

Greater Maple Valley Unincorporated Area Council
P.O. Box 101
Maple Valley, WA 98038

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Ann Mueller
Senior Planner
City of Covington
Department of Community Development
16720 SE 271st St
Covington, WA 98042-4964
amueller@covingtonwa.gov

Ms. Mueller,

The Greater Maple Valley Unincorporated Area Council (GMVUAC) is an all-volunteer, locally elected advisory body to the King County Council. All sixteen members reside in the unincorporated portion of Tahoma School District #409. We represent ~15,000 constituents.

The GMVUAC advocates with King County, state, and city officials, as well as other organizations, for our unincorporated area's citizens' interests. It is those interests we have in mind as we submit the detailed comments, herein, on the Northern Gateway Study Hawk Property Subarea Draft Planned Action Environmental Impact Statement (DEIS).

The Hawk Property Subarea encompasses approximately 212 acres located in the northern portion of the City of Covington. It abuts SR-18 on its northwest boundary. It contains both land *within the city limits* and land in *unincorporated* King County. The subarea directly abuts the GMVUAC's southwest boundary.

In conducting our review we tasked four of our standing committees--Flood Control/Surface Water Management (Chair: Warren Iverson); Natural Resources/Parks (Chair: Les Dawson); Growth Management (Chair: Peter Rimbo); and Transportation (Chair: Susan Harvey)--to address key aspects of the DEIS. Each committee specifically evaluated potential impacts on our constituents, as well as the mitigations proposed to alleviate such impacts.

Our comments include an interactive Table of Contents for ease of navigation to desired sections/subsections. In addition to a General section upfront, our comments

are organized in the following four distinct areas and address the DEIS sections cited in parentheses: Surface Water Management (3.2 Surface Water Resources and 3.10 Utilities--Storm Drainage); Land-Use (3.7 Land-Use Patterns/Plans and Policies); Transportation (3.8 Transportation); and Public Services (3.9 Public Services).

We request you take our comments on the Northern Gateway Study Hawk Property Subarea Draft Planned Action Environmental Impact Statement under your strongest consideration. Thank you.

Steve Hiester gmvac_chair@hotmail.com

Chairman, Greater Maple Valley Unincorporated Area Council

cc: Covington City Council: citycouncil@covingtonwa.gov
King County Executive Dow Constantine: Dow.Constantine@kingcounty.gov
King County Council: council@kingcounty.gov
DNR&P Director Christie True: christie.true@kingcounty.gov
KCDOT Director Harold S. Taniguchi: harold.taniguchi@kingcounty.gov
DPER Director John Starbard: John.Starbard@kingcounty.gov
Land-Use Policy Advisor Lauren Smith: lauren.smith@kingcounty.gov
CSA Manager Alan Painter: Painter Alan alan.painter@kingcounty.gov
FCUAC Chair Peter Eberle: mtcphe@msn.com
UBCUAC Chair Nancy Stafford: nancy@go2email.net

Greater Maple Valley Unincorporated Area Council

***Comments on the
Northern Gateway Study
Hawk Property Subarea
Draft Planned Action
Environmental Impact Statement***

**Submitted to
City of Covington**

August 26, 2013

**Contact: Peter Rimbo primbos@comcast.net
Chair, Growth Management Committee
GMVUAC**

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GENERAL

SEPA AND PLANNED ACTIONS

Planned Action SEPA statements are permitted under certain prescribed and limited circumstances in accordance with the criteria set forth in [WAC 197-11-164\(1\)](#). In its March 25, 2013 Community Workshop Summary released for the Hawk Property Subarea Plan, the City of Covington stated its intention to prepare the environmental impact statement as a Planned Action EIS, the stated purpose of which is to:

“provide[a] more detailed environmental analysis during formulation of planning proposals rather than at the project permit review stage . . . [with the result that] future development proposals in the subarea consistent with the planned action ordinance and the identified performance standards/mitigation measures will not have to undergo a new environmental threshold determination and are not subject to SEPA appeals.” [City of Covington, Hawk Property Subarea Plan & Planned Action EIS, at p. 2, Project Fact Sheet, March 2013].

In other words, the development of the Hawk Property Subarea consistent with the adopted Planned Action grounded on this DEIS and the Final EIS will not be subject to any further environmental reviews or appeals (see also **DEIS, at p. 1-1 § 1.2, Planned Action**).

Fundamental to such deference is the fact that the EIS must have adequately addressed the significant environmental impacts of the proposal. [WAC 197-11-164\(1\) \(b\)](#). However, because a Planned Action encompasses legislation and other rulemaking actions necessary for project implementation, an EIS must necessarily address more than customary *environmental* impacts.

Inconsistencies with adopted Comprehensive Plans of both the City and the County must be addressed and resolved in the FEIS. If the foregoing issues cannot be adequately resolved to gain conformance with existing adopted Plans, the Hawk Property Subarea development proposal cannot proceed as a Planned Action, and likely should not be allowed to proceed at all.

SURFACE WATER (sects. 3.2 S/W Resources; 3.10 Utilities--Storm Drainage)

EXISTING CONDITIONS

There is no justification given for modeling the existing conditions as “pasture” [DEIS at p. 3-149]. This is neither the natural, nor historic condition of the site, which rather is forest, and forested scrub/shrub wetlands. The site was forest prior to the mine being located there, and it would be expected that the original mine reclamation plan called for returning the site to forest. This strongly argues for modeling conditions based on forest, not pasture

The base condition matters as it is used to determine the range of corrective action needed to mitigate development’s impacts. A forest base condition is more protective than pasture, as a forest does a far better job of controlling, filtering, and infiltrating stormwater than pasture.

