or other conferencing process, so long as the meeting notice, procedures and process are consistent with the Act.

2.14 Adjournment of Meetings. To the extent permitted by the Act and the Washington Nonprofit Corporation Act, if any meeting of Owners cannot be organized because a quorum has not attended, the Owners present, in person or by proxy, may adjourn the meeting to a time not less than 48 hours from the time the original meeting was called.

2.15 Rules. Except where in conflict with the Vista Field Declaration, these Bylaws or the Act, Roberts Rules of Order (as amended) shall govern the conduct of all membership meetings. To the extent required by the Act, Owners shall be given a reasonable opportunity at any meeting to comment on any matter affecting the Condominium or the Association.

III. Board of Directors

3.1 Decision Making and Powers. Except for those matters described in the Vista Field Declaration requiring a vote or consent of the Owners or consent of the Founder, the Board of Directors makes all decisions necessary for the management and operation of the property under the Vista Field Declaration including causing the Association to take all actions required by the Act. The Board of Directors have all powers necessary to act on behalf of and to assume all powers of the Association as set forth in the Act, the Vista Field Declaration and these Bylaws and may do all such acts and things as are not prohibited by the Act or by the Vista Field Declaration required to be done in another manner. The Board of Directors may delegate any specific powers to any officer or managing agent or impose such limitations or restrictions upon the powers of any officer or managing agent as the Board of Directors may deem necessary.

3.2 Standard of Care. Directors of the Board of Directors shall perform their duties in accordance with the standard of care set forth in the Act as it may be amended from time to time.

3.3 Transition. The Transition Date occurs upon the first to occur of the following: (a) expiration of the period of declarant control as provided under Section 64.90.415 of the Act, (b) the end of the Development Period as defined in the Vista Field Declaration, or (c) Founder's voluntary surrender of Declarant Rights.

3.4 Election or appointment of Directors. The Board of Directors shall be appointed or elected as follows:

- (a) **Initial Board.** The Founder shall appoint three Directors. Directors appointed by the Founder shall serve at the Founder's pleasure and may be removed by the Founder and a substitute appointed by the Founder.
- (b) **Addition of Owner-Elected Directors.** The Act provides for Owners other than the Founder or a Founder affiliate to elect a portion of the Board upon certain events as provided in the Act. As set forth in the set forth in Section 64.90.415 of the Act:
 - (i) not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Parcels to Owners other than a Founder or Founder Affiliate, twenty-five percent (25%) of the Board must be elected by Owners other than the Founder or Founder Affiliate; and
 - (ii) not later than sixty days after conveyance of fifty percent (50%) of units that may be created within the Common Interest Community to Owners other than Founder or Founder Affiliate, not less than thirty three and one third percent (33.33%) of the Board must be elected by Owners other than Founder or Founder Affiliate.

The existing Board may increase the number of Directors on the Board to accommodate the additional Directors. Until such directors are elected and take office, the existing directors may continue to act on behalf of the Association.

- (c) **After Transition.** Within thirty days of the Transition Date, the Board shall schedule a transition meeting and provide notice to the Owners pursuant to the Act. Upon the transition, the Board of Directors shall be comprised of nine (9) directors as follows:
 - (i) one third of the directors being elected by the Owners of the Residential Parcels (the "Residential Directors"),
 - (ii) one third of the directors being elected by the Owners of the Commercial Parcels (the "Commercial Directors") and
 - (iii) one-third being elected at large.

After Transition, the Board may from time to time, without Amendment of these Bylaws, modify the number of Directors from six (6) up to a maximum of fifteen (15), so long as the three categories of Directors is preserved.

3.5 Qualifications. Prior to the Transition Date, the Directors need not be members, it being recognized that individuals who operate businesses in Vista Field or who have other interests in the successful operation of Vista Field may offer talents and service to the community even though such an individual may not be named as the holder of title to a Parcel. Directors are not required to be residents of the state. After the Transition Date, at least a majority of the Directors must be members. Any of the following may be elected to the Board as a member if the entity is a member: any shareholder, officer, director, or employee of a corporation, any partner or employee of a partnership, any member or manager of a limited liability company, and any trustee or beneficiary of a trust.

3.6 Term. Directors shall hold office for a term of two years. To permit staggered terms, the Board of Directors may establish a procedure for one or more elections in which a director may be elected to a one-year term. Directors may be elected for successive terms.

3.7 No Cumulative Voting. For the election of any directors other than those appointed by the Founder, an Owner may cast votes (or partial votes) for as many candidates as there are Directors to be elected. An Owner is not required to use all of that Owner's votes; however, no cumulative voting shall be permitted. *For example, if there are three seats to be filled, the Owner may cast its vote each for one, two or three candidates, but shall not cast more than one vote for any particular candidate.*

3.8 Plurality Votes. The candidates receiving the highest number of votes shall be declared elected. If there are a large number of candidates, the Board of Directors may in advance of the voting determine that a majority or other certain minimum percentage of the votes be required for election and provide for run-off elections if such percentage is not achieved. Otherwise, Directors may be elected by a plurality; a majority is not required.

3.9 Removal.

- (a) **By Owners.** Any director may be removed from office, with or without cause, by at least a majority vote of the Owners entitled to elect such director, at any duly called meeting of Owners entitled to elect such director; provided no director appointed by the Founder may be removed by Owners prior to the Transition Date. A special Association meeting of the Owners entitled to elect such director to remove such director or directors from office may be called by Owners entitled to elect such director or directors representing 10% of the Allocated Interests of the Owner entitled to elect such director by giving notice of the meeting unless a higher percentage is required by the Act. The notice shall state the purpose of the meeting and be given to all

Owners entitled to elect such director or directors in writing at least one week prior to the Association meeting.

- (b) **By Board.** The Board may, without a vote of Owners, remove from the board any director or officer elected by the Owners if (a) the director or officer is delinquent in the payment of assessments more than sixty (60) days and (b) the director or officer has not cured the delinquency within thirty (30) days after receipt of notice of the Board's intent to remove the director or officer.

3.10 Vacancy. Any vacancy occurring in the Board of Directors other than at the time of election may be filled as follows:

- (a) **Directors Appointed by Founder.** The Founder may replace at any time any directors appointed by the Founder regardless of the reason for the vacancy.
- (b) **Commercial Directors.** Any vacancy occurring in the Commercial Directors may be filled by a majority vote of the remaining Commercial Directors even if there are not sufficient remaining Commercial Directors to constitute a quorum, except that a vacancy resulting from removal of a Commercial Director by the Owners shall be filled by a vote of the Owners of the Commercial Parcels;
- (c) **Residential Directors.** Any vacancy occurring in the Residential Directors may be filled by a majority vote of the remaining Residential Directors even if there are not sufficient remaining Residential Directors to constitute a quorum, except that a vacancy resulting from removal of a Residential Director by the Owners shall be filled by a vote of the Owners of the Residential Parcels.
- (d) **At-Large Directors.** Any vacancy occurring among the Directors selected at-large shall be may be filled by a majority vote of all remaining Directors even if there are not sufficient remaining Directors to constitute a quorum, except that a vacancy resulting from removal of an At-Large Director by the Owners shall be filled by a vote of the Owners.

A director filling a vacancy shall serve the unexpired term.

3.11 Compensation. Directors elected by the Owners shall receive no compensation for their services. Directors appointed by the Founder may be compensated by the Founder but not by the Association. Directors may be reimbursed by the Association for expenses relating to the fulfillment of their duties.

3.12 Indemnification. The Association shall indemnify any director, or former director in the manner and to the maximum extent permitted under the Act and the Washington Nonprofit Corporation Act.

IV. Officers

4.1 President. The President, who shall be elected by the Board of Directors, shall preside over the meetings of the Board of Directors and of the Association and shall be the chief executive officer of the Association. In the recess of the Board of Directors, the President shall have general control and management of the business and affairs of the Association.

4.2 Additional Officers. Subject to the provisions of the Vista Field Declaration and Articles, at each annual meeting of the Board of Directors, the Board of Directors shall elect the following officers of the Association:

- (a) **One or more Vice Presidents**, who shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform other such duties as prescribed by the Board of Directors;
- (b) **A Secretary**, who shall keep the minutes of all meetings of the Board of Directors and of the membership and who shall perform all the duties generally incident to the office of Secretary;
- (c) **A Treasurer**, who shall cause to be kept the financial records and books of account of the Association, and shall be responsible for Association funds and securities (if any); and
- (d) **Such additional officers** as the Board of Directors shall see fit to elect.

An individual may hold more than one position as permitted by applicable law.

4.3 Powers. The officers shall have the general powers usually vested in such officers of a nonprofit corporation and all powers designated under the Act and by these Bylaws, provided that the Board of Directors may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board of Directors may deem necessary.

4.4 Qualifications. The Officers need not be Owners or directors of the Association.

4.5 Term. Each officer shall hold office for the term of one year and until a successor shall have been elected and qualified.

4.6 Vacancy. The Board of Directors may fill any vacancies in any office. Any officer may be removed at any time, with or without cause, by the affirmative vote of a majority of the whole Board of Directors.

4.7 Compensation. Officers shall receive such compensation as determined by the directors. Officers may be reimbursed by the Association for expenses relating to the fulfillment of their duties.

4.8 Indemnification. The Association shall indemnify any officer, or former officer in the manner and to the maximum extent permitted under the Act and the Washington Nonprofit Corporation Act.