In addressing existing conditions the DEIS states the site is constrained by critical areas [DEIS at p. 3-14, et.al.] including wetlands, streams and steep slopes. Instead of discussing these as constraints on development, instead they are used as rationale for a limitation on stormwater treatment capacity.

It is neither reasonable or appropriate to assume “existing” conditions which essentially limit mitigation of development impacts to stormwater.

ALTERNATIVES

Both Alternative 2 and 3 contain large impervious surfaces (Alt. 2 -- 75.8 ac, ~ 35% of the total study area, and Alt. 3 -- 99.6 ac, ~ 47% of the total study area) [DEIS at p. 1-7].

Alternative 2 contemplates complete treatment of the stormwater expected to be generated. Use of Low-Impact Development techniques, which would provide additional mitigation to stormwater impacts, are mentioned.

However, Alternative 3, which would create additional stormwater, can be anticipated to provide less adequate treatment than Alternative 2. The DEIS states with regard to cumulative impacts: “nearly 100% of the site’s runoff will receive treatment for Total Suspended Solids (TSS) ... and zinc” for both alternative 2 and 3. [DEIS at p. 3-15 & 3-22].

If less than 100% treatment of the site’s runoff is being provided, then the impacts will be greater for Alternative 3, than the lesser level of development anticipated in Alternative 2.

IMPACTS

According to work done on the Tahoma/Raven Heights community plan, the specified level of treatment will not be sufficient for build-out in this area. Impacts to water quality from the Hawk Property Subarea development, including residential/commercial/industrial zoning with related roads and parking, can be assumed to include oil and grease, polynuclear aromatic hydrocarbons, zinc, copper and lead. Also, there is a reasonable expectation of increased temperature and lower dissolved oxygen, as compared to either the actual existing condition, or a forested condition (rather than the inappropriately assumed “*pasture*” condition).

The Tahoma/Ravens Heights plan and the Soos Creek plan go into some level of detail on the impacts to the Jenkin's/Soos Creek basin from potential development impacts. The City should provide substantial justification for any assumptions that impacts would be *less than* what those studies determined would be the case.

Water quality impacts to Jenkins Creek, a salmon-bearing stream, are significant issues as the creek provides critical habitat, including for listed species, and the discharge a relatively short distance downstream impacts the Soos Creek spawning grounds and hatchery, including for listed species such as Chinook Salmon.

The DEIS underestimates and, in a number of cases, fails completely to address easily foreseeable impacts.

MITIGATION

Applicable Regulations and Commitments citations **[DEIS at p. 3-16]** are inadequate. The Soos Creek basin and the Green River, to which it discharges, are under a Federally mandated Total Maximum Daily Load (TMDL) for temperature and dissolved oxygen, as a result of significant segments of the named waterways not meeting the Washington State Water Quality Criteria numeric limits for these parameters ([WAC-173-201A-200 \(1\)\(c\)](#) and [WAC-173-201A-200 \(1\)\(d\)](#)).

While the TMDL has yet to be implemented in the Green River, including the Soos Creek basin, it can reasonably be assumed that it will be implemented within the timeframe for the proposed project. Further, the fact that a TMDL is under active adoption, including the basin the project is in, means that under any reasonable SEPA evaluation, temperature and dissolved oxygen impacts of the proposed project must be accurately assessed, reported, and mitigated.

Increasing the impervious surface in the proposed development area consistent with Alternative 3, will increase temperature and decrease dissolved oxygen for the nearby receiving waters. In spite of this the DEIS fails to divulge the pending TMDL for these

pollutants, and fails to assess the impact that the selection and build-out of Alternative 3 will have on these parameters in the receiving waters.

The proposed treatment discussed under the alternatives does not discuss any treatment for elevated temperature or lowered dissolved oxygen resulting from development with massive increases in impervious surfaces in this sub-basin.

Consideration of the impact of the development on these TMDL parameters are every bit as important as consideration of critical areas such as steep slopes, wetlands, streams and their buffers. In addition, consideration of these parameters is critical to accurately determining the range of impacts the development will have on critical areas, and development of the appropriate mitigation for these impacts. Instead, the DEIS simply pretends the issue doesn't exist to avoid dealing with the issue altogether.

SIGNIFICANT UNAVOIDABLE ADVERSE IMPACTS

Based on the above discussion the DEIS conclusions that *"...no significant unavoidable adverse impacts are anticipated"* and *"The City's Stormwater standards address the drainage impacts created by the Alternatives"* **[DEIS at p. 1-33, et.al.]** are both misleading and irrelevant without assessment of these specific TMDL related impacts, and consideration of critical receptors, such as the range of aquatic species that will be impacted by this proposal.

LAND-USE (sect. 3.7 Land-Use Patterns)

OMISSIONS FROM THE DEIS

The stated purpose for the “City of Covington propos[al to] adopt[. . .] the Hawk Property Subarea Plan and associated comprehensive plan, zoning, and development regulation amendments [is to] allow for future urban development in the Hawk Property Subarea of Covington's Northern Gateway area.” **[City of Covington Cover Letter to DEIS, July 26, 2013]** (see also **DEIS, at p. II, Fact Sheet, “Proposed Action and Alternatives”**). Under the Licenses or Permits Required portion of the DEIS Fact Sheet, it is stated that “as legislative items, the Planning Commission has authority to make recommendations on comprehensive plan and development regulation amendments [, and] the City Council has authority to approve such amendments.” **DEIS, at p. III**. The Tentative Date of Implementation is stated as December 2013. **DEIS, at p. II Fact Sheet**.