V. Board Meetings

5.1 Meetings. The Board must meet at least four (4) times per year. At least one of those meetings must be held within the Common Interest Community or at a place convenient to the Common Interest Community. After the Transition Date, the Board must meet at least four (4) times per year times per year within the Common Interest Community or at a place convenient to the Common Interest Community.

5.2 Notice. Meetings of the Board of Directors shall be held upon call by the President or a majority of the Board of Directors on not less than fourteen (14) days' notice to each Director and each Owner, unless the Board of Directors determines an emergency to exist, in which event the Board of Directors shall give such notice as is reasonable under the circumstances. Except under emergency conditions, all meetings shall be held in Benton County. Notice should specify the business to be transacted, and the purpose of, any regular or special meeting of the Board but failure to do so shall not invalidate the notice. If any materials are distributed to the Board before a meeting, the Board must make copies of those materials reasonably available to the Owners, except the Board need not make available copies of unapproved minutes or materials to be considered in executive session (as provided in Section 5.7 below).

5.3 Waiver. To the extent permitted by the Act and the Washington Nonprofit Corporation Act, any director may waive notice of a meeting or consent to the holding of a meeting without notice or consent to any action of the Board of Directors without a meeting. Such waiver or consent may be executed prior to, at, or subsequent to the meeting or Board of Directors action to which the waiver or consent relates. To the extent permitted by the Act and the Washington Nonprofit Corporation Act, attendance of a director or a committee member at a meeting shall constitute a waiver of notice of such meeting, except where a director or a committee member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

5.4 Percentage Required for Quorum. A quorum shall be a majority of the directors.

5.5 Majority Vote. Each director shall have one (1) vote. Except as otherwise provided by the Washington Nonprofit Corporation Act, the Vista Field Declaration, the Act, or by these Bylaws, passage of any matter submitted to vote of the Board of Directors at a meeting where a quorum is present, shall require the affirmative vote of at least 51% of the votes present.

5.6 Owners. The Board of Directors may provide for posting of Board meetings on a website or similar means easily accessible by all Owners.

5.7 Open Meetings; Executive Sessions. Meetings of the Board (which shall include any committee authorized to act for the Board) must be open to the Owners except during executive sessions as provided in the Act, but the Board may expel or prohibit attendance by any person who, after warning by the chair of the meeting, disrupts the meeting. At the meeting, the Board must provide a reasonable opportunity for Owners to comment on matters affecting the Common Interest Community or the Association. The Board may hold executive sessions only as provided in the Act. A final vote or action may not be taken during an executive session. An executive session may be held only as permitted under the Act.

5.8 Meeting by Conference. The Board may meet by participation of all board members by telephonic, video, or other conferencing process so long as the meeting notice, procedures and process are consistent with the Act.

5.9 Action by Directors Without a Meeting. Instead of a meeting, the Board may act by unanimous consent as documented in a record by all of the directors, provide, after the Transition Date, the Board may act by unanimous consent only to undertake ministerial actions, actions subject to ratification by the Owners, or to implement actions previously taken at a meeting of the Board.

VI. Committees

6.1 Appointment. Prior to the Transition Date, the Founder may appoint the Town Architect, committees, or other representatives pursuant to its Special Declarant Rights as set forth in Sections 1.5.3 and Part VII of the Vista Field Declaration to review all construction and modification during the Development Period. After the Transition Date, the Board may by resolution designate and appoint one or more committees each of which shall consist of two or more directors who have exclusive voting power for that committee, including an Architectural Review Committee as set forth in Section 7.3.1(c) of the Vista Field Declaration.

6.2 Powers. The Founder's representative(s) and/or committee, and any committee appointed after the expiration of the Transition Date may make recommendations to the Board or, to the extent provided in the Vista Field Declaration or provided in the resolution creating such committee, shall have and exercise the authority of the Board in the management of any designated aspects of the corporation (by resolution). The power of any committee shall be limited as provided by the Act and shall not operate to relieve the Board or any individual Director of any responsibility imposed by law.

VII. Records

7.1 Accounting and Auditing. The Board of Directors shall cause the Association to prepare a financial statement of the Association each year in accordance with accrual based accounting practices and applicable law. Once the annual assessments of the Association exceed \$50,000, the financial statements of the Association must be audited at least annually by a Certified Public

Accountant. If the annual assessments are less than \$50,000, the annual audit requirement may be waived by the Owners holding a majority of the votes (other than the Founder). After the first sale of a Parcel by the Founder, these accounting records shall include a record of receipts and expenditures and a separate account for each Owner showing the assessments charged to and paid by such Owner. After the first sale of a Parcel by the Founder, within ninety (90) days after the end of each year covered by an annual budget, the Board of Directors shall cause to be furnished to each Owner a statement for such year showing the receipts and expenditures and such other information as the Board of Directors may deem desirable. Upon reasonable notice to the Board of Directors and payment of any fee established by the Board of Director from time to time, any Owner shall be furnished a statement of the account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner.