The foregoing clear intent expressed by the City to undertake rulemaking¹ in the form of formally adopting/promulgating² amendments to its comprehensive plan, development regulations, and zoning falls under and is subject to the provisions of the State Economic Policy Act **[RCW 43.21H]**.

¹ A “rule” is generally defined legally as “an established standard, guide, or regulation[;] a principle or regulation set up by authority, prescribing or directing action or forbearance.” *Black's Law Dictionary*, at p. 1195 (5th ed. 1979). A “rule” is also commonly defined as “a principle or regulation governing conduct, procedure, arrangement, etc.[;] to decide or declare judicially or authoritatively.” *Webster's College Dictionary*, at pp. 1175-76 (Random House 1995).

² To “promulgate” is “to publish; to announce officially; to make public as important or obligatory.” *Black's Law Dictionary*, at p. 1093.

“The purpose of this chapter is to assert that it is the intent of the legislature that economic values are given appropriate consideration along with environmental, social, health, and safety considerations in the promulgation of rules by state and local government.” [RCW 43.21H.010]

“All state agencies and local government entities with rulemaking authority under state law or local ordinance must adopt methods and procedures which will insure that economic impacts and values will be given appropriate consideration in the rulemaking process along with environmental, social, health, and safety considerations.” [RCW 43.21H.020]

Although a variety of Covington project reports discuss economic impacts of such proposals, nowhere in the Covington Municipal Code (CMC) or regulations can be found the State-required adoption of “methods and procedures which will insure that economic impacts and values will be given appropriate consideration in the rulemaking process along with environmental, social, health, and safety considerations.” Such omission from the City's substantive and procedural rules and regulations cannot be claimed by it as any legitimate reason for omitting from its DEIS an economic impact analysis of the three alternative plans, including the economic impact of the No Action proposal with the continuation of zoned, planned, and permitted mineral (sand and gravel) mining by Lakeside Industries or its successors. Not only will the proposed residential development options discussed have a clear and direct economic impact on local and regional business, infrastructure, and residents; but the economic impact of displacing and removing from production valuable mineral resources on the Hawk Property would have much more than a moderate adverse economic impact on the cost of residential and infrastructure construction in the entire region historically served by this surface mining operation.³

³ *An economic impact analysis would consider the cost increase in the supply of mineral resources to the construction industry by the removal of this particular site from the inventory of operating mining operations in King County. Future supply of resources would come from more distant mining operations, with increased transportation costs and impacts on highways and local road systems, with likely adverse impacts on the useful life of such mining sources. These economic impacts must be disclosed and discussed in the DEIS to be consistent with the mandate of State law.*

The absence of an economic impact analysis in this Planned Action DEIS is a fatal omission that must be corrected in the Final Environmental Impact Statement (FEIS) [WAC 197-11-560].

OVERSIGHTS

Although mentioned only briefly in passing, as an integral part of the Current Conditions **[DEIS, at p. 2-3 § 2.2]** and the No Action Alternatives Description **[DEIS, at p. 2-5 § 2.4]**, the DEIS should have set out in the Appendix, in their entirety, copies of both the existing surface mining and reclamation permit issued by the State Department of Natural Resources (DNR Reclamation Permit No. 70-011068), as well as any King County permits issued for the existing mineral surface mining operation on and for the Hawk Property. The DEIS makes a bald assertion that *“the Hawk Property Subarea is characterized primarily by a gravel extraction operation in use through 2012, but that is now under reclamation.”* **[DEIS, at p. 2-3 § 2.2, (Current Conditions)]**. This statement is quite disingenuous as the City of Covington Comprehensive Plan dated August 14, 2012, states as fact the following:

“[T]he city does contain mineral resource lands of long-term commercial significance. Mineral resource lands are usually home to an extractive industry which mines rock, gravel, fill dirt and other useful minerals important to the continued development of the region. . . . The existing mineral resource site located in the northeastern portion of Covington is Lakeside Industries, which mines sand and gravel resources and operates an asphalt batch plant. Mineral extraction activities have been performed in this area for approximately 40 years, and it is anticipated that the gravel quarry can continue for an additional 10 to 15 years.” [Covington Comprehensive Plan, Chapter 2 (Land Use Element), at p. 11 § 2.6.7]

The omission of existing mining and reclamation permits and plans is an oversight that must be corrected in the FEIS. The inconsistency in assertions of fact regarding the useful life of the Hawk Property mineral resources that can be mined as presently zoned M within the City and that in part carries the M-P Zone designation by King County as unincorporated area included for residential development in the Planned Action DEIS must be reconciled and corrected in the FEIS for proper assessment as to the economic and environmental impacts of foreclosing further use of the Hawk Property (both its incorporated and unincorporated portions) as a mineral resource mining site.

INCONSISTENCY WITH THE LAWS OF ZONING

The DEIS is intended to support the zoning amendments necessary to accommodate the residential and commercial development of the Hawk Property Subarea from the existing M (City) and M-P (County) zoning adopted for the respective portions of the property, and each of such existing mineral zoning designations fully consistent with the existing adopted comprehensive plans of the City and the County. However, under Washington law in order to support a rezone of a specific property it is necessary for the proponent to “*show a substantial change in circumstances since the last zoning and that this change justifies a rezone for the public health, safety, morals, or general welfare.*” [*Henderson v. Kittitas County, 124 Wn. App. 747, 754, 100 P.3d 842 (2004), review denied, 154 Wn.2d 1028 (2005)*].