7.2 Meetings. The Board of Directors shall keep a record of all meetings, both of the Board of Directors and of the Association. For each action taken, the record shall state the vote and a description of the action approved or disapproved, and may, where desired by the Board, the reasons why the action was considered necessary and a summary of the information on which the decision was based. The record shall be available for inspection by any Owner.

7.3 Other Records. The Association shall retain all other records specified in the Act. All such records required to be retained by an Association by the Act or otherwise under the law must be made available for examination and copying by any Owner, holders of mortgages on the Parcels, and their respective authorized agents, unless agreed otherwise, during reasonable business hours or at a mutually convenient time and location, and at the offices of the Association or its managing agent.

7.4 Confidential Records. Notwithstanding the foregoing, records retained by the Association may be withheld from inspection and copying to the extent that they concern the following or as otherwise permitted by the Act or applicable law:

- (a) Personnel and medical records relating to specific individuals;
- (b) Contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated;
- (c) Existing or potential litigation or mediation, arbitration, or administrative proceedings;
- (d) Existing or potential matters involving federal, state, or local administrative or other formal proceedings before a governmental tribunal for enforcement of the governing documents;
- (e) Legal advice or communications that are otherwise protected by the attorney-client privilege or the attorney work product doctrine, including communications with the managing agent or other agent of the association;
- (f) Information the disclosure of which would violate a court order or law;

- (g) Records of an executive session of the Board;
- (h) Individual Unit files other than those of the requesting Owner;
- (i) Unlisted telephone number or electronic address of any Owner or resident;
- (j) Security access information provided to the Association for emergency purposes; or
- (k) Agreements that for good cause prohibit disclosure to the members.

VIII. Handling of Funds

8.1 Accounts. The Association shall establish the funds or accounts required by the Act. Overall superintendence of these funds shall be the responsibility of the Treasurer. The funds of the Association shall not be commingled with that of the Commercial Association or any other association or with the funds of any managing agent of the Association or any other person, or be kept in any trust account or custodial account in the name of any trustee or custodian.

8.2 Loans. No loans shall be made by the Association to its directors or officers. The directors of the Association who vote for or assent to the making of a loan to a director or officer shall be jointly and severally liable to the Association for the amount of such loan until the repayment thereof.

IX. Dispute Resolution

To the extent permitted by the Act, in the event a deadlock on a matter requiring Board action or any dispute between Board members that cannot be resolved, upon the exhaustion of good faith efforts by the parties to resolve the dispute over a period of at least fifteen (15) days, either party to the dispute ("Party") may request the appointment of third party advisor (the "Advisor") to propose a resolution to the Parties of the matter in dispute as provided below. The Parties shall mutually select and appoint the Advisor. If they are unable to agree upon the selection of the Advisor, then the selection shall be made by the Presiding Judge of the Superior Court of Benton County upon the petition of any Party. The Advisor shall be a property manager with at least ten years' experience in condominium property management or a lawyer with at least ten years' experience in condominium law, who has no bias or partiality toward any Owner or Board member and is not an affiliate, employee, director, officer, official, partner, trustee, employee, or attorney of an Owner. To facilitate a resolution of the dispute, the Advisor initially shall present a non-binding advisory recommendation to the Parties to the dispute at a meeting called by the Board. At the meeting, the Parties shall review the recommendation from the Advisor, information submitted by the Parties and such additional information that the Advisor considers relevant to the issue. Following presentation of the Advisor's recommendation, the Parties shall determine whether they can resolve the dispute by agreement. To the extent permitted by the Act, if the Parties cannot resolve the dispute by agreement, then upon the request of either Party, the Parties shall submit the dispute to binding arbitration by an arbitrator selected by

agreement of the Parties; provided that if the Parties cannot agree on an arbitrator, the arbitrator shall be Judicial and Arbitration Mediation Service (JAMS). The arbitration shall be conducted in accordance with such lawful and reasonable practices and procedures as the arbitrator may approve, and the decision of the arbitrator following such arbitration shall be in writing delivered to all Parties and the Board, and shall be binding upon the Parties and not subject to appeal.

X. Amendment

The Bylaws may be altered, amended, modified or repealed by (a) two-thirds of the Directors, or (b) assent in writing of members representing a majority of the voting interests, provided, however, that rights reserved to the Founder cannot be modified without the Founder's consent.

XI. Interpretation

Operation of the Association shall at all times comply with the Act and the Washington Nonprofit Corporation Act, and any provision in conflict the Bylaws shall be deemed rewritten to comply. In the event of a conflict among the Act, Washington Nonprofit Corporation Act Bylaws, Articles, or Vista Field Declaration, the Act shall control, followed by the Washington Nonprofit Corporation Act, the Vista Field Declaration, the Articles, and then these Bylaws.