Nowhere in the DEIS is there a detailed discussion of substantial changed circumstances occurring since the last zoning undertaken by the City (see Zoning Map, November 2010 and Comprehensive Plan Update, October 2009) and by the County, and certainly no substantial support for the bald assertion made in the DEIS regarding the absence of active mineral mining on the property since 2012 in light of the statements of fact in the City's Comprehensive Plan as updated in 2012. *Supra.*, Part II

(Oversights). This inconsistency with the well-established law of zoning must be addressed and resolved in the FEIS. See also **CMC § 14.27.040(3)**.

INCONSISTENCIES WITH VARIOUS PLANS

In general, Section 3.7 of the DEIS contains numerous inconsistencies with a variety of applicable growth management and planning documents recently adopted by City, County and Regional governmental agencies.

As a general principle, State law provides that a Planned Action must be “consistent with a comprehensive plan adopted under chapter 36.70A RCW.” **[WAC 197-11-164(1)(f)]**. See also **DEIS, at p. 1-1 § 1.2 (Planned Action)**. The Planned Actions for and related to Alternatives 2 and 3 as described and discussed in the DEIS are not “consistent with a comprehensive plan adopted under” the GMA, at both the City and County levels **[DEIS, at p. 2-5 § 2.4 (Alternative 2: Minimum Urban Village Proposal), and at p. 2-8 § 2.4 (Alternative 3: Maximum Urban Village Proposal)]**.

Under Alternative 2, a total of 1,000 new residential units would be constructed and added to the existing housing inventory of the City of Covington **[DEIS, at p. 2-4, Exhibit 2.4-1]**.

Under Alternative 3, a total of 1,500 new residential units would be constructed and added to the existing housing inventory of the City of Covington **[DEIS, at p. 2-8, Exhibit 2.4-3]**.

Accordingly, just from the Planned Action development of the Hawk Property Subarea, only a minor portion of the total area encompassed by the City of Covington,⁴ Alternatives 2 and 3 would add a minimum of 1,000 and 1,500 new residential units, respectively. However, pursuant to the Growth Targets and the Urban Growth Area, **[Technical Appendix D to the King County 2012 Comprehensive Plan (March 1, 2012)]**,⁵ which incorporated the VISION 2040 plan adopted by the Puget Sound Regional Council which “contains a Regional Growth Strategy that provides substantive guidance for planning for the roughly 1.7 million additional people and 1.2 million additional jobs expected in the region between 2000 and 2040.” **[King County Comprehensive Plan, Technical Appendix D, at p. D-8 (12/03/2012)]**.

⁴ The total area of the City of Covington is estimated to be 5.86 square miles. U.S. Census Bureau, Quick Facts (2010). The total area of the Hawk Property Subarea (both incorporated [132 acres] and unincorporated [80 acres] parcels) is estimated to be 212 acres, which is equal to 0.33 square miles -- or only 5.6% of the total land area of the City of Covington.

⁵ Attachment F to King County Ordinance 17485, dated December 3, 2012.

“The strategy retains much of the discretion that counties and cities have in setting local targets, while calling for broad shifts in where growth locates within the region. It establishes six clusters of jurisdictions called

“regional geographies” -- four types of cities defined by size and status in the region and two unincorporated types, urban and rural. in comparison to current targets and plans, the Strategy calls for:

.. .

***Decreasing** the amount of growth targeted to Urban unincorporated areas, Rural designated unincorporated areas, and to many **Small Cities.**”*

[King County Comprehensive Plan, Technical Appendix D, at p. D-8 (Bold in original)]

Under VISION 2040, the City of Covington is identified by the Puget Sound Regional Council as a **Small City [King County Comprehensive Plan, Technical Appendix D, at p. D-8 n.1]**. And under VISION 2040, as adopted by King County in its Comprehensive Plan (applicable to unincorporated areas including a portion of the Hawk Property Subarea), the Net New Housing Units targeted for the City of Covington during the period from 2006 through the year 2031 is equal to a total of only 1,470 residential units. Accordingly, Alternative 3 is inconsistent with the adopted King County Comprehensive Plan incorporation of the VISION 2040 housing goals and objectives for the City of Covington, and Alternative 2 would bring the City of Covington to within 68% of the net new housing allocation through the year 2031 -- all to occur within a minor area of the City equal to only 5.6% of the City's total land area. This is a major inconsistency with adopted comprehensive plans that must be addressed and resolved in the FEIS.

Planned Actions to be undertaken under either Alternative 2 or Alternative 3 are further inconsistent with both the City and King County Comprehensive Plans regarding and relating to Natural Resource Lands (County) and/or Mineral Land Use Elements (City).

The Current Conditions discussion in the DEIS asserts that active mineral mining on the Hawk Property ceased in 2012 **[DEIS, at p. 2-3 § 2.2]**; however, as discussed above, this bald assertion is inconsistent with the City's statement of facts set forth in its Comprehensive Plan updated in August 2012 **[City Comprehensive Plan, Chapter 2, at p. 11 § 2.6.7]**. The summary discontinuation of this property under Planned Action Alternatives 2 and 3, including that portion in the County unincorporated area, is inconsistent with the City's comprehensive planning goal set forth in Land-Use Goal 15.0 to *“facilitate the efficient utilization of mineral resources and effective site reclamation and enhancement when consistent with maintaining environmental quality and minimizing impacts.”*

The intended rezoning of the Hawk Property Subarea from its existing M and M-P designations in the City and County, respectively, to “*Regional Commercial Mixed Use*” and “*Mixed Residential*” within the City incorporated area and to “*High Density Residential - 12 du/ac*” in the unincorporated portion within King County is not substantiated by substantial changed circumstances and further is inconsistent with a number of County Comprehensive Plan elements, including the Tahoma/Raven Heights Community Plan that encompasses the entire Hawk Property.

For example, that portion of the Hawk Property located within unincorporated King County, and thus subject to King County zoning and comprehensive plan requirements, is zoned M-P (Potential Mineral Resource Site). The M-P zoning designation is assigned to property:

“[W]here King County expects some future surface mining to occur or where the owner or operator indicates an interest in future mining. . . . Identification of Potential Mineral Resources Sites satisfies the GMA requirements to not knowingly preclude opportunities for future mining and to inform nearby property owners of the potential for future mining of these areas in order to prevent or minimize conflicts.” [King County Comprehensive Plan, Chapter 3, at p. 3-66 (December 2012). See R-679, King County Comprehensive Plan, at pp. 3-66 and 3-67]

The Hawk Property is located in its entirety within the Tahoma/Raven Heights Community Planning Area, which still remains in force and effect as part of the overall King County Comprehensive Plan. See **King County Comprehensive Plan, Chapter 10, at p. 10-1 (December 2012)**. The DEIS Planned Action Alternatives 2 and 3 are inconsistent with the following adopted policies in the Tahoma/Raven Heights Community Plan:

CP-1101 *Premature urban/suburban development should not be approved which forecloses the opportunity to use the resources. [T/RH-28].*

TRANSPORTATION (Sect. 3.8 Transportation)

SUMMARY

In **Exh. 3.7-3 Consistency of the Action Alternatives with Growth Management Act** the item “**Public Facilities and Services**” is identified as one of the Growth Management Act’s (GMA’s) stated policy goals:

“Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.” [DEIS at p. 3-81]

The DEIS transportation assessment, including the mitigations identified in section **3.8 Transportation**, do not meet this goal. In fact, the entire Northern Gateway Study hawk property Subarea development relies on an incomplete assessment of Transportation impacts, inadequate proposed mitigation, and unfunded plans. Three major DEIS shortcomings exist:

1. Widening of SR-516

- Widening to 5 or more lanes is simply assumed,
- It is not even a proposed mitigation measure in the DEIS.
- There are no estimates or funding sources identified.
- It is not part of the City of Covington’s Transportation Improvement Plan (TIP) (*“this improvement is not currently programmed in the TIP” [DEIS at p. 3-92]*).
- It is not part of WSDOT’s planning. The City of Covington only has “design” monies for such a monumental project!
- If such widening doesn’t happen, the fall-back is to simply “move the goalposts” and degrade the LOS standards! Thus, if true mitigation is unaffordable or funding otherwise unattainable, the City’s fall-back position is to degrade its concurrency standards for SR-516 from LOS D to LOS E defined as: *“Unstable flow (approaching intolerable delay)” [Transportation Research Board, Highway Capacity Manual, 2010]*. This would not inadequately mitigate the impacts, but would allow Covington to approve an oversized development that its planned future improved transportation infrastructure still could not support.

Development must pay for development. The City of Covington must ensure that the Developer(s) of the Hawk Property Subarea implement all necessary traffic mitigation, including the widening of SR-516.

2. Maple Valley Transportation Improvement Plan

- It is assumed the City of Maple Valley's Transportation Improvement Plan (TIP) will be fully implemented.
- The TIP completely relies on the full build-out of the two proposed Black Diamond Master-Planned Developments (MPDs)--The Villages and Lawson Hills.
- The TIP is particularly dependent on the Maple Valley Transportation Mitigation Agreement (TMA) (***[Maple Valley Transportation Mitigation Agreement, October 6, 2010 -- later included as Black Diamond, The Villages Master Planned Development, Development Agreement, Exh. Q. -- Maple Valley Transportation Mitigation Agreement]***) with the Black Diamond MPD Master Developer, YarrowBay.
- The TIP assumes the TMA will be fully realized and all the projects listed will be completed as planned.
- Should traffic mitigation funding shortfalls occur, needed mitigation could be delayed.
- The TMA is largely based on the availability of Grant funding, which could be in very short supply for some time. Should Grant funding fall short, planned mitigations could be scaled back.
- The Master Developer's contribution to the TMA is based on percentages, not dollar levels. In many cases the Master Developer's contributions are small with more than half being less than 40%. Consequently, the City of Maple Valley must secure the remainder of funding to make most of the projects viable.

Since securing adequate funding for the full palette of proposed mitigation improvements in a timely manner to meet Transportation Concurrency requirements will be a challenge to say the least, the City of Covington, in its assessment of the Hawk Property Subarea Plan and DEIS, must take into account the high risks involved in the assumed future mitigation to actually be accomplished as conceptualized and on time. The city should not take on such a risk simply to approve a development that doesn't fully account for critical traffic mitigation to actually be in place when needed.