These Bylaws were adopted by the Board of Directors on _____, 20_____.

2/17/22

BY-LAWS

for

VISTA FIELD COMMERCIAL ASSOCIATION,

a Washington Nonprofit Corporation

Introduction

The Vista Field Commercial Association (the "Commercial Association") is organized as a nonprofit corporation under Chapter 24.03, RCW (the "Washington Nonprofit Corporation Act"). These Bylaws were written to comply with that chapter at the time the Commercial Association was formed. However, those laws may change, and the Commercial Association is required to comply with changes to the law.

The Commercial Association is created primarily to manage and maintain certain property in accordance with the Vista Field Declaration of Covenants, Conditions and Restrictions for Commercial Property (the "Commercial Declaration"), as recorded in the public records of Benton County, Washington. Membership in the Commercial Association is limited to owners of Commercial Private Property (as defined in the Commercial Declaration) within the community known as Vista Field, which is established by the Declaration of Covenants, Conditions and Restrictions for Vista Field (the "Vista Field Declaration"), also as recorded in the public records of Benton County, Washington.

The articles of incorporation forming the Commercial Association and these bylaws are not required to be recorded.

Unless otherwise defined in these Bylaws, all capitalized terms are as defined in the Commercial Declaration, and if not in the Commercial Declaration, in the Vista Field Declaration.

I. Membership

1.1 Members. As provided in Section 2.1 of the Commercial Declaration, membership is comprised of each of the Owners of the Commercial Parcels and, with respect to the portions used for non-Residential uses, each of the Owners of the Mixed-Use Parcels. An individual, domestic or foreign profit or nonprofit corporation, a general or limited partnership, an association or other entity may be a member of the Commercial Association.

1.2 Classes of Membership. The membership shall initially consist of two classes:

- (a) The Founder Class,** which shall comprise the Founder, its successor and assigns. Founder Class Rights means all rights of the Founder Class under these Bylaws. The Founder's Class shall terminate at the end of the Development Period as defined in the Vista Field Declaration. However, Founder may terminate some or all of its Founder Class Rights sooner by a signed writing, in which case the Founder reserves the right to record an

instrument specifying that, prior to the end of the Development Period, certain actions of the Commercial Association or Board must be approved by the Founder before they become effective. Termination of any Founder Class Rights affects only its rights within the Commercial Association under these Bylaws and shall not affect any of its other reserved rights in the Vista Field Declaration or Commercial Declaration.

- (b) **The General Class**, which shall comprise all other Owners of Parcels subject to the Commercial Declaration.

Upon termination of the Founder's Class, there shall be a single class and the Founder's membership rights shall be the same as any other Owner in accordance with Parcels then owned by the Founder.

1.3 Transfer of Membership with Parcel. Upon the sale, transfer or other disposition of the ownership interest in a Parcel, the owner's membership in the Commercial Association shall automatically be transferred to the new Parcel owner. The Founder may assign its rights in whole or in part at any time as provided in the Vista Field Declaration.

II. Voting, Notices and Membership Meetings

2.1 Voting by Multiple Owners. If only one of the multiple Owners of a Parcel is present at a meeting of the Association, the Owner is entitled to cast all the votes allocated to that Parcel. If more than one of the multiple Owners are present, the votes allocated to that Parcel may be cast only in accordance with the agreement of a majority in interest of the multiple Owners. There is majority agreement if any one of the multiple Owners casts the votes allocated to that Parcel without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Parcel.

2.2 Voting Representative. Corporations, partnerships, limited liability companies, and other entities and organizations shall notify the Commercial Association in writing of the natural person who shall exercise its vote. An Owner may, by written notice to the Board, designate a voting representative for its Parcel. The voting representative need not be an Owner. The designation may be revoked at any time by written notice to the Board from a person having an ownership interest in the Parcel, or by actual notice to the Board of the death or judicially declared incompetence of any person with an ownership interest in the Parcel. This power of designation and revocation may be exercised by the guardian of an Owner, the attorney-in-fact of the Owner under a durable power of attorney, or the administrators or executors of an Owner's estate. If no designation has been made, or if a designation has been revoked and no new designation has been made, the voting representative of the Parcel shall be the group composed of all of its Owners. If a Unit is owned by husband and wife and only one of them is at a meeting, the one who is present will represent the marital community.

2.3 Weighted Voting. Section 2.3 of the Commercial Declaration assigns each Commercial Parcel and Commercial Portion of a Mixed-Use Parcel an Assigned Value. Each Owner of a

Commercial Parcel and Commercial portion of a Mixed-Use Parcel shall have a vote in the Commercial Association, with votes to be weighted in accordance with Assigned Values.

2.4 Voting Procedures. It is the intent of these Bylaws to permit electronic voting and other secure, convenient forms of voting to the greatest extent permitted by law. This section incorporates the provisions of the Washington Nonprofit Corporation Act and shall be considered automatically updated to conform to the provisions of that chapter as amended from time to time.