3. Black Diamond Master-Planned Development Traffic Assessment

- A "domino" effect causes the DEIS to rely on a transportation assessment which assumes full implementation of the projects contained within the Maple Valley TIP, which is based on the Maple Valley TMA, which itself is based on the validity of the proposed Black Diamond MPD traffic assessment.
- The Black Diamond MPD traffic assessment has been found severely wanting--a flawed traffic model, poor assumptions, and analyses that subsequently produced unreliable results. During the Black Diamond MPD FEIS Appeals Hearings outside

Traffic Consultants and traffic experts from the City of Maple Valley and the WA State Department of Transportation all offered expert testimony on each of these aspects. The City of Black Diamond Hearing Examiner agreed when issuing his FEIS Decision and MPD Application Recommendations [***Black Diamond Hearing Examiner Final Environmental Impact Statements State Environmental Policy Act Decision, April 2010, and Black Diamond Hearing Examiner Master-Planned Development Application Recommendations, May 2010***].

- Today, more than three years after the City of Black Diamond's Hearing Examiner's FEIS Decision and MPD Application Recommendations, the two proposed Black Diamond MPDs--The Villages and Lawson Hills--remain the subject of court review.

It is highly recommended the City of Covington make any approval of the Hawk Property Subarea Plan and EIS documents fully contingent upon future traffic modeling and analyses conducted by the City of Black Diamond and on the subsequent effects on the Black Diamond MPD traffic mitigations contained in the Maple Valley TMA. This also pertains to the Covington TMA.

Clearly, a new Transportation assessment is called for, one that does not make such risky and highly questionable assumptions of future roadway projects and future, probably inadequate, mitigation. In fact, the Northern Gateway Study development should be subject to all final plat approvals of the Black Diamond MPDs and full funding--both Master Developer and grant monies--being secured.

Detailed comments by subsection follow below:

AFFECTED ENVIRONMENT

Roadway System (p. 3-89)

Future Roadway Improvements (p. 3-90)

It is assumed future roadway improvements will include all those identified in the cities of Covington and Maple Valley Transportation Improvement Plans (TIPs) out to 2035 [***DEIS at p. 3-90; Exh. 3.8-4***]. Improvements in the City of Maple Valley are based on its 2011 Comprehensive Plan. This assumes full buildout of the City of Black Diamond Master-Planned Developments (MPDs), such that the Maple Valley Transportation Mitigation Agreement (TMA) is completely fulfilled. This mitigation may be insufficient and may not be fully realized due to any future downsizing of the MPDs, or lack of grant monies.

The City of Black Diamond currently is in the process of building a new Traffic-Demand Model (as recommended by its Hearing Examiner and approved by its City Council). It will then validate the model; re-evaluate the original assumptions used; run

the model to obtain a new traffic distribution and volume; develop a revised set of traffic impacts; and recommend potential mitigation changes. The Black Diamond MPD Ordinance's Condition of Approval (COA) 17a provides the City with flexibility as to when and how often the model should be validated to ensure it is generating information that tracks reality. This is a cyclic process in which model results are confirmed (i.e., validated) and the model's attributes and/or assumptions are adjusted (i.e., calibrated), accordingly, striving towards convergence. COA 17a provides the City of Black Diamond flexibility to conduct traffic analyses at any time following the issuance of 850 building permits for the MPDs (essentially the completion of The Villages MPD Phase 1A) [**The Villages Master-Planned Development Ordinance 10-946, September 2010**] (emphasis added):

17a. *"At the point where building permits have been issued for 850 dwelling units at the Villages and Lawson Hills together, and again at such phase or interval determined by the City Council following completion of the review called for by this condition, the City shall validate and calibrate the new transportation demand model created pursuant to Condition 11 above for the then-existing traffic from the Villages and Lawson Hills together. The calibration may include an assumption for internal trip capture rates as set forth in Condition 14 above, rather than actual internal trip capture rates, if an insufficient amount of commercial development has been constructed at the time of the validation/calibration required herein. The City shall then run the model to estimate the trip distribution percentages that will result from the next upcoming phase or interval of MPD development, and to assign the estimated trips from that phase or interval to the intersections identified in Condition 11 above."*

Below is COA 11 (referenced above in COA 17a) [**The Villages Master-Planned Development Ordinance 10-946, September 2010**] (emphasis added):

11. *"The City shall create, at the expense of the Applicant, a new transportation demand model for this project for use in validating the distribution of project traffic at the intervals specified in Condition No. 17. The new model shall incorporate, at an appropriately fine level of detail, and at a minimum, the transportation network from the northern boundary of the City of Enumclaw on SR 169 through the City of Maple Valley to the northern limits of that city. The new model shall include the intersections studied in the FEIS, together with the following additions: all existing*

principal and minor arterials in Black Diamond, Covington and Maple Valley and the unincorporated areas between these cities and specifically including the Kent-Black Diamond Road; additional study intersections at SE 231st Street/SR 18 westbound ramps, SR 169/SE 271st Street and SR 169/SE 280th Street in Maple Valley. External trips may be captured by any valid methodology including overlaying the new model onto the existing Puget Sound Regional Council transportation model. The new model must be validated for existing traffic, based on actual traffic counts collected no more than two years prior to model creation. Key to the success of the new model is a well-coordinated effort and cooperation among the cities of Black Diamond, Maple Valley and Covington, the Applicant, King County and the Washington State Department of Transportation. Although the specific assumptions ultimately made in the model may be the subject of differences in professional judgment, the City Council's goal is that, notwithstanding these differences in judgment, the model will be comprehensive and therefore acceptable to all parties. The City Council therefore directs staff in preparing the model to work within the spirit of openness and cooperation with these other agencies and the Applicant, and similarly requests that other agencies and the Applicant join with the City of Black Diamond staff in working together in the same spirit for the common good."

Consequently, the City of Maple Valley's 2010 TMA is based on traffic analyses the City of Black Diamond's Hearing Examiner found suspect and recommended be completely redone *prior* to approval of the MPDs (please note that Maple Valley's own traffic expert, Mr. Janarthanan, testified during the Black Diamond MPD FEIS Appeals Hearings that there were major flaws in the traffic-demand model, assumptions, and resulting analyses). So, when *new* results are generated by the City of Black Diamond through the use of the new model (when complete and validated for use) and any new re-evaluated assumptions, how will this affect the assumptions made in the Covington Northern Gateway Study DEIS traffic analyses? This problem is even more acute given the fact that the Black Diamond City Council, through COA 17a above, can conduct traffic analyses at *any* time (following the 850-permit-issuance threshold--essentially the end of The Villages MPD Phase 1A) and, thus, could determine the original mitigation contemplated is inadequate. Further, as the Black Diamond MPDs are built out, the Black Diamond City Council can call for adjustments to the model, revalidation, and new traffic analyses multiple times at its sole discretion (as noted above in COA 17a). Such

analyses most probably will have a profound effect on the already agreed-to Maple Valley TMA intersection mitigations that are “cast in stone.”

This is a risk the City of Covington should not accept and, certainly, should not be built into its decision of Alternatives for the Northern Gateway Study development.

Because of this, it is highly recommended the City of Covington make any approval of the Hawk Property Subarea Plan and EIS documents fully contingent upon future traffic modeling and analyses conducted by the City of Black Diamond and on the subsequent effect on the Black Diamond MPD traffic mitigations contained in the Maple Valley TMA. This also pertains to the Covington TMA, which consists of specific monetary payments on a scheduled (i.e., thresholds of number of dwelling units built) basis [Covington Transportation Mitigation Agreement, December 14, 2010 -- later included as *Black Diamond, The Villages Master Planned Development, Development Agreement, Exh. R. -- Covington Transportation Mitigation Agreement*].

Another major flaw in the DEIS is the unwarranted assumption that SR-516 will be widened to 5 lanes plus turning lanes (“*this improvement is not currently programmed in Covington’s TIP*” [DEIS at p. 3-92, fn. 2. in Exh. 3.8-4. Assumed Future Roadway Improvements in Study Area by 2035]) or that the City of Covington simply relax, dilute, and degrade its LOS D standard. If so, why bother doing traffic analyses at all?

This SR-516 “capacity” improvement is not proposed to be a mitigation required of the Developer(s). Yet, a key study contracted by the City of Covington states that developers of this area will need to contribute to future capacity mitigation on SR-516 (aka SE 272nd St) [Northern Gateway Study Area Report, August 2012; Appendix C: Analysis of Existing Conditions: Transportation; Heffron Transportation, Inc., August 6, 2012; Section 11.0 Transportation Opportunities and Constraints (App., p. 127)] (emphasis added):

“...however, high levels of development that generate significant levels of additional traffic may still trigger a need for capacity improvements at some locations. Farther from the site and particularly along SE 272nd Street, far less excess capacity exists. New development that generates substantial vehicle trips through intersections operating at or below standards may need to also contribute toward future capacity improvements at these locations.”

The city must require the Developer(s) to mitigate the major congestion impacts the development will impose on SR-516.

Traffic Volumes (p. 3-92)

Covington traffic volumes are based on 2012 data, while Maple Valley traffic volumes are based on 2010 data. Although growth rates were applied to the latter, such volumes should be reevaluated as new data becomes available, so as not to underestimate *existing* traffic volumes by using a year (2010) in which such volumes probably were reduced due to the economic downturn.

We question the number of vehicle trips and impacts on the PM peak hour:

"Alternative 3 is projected to generate approximately 36,530 (28,900, or 21% less, for Alt. 2) total daily trips, of which about 28,300 (22,000, or 22% less, for Alt. 2) are expected to be new trips on the roadway system. Of these, about 3,300 (2,600, or 21% less, for Alt. 2) are expected to occur during the PM peak hour, with about 2,600 (2,000, or 23% less, for Alt. 2) reflecting new trips on the roadway system. " [DEIS at p. 1-12, Exh. 1-7 Summary Table, with more details provided in Exh. 3.8-13. Vehicle Trip Generation Summary]

Yet, internal trips during the PM peak hour for Alternative 2 are only 17% of the total trips and for Alternative 3 only 15.9% of the total trips **[DEIS, Exh. 3.8-12. Internal Trip Summary]**. Since the vast majority are expected to be external trips, why do only less than 10% of the total daily trips occur during the PM peak hour?

IMPACTS**Roadway System (p. 3-101)**

It is agreed the two proposed "local" connectors should help *existing* traffic flow. However, either or both should be implemented without having to approve a massive development of up to 1,500 residences that will only compound traffic circulation problems going forward.