- (a) **Types of Acceptable Voting.** A member may vote in person, by mail, by electronic transmission, or by proxy in the form of a record executed by the member or a duly authorized attorney-in-fact, or by any other method permitted by law as designated by the Board from time to time. No proxy shall be valid after eleven months from the date of its execution.
- (b) **Identification of Candidates and Proposals.** Whenever proposals or directors or officers are to be elected by members, the vote may be taken by mail or by electronic transmission or by any other method permitted by law as designated by the Board from time to time if the name of each candidate and the text of each proposal to be voted upon are set forth in a record accompanying or contained in the notice of meeting.
- (c) **Requirements for Electronic Voting.** If the election is conducted by electronic transmission, the Commercial Association shall designate an address, location, or system to which the ballot may be electronically transmitted and the ballot shall be electronically transmitted to the designated address, location, or system, in an executed electronically transmitted record.
- (d) **Effect.** Members voting by mail or electronic transmission are present for all purposes of quorum, count of votes, and percentages of total voting power present.

2.5 Annual Meeting. The Commercial Association shall hold an annual meeting of its membership within Vista Field or at another appropriate and convenient place in the state of Washington. The Board of Directors shall determine the place and time of the annual meeting, which shall ordinarily be at least 11 months but no later than 13 months since the previous annual meeting. At the annual meeting, the Owners shall elect members to the Board or fill vacancies (as appropriate, per the term limits of the Board as set forth below), and transact other business of the Commercial Association.

2.6 Special Meetings. Unless specifically provided otherwise in these Bylaws or in the Commercial Declaration, meetings of the membership other than the annual meeting shall be held when directed by the President or the Board of Directors or when requested in writing by members holding ten percent (10%) of the votes having the right to vote at such meeting.

2.7 Notice. Notice of all members' meetings, regular or special, shall be given at the direction of the President or Secretary to each member, either by electronic transmission or by tangible

notice such as mail or personal delivery or by any other method permitted by law as designated by the Board from time to time. Notice shall comply with the requirements of Section 24.03.080, RCW for notice of members' meetings.

2.8 Waiver. Any Owner may waive notice of a meeting or consent to the holding of a meeting without notice or consent to action taken without a meeting, by execution of a waiver or consent in writing. Such waiver or consent may be executed prior to, at, or subsequent to the meeting or Association action to which the waiver or consent relates.

2.9 Percentage Required for Quorum. The Board of Directors may revise the percentage for a quorum from time to time, but in no event shall the required percentage be less than 10% or more than 50% of the Assigned Values.

2.10 Majority Vote. Except as otherwise provided by the Washington Nonprofit Corporations Act, the Commercial Declaration, or by these Bylaws, passage of any matter submitted to vote at a meeting where a quorum is present, shall require the affirmative vote of at least 51% of the votes present.

2.11 Proxies. Proxies shall be in writing and are revocable at any time at the pleasure of the member executing it by written notice to the Association. A proxy shall be valid only for the particular meeting designated and any lawfully adjourned meetings thereof (but in no event shall a proxy be valid for more than eleven months after the date of the first meeting for which it was given). All proxies must be filed with the Secretary before the appointed time of the meeting.

2.12 Electronic Participation. Members and any committee of members of the corporation may participate in a meeting by conference telephone, video call or similar communications equipment so that all persons participating in the meeting can hear each other at the same time or by any other method permitted by law as designated by the Board from time to time. Participation by that method constitutes presence in person at a meeting.

2.13 Action by Members Without a Meeting. Any action required or permitted to be taken at a meeting of the members may be taken without a meeting if a written consent setting forth the action to be taken (in the form of a record) is signed by all of the members entitled to vote with respect to the subject matter thereof. Any such written consent shall be inserted in the minute book as if it were the minutes of a meeting of the Association.

2.14 Rules. Except where in conflict with the Commercial Declaration or these Bylaws or the Washington Nonprofit Corporations Act, Roberts Rules of Order (as amended) shall govern the conduct of all membership meetings.

III. Board of Directors

3.1 Decision Making. Except for those matters described in the Commercial Declaration requiring a vote or consent of the Owners or consent of the Founder, the Board of Directors makes all decisions necessary for the management and operation of the property under the

Commercial Declaration and shall have all powers necessary to act on behalf of and to assume all powers of the Commercial Association.

3.2 Standard of Care. Directors of the Board of Directors shall perform their duties in accordance with the standard of care set forth in RCW 24.03.127 as it may be amended from time to time.

3.3 Number of Directors. The Board of Directors shall initially comprise three directors selected by the Founder. Prior to termination of the Founder Class as provided in Section 1.2(a), the board shall comprise between one and seven directors. After termination of the Founder Class as provided in Section 1.2(a), the board may comprise any number of directors between five and 15. At least three months prior to the election, the Board of Directors may, by majority vote, modify the number of Directors from its then-current composition within the permitted range, with any newly created seats to be filled at the election. No reduction in seats shall shorten the term of an existing Director without the consent of that Director.

3.4 Election or appointment of Directors. The Board of Directors shall be appointed or elected as follows:

- (a) **Initial Composition.** As a Founder Class Right, the Founder shall appoint the initial Directors and may continue to select the Directors until termination of the Founder Class as provided in Section 1.2(a). Such Directors serve at the Founder's pleasure and may be removed by the Founder and a substitute selected.
- (b) **After Termination of the Founder Class.** When the Founder Class has terminated as provided in Section 1.2(a), the Board shall be elected by the entire membership in accordance with Assigned Values and the procedures set forth below, including those held by the Founder.
- (c) **Designated Seats.** These bylaws may be amended as provided in Part IX of these Bylaws to designate certain seats on the Board to reasonably represent various types of Commercial Property in Vista Field and to be voted on by Members who are the owners of such types of property. Such representation may be combined with a certain number of seats to be elected at large.

3.5 Qualifications. Directors are not required to be members, it being recognized that individuals who operate businesses in Vista Field or who have other interests in the successful operation of Vista Field may offer talents and service to the community even though such an individual may not be named as the holder of title to a Parcel. Directors are not required to be residents of the state.

3.6 Term. Directors shall hold office for a term of two years. To permit staggered terms, the Board of Directors may establish a procedure for one or more elections in which a director may be elected to a one-year term. Directors may be elected for successive terms.

3.7 No Cumulative Voting. For the election of any directors other than those appointed by the Founder, an Owner may vote for as many candidates as there are Directors to be elected. An Owner is not required to use all of that Owner's votes; however, no cumulative voting shall be permitted. *For example, if there are three seats to be filled, the Owner may cast its vote for one, two or three candidates, but shall not cast more than one vote for any particular candidate.*

3.8 Plurality Votes. The candidates receiving the highest number of votes shall be declared elected. If there are a large number of candidates, the Board of Directors may in advance of the voting determine that a majority or other certain minimum percentage of the votes be required for election and provide for run-off elections if such percentage is not achieved. Otherwise, Directors may be elected by a plurality; a majority is not required.

3.9 Removal. Except for directors selected by the Founder, any director may be removed from office, with or without cause, by at least a majority vote of all Owners, at any duly called meeting of Owners. A special Association meeting to remove a director or directors from office may be called by Owners representing 10% of the Assigned Values giving notice of the meeting unless a lower percentage is permitted by law. The notice shall state the purpose of the meeting and be given to all Owners in writing at least one week prior to the Commercial Association meeting. Directors selected by the Founder may only be removed by the Founder.

3.10 Vacancy. After termination of the Founder Class, any vacancy occurring in the Board of Directors may be filled by a majority vote of the remaining Board of Directors members even if there are not sufficient remaining Board of Directors members to constitute a quorum, except that a vacancy resulting from removal of a director by the Owners shall be filled by a vote of the membership. Prior to termination of the Founder Class, the Founder may replace at any time any Board of Directors member selected by the Founder. A director filling a vacancy shall serve the unexpired term.

3.11 Compensation. Directors shall receive no compensation for their services unless expressly provided for in resolutions duly adopted by the Owners. Directors appointed by the Founder may be compensated by the Founder but not by the Commercial Association. Directors may be reimbursed for expenses.

3.12 Indemnification. The Commercial Association shall indemnify any director or officer, or former director or officer in the manner and to the extent provided in RCW 23B.08.500 through 23B.08.600.

IV. Officers

4.1 President. The President, who shall be elected by the Board of Directors, shall preside over the meetings of the Board of Directors and of the Commercial Association and shall be the chief executive officer of the Commercial Association. In the recess of the Board of Directors, the President shall have general control and management of the business and affairs of the Commercial Association.

4.2 Additional Officers. Subject to the provisions of the Commercial Declaration and Articles, at each annual meeting of the Board of Directors, the Board of Directors shall elect the following officers of the Commercial Association:

- (a) **One or more Vice Presidents**, who shall also be directors and who shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform other such duties as prescribed by the Board of Directors;
- (b) **A Secretary**, who shall keep the minutes of all meetings of the Board of Directors and of the membership and who shall perform all the duties generally incident to the office of Secretary;
- (c) **A Treasurer**, who shall cause to be kept the financial records and books of account of the Commercial Association, and shall be responsible for Association funds and securities (if any); and
- (d) **Such additional officers** as the Board of Directors shall see fit to elect.

An individual may hold more than one position.

4.3 Powers. The officers shall have the general powers usually vested in such officers of a nonprofit corporation, provided that the Board of Directors may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board of Directors may deem necessary.

4.4 Term. Each officer shall hold office for the term of one year and until a successor shall have been elected and qualified.

4.5 Vacancy. The Board of Directors may fill any vacancies in any office. Any officer may be removed at any time, with or without cause, by the affirmative vote of a majority of the whole Board of Directors.

V. Board Meetings

5.1 Meetings; Notice. Meetings of the Board of Directors shall be held upon call by the President or a majority of the Board of Directors on not less than two (2) days' notice to each Director, unless the Board of Directors determines an emergency to exist, in which event the Board of Directors shall give such notice as is reasonable under the circumstances. If notice of regular or special meetings is provided by electronic transmission, it must satisfy the requirements of Section 24.03.009, RCW. Except under emergency conditions, all meetings shall be held in Benton County. Notice should specify the business to be transacted, and the purpose of, any regular or special meeting of the Board but failure to do so shall not invalidate the notice.

5.2 Waiver. Any director may waive notice of a meeting or consent to the holding of a meeting without notice or consent to any action of the Board of Directors without a meeting. Such waiver or consent may be executed prior to, at, or subsequent to the meeting or Board of Directors action to which the waiver or consent relates. Attendance of a director or a committee

member at a meeting shall constitute a waiver of notice of such meeting, except where a director or a committee member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

5.3 Participation, Quorum. Directors may participate in a meeting of the Board or any committee by means of a conference telephone, video call or any similar communications equipment so long as all persons participating in the meeting can hear each other at the same time or by any other method permitted by law as designated by the Board from time to time. Participation by such means shall constitute presence in person at a meeting for the purposes of a quorum, which shall be set at one-half of the directors. Any action required to be taken by vote of the Board of Directors may be taken in the absence of a meeting (or in the absence of a quorum at a meeting) if a consent in the form of a record, setting forth the action so taken, is executed by all of the directors entitled to vote with respect to the subject matter thereof.

5.4 Owners. The Board of Directors may provide for posting of Board meetings on a website or similar means easily accessible by all Owners. Owners other than Directors shall not be entitled to vote or participate in any other way at the Board of Directors meeting unless the Board of Directors so permits.

VI. Committees

6.1 Appointment. The Board may by resolution designate and appoint one or more committees each of which shall consist of two or more directors.

6.2 Powers. The committee may make recommendations to the Board or, to the extent provided in such resolution shall have and exercise the authority of the Board in the management of the corporation. The power of any committee shall be limited as provided by statute and shall not operate to relieve the Board or any individual Director of any responsibility imposed by law.

VII. Records

7.1 Accounting. The Board of Directors shall maintain accounting records according to generally accepted accounting practices and applicable law, which records shall be open to inspection by Owners at reasonable times and upon reasonable notice. After the first sale of a Parcel by the Founder, these accounting records shall include a record of receipts and expenditures and a separate account for each Owner showing the assessments charged to and paid by such Owner. After the first sale of a Parcel by the Founder, within ninety (90) days after the end of each year covered by an annual budget, the Board of Directors shall cause to be furnished to each Owner a statement for such year showing the receipts and expenditures and such other information as the Board of Directors may deem desirable. Upon reasonable notice to the Board of Directors and payment of any fee established by the Board of Directors from time to time, any owner shall be furnished a statement of the account setting forth the amount of any unpaid assessments or other charges due and owing from him.

7.2 Meetings. The Board of Directors shall keep a record of all meetings, both of the Board of Directors and of the Commercial Association. For each action taken, the record shall state the vote and a description of the action approved or disapproved, and may, where desired by the Board, the reasons why the action was considered necessary and a summary of the information on which the decision was based. The record shall be available for inspection by any Owner.

VIII. Handling of Funds

8.1 Accounts. The Commercial Association shall establish the necessary funds or accounts to provide properly for the operation and maintenance of the Parcels subject to the Commercial Declaration. Overall superintendence of these funds shall be the responsibility of the Treasurer.

8.2 Loans. No loans shall be made by the Commercial Association to its directors or officers. The directors of the Commercial Association who vote for or assent to the making of a loan to a director or officer shall be jointly and severally liable to the Commercial Association for the amount of such loan until the repayment thereof.

IX. Amendment

The Bylaws may be altered, amended, modified or repealed by (a) two-thirds of the Directors, or (b) assent in writing of members representing a majority of the voting interests, provided, however, that rights reserved to the Founder cannot be modified without the Founder's consent.

X. Interpretation

Operation of the Commercial Association shall at all times comply with the laws for nonprofit corporations under the Washington Nonprofit Corporation Act, and any provision in conflict the Bylaws shall be deemed rewritten to comply. In the event of a conflict among the Bylaws, Articles or Commercial Declaration, the Commercial Declaration shall control, followed by the Articles and then Bylaws.

These Bylaws were adopted by the Board of Directors on _____, 20_____.