Future Travel Demand (p. 3-101)

Covington future travel demand is based on population/employment projections, while Maple Valley's demand is based on its 2011 Comprehensive Plan. Unfortunately, the latter assumes full buildout of the City of Black Diamond Master-Planned Developments (MPDs). While we applaud that analysis of future demand takes into account the MPDs; we must again emphasize that demand is understated and mis-distributed due to its dependence on a flawed traffic model, faulty assumptions, and resulting analyses which produced results questioned by the City of Black Diamond's Hearing Examiner (and by expert testimony offered during the Black Diamond MPD FEIS Appeals Hearing by outside Traffic Consultants and traffic experts from the City of Maple Valley and the WA State Department of Transportation). In his 2010 FEIS

Appeals Decision and MPD Permit Application Recommendations the City of Black Diamond's Hearing Examiner, Phil Obrechts, found (emphasis added):

"This scale of development justifies the creation of a project specific transportation demand model that accounts for all existing and planned local land uses, is validated for local traffic, contains an appropriately fine grained transportation analysis zone network, considers existing peak hour factors, considers both funded and unfunded transportation improvements that coincide with the build-out timeframe for the project, considers safety concerns, attempts to preserve the rural Heritage Corridor, provides a realistic mode split analysis for both transit and non-motorized uses and determines a reasonably accurate internal trip capture rate. Therefore, the project applicant will be required to create a new transportation model that incorporates all the controls identified above and subject that model to peer review and periodic updates." [Black Diamond Hearing Examiner Master-Planned Development Application Recommendations, May 2010, p. 124]

"16. The resulting project impacts and mitigations must be integrated into the development agreement or processed as a major amendment to the MPD prior to City approval of any implementing projects." [Black Diamond Hearing Examiner Master-Planned Development Application Recommendations, May 2010, p. 194]"

While the former Black Diamond City Council ignored its own Hearing Examiner's Recommendations by moving the starting point of such new modeling and analyses from "0" homes to "850" permits issued, such new analyses still will happen and, most assuredly have a profound affect on the mitigations required going forward.

Whatever the merits of the traffic analyses supporting the Northern Gateway Study DEIS, because it assumes the Maple Valley Transportation Mitigation Agreement (TMA) traffic projects adequately mitigate the full build-out of the Black Diamond MPDs, the entire foundation of such analyses is dubious at best and dangerously wrong at worst. The City of Covington, its residents, the residents of the surrounding cities, and the residents of the surrounding unincorporated rural areas should not have their quality of life reduced because of inadequate traffic mitigation. In fact, the City of Covington is required by the State's Growth Management Act to ensure traffic concurrency is met (see **GROWTH MANAGEMENT ACT REQUIREMENTS ASSESSMENT** below).

Arterial Segment Operations (p. 3-116)

For new development the City of Covington uses a Transportation Adequacy Measure (TAM). The city has established a TAM threshold based on an area-wide average volume-to-capacity ratio (v/c) of 0.89, near total capacity, which is equivalent to LOS D. **[DEIS at p. 3-116]** For Alternative 2: TAM=0.75, which is <0.89 Covington threshold. For Alternative 3: TAM=0.78, which also is <0.89 Covington threshold. However, several *existing* segments already *exceed* the city's TAM threshold of 0.89, all along SR-516 **[DEIS at pp. 3-97 thru 3-98]**. The proposed Northern Gateway Study development Alternatives will only exacerbate this situation, while still "*passing*" based on the "*area-wide-average.*" While this might be "standard" general practice, it doesn't address and solve the *local* issue of timely and efficient movement of people and freight along the SR-516 corridor--the lifeblood of the city and its economy.

Traffic Safety (p. 3-118)

Although "*historical collision data in the site vicinity do not indicate any unusual safety concerns,*" that does not account for a single road weaving through the subarea development with few other ingress/egress points. There is a concern that both traffic and pedestrian safety could be compromised due to these limitations, especially with large trucks during the long construction periods and during normal operations, as well as pass-through traffic looking for shortcuts to avoid gridlock on major roads.

MITIGATION MEASURES

Other Potential Mitigation Measures (p. 3-121)

Roadway Capacity Improvements (p. 3-121)

It is assumed that all the projects listed in the Maple Valley TMA (incorporated into the Maple Valley TIP, as listed in **DEIS, Exh. 3.8-4. Assumed Future Roadway Improvements in Study Area by 2035**) will be achieved. Besides many of these projects relying on scant grant monies, several of are not scheduled until the out years of the proposed Black Diamond MPDs. Below are listed but a few including the developer's share in parentheses **[Black Diamond, The Villages Master Planned Development, Development Agreement, Exh. Q. Maple Valley Transportation Mitigation Agreement]**:

* Constructing a new 3-lane SE 271st Bypass Rd from SR 169 to SR 516 is not scheduled until the 2,035th dwelling unit (Developer's share = 6.8%).

* Adding a second northbound lane and second southbound lane to SR 169, Witte Rd SE to SE 280th St whose segments are not scheduled until the

700th, 2,280th, 3,225th, and 4,135th dwelling units (Developer's share <62.5%).

* Adding a second southbound lane to SR 169 from SE 280th St to Maple Valley south city limits is not scheduled until the 4,802nd dwelling unit (Developer's share = 58.4%).

* Widening SR-516 to 4/5 lanes from 216th Ave SE to Maple Valley west city limits is not scheduled until the 5,500th dwelling unit (Developer's share = 29.9%).

The existence of these four key projects and their dependence upon building over 2,000 dwelling units (with scant SR-516 work--the last item listed--not scheduled until 5,500 dwelling units!) presents a great risk to the City of Covington should it approve the Northern Gateway Study development based on the scant traffic mitigation called for the in DEIS.

With the exception of Alternative 1 (ID 23 noted below) for all Alternatives following proposed mitigation several key intersection delays fall within LOS E (*"Unstable flow--approaching intolerable delay"*) or F (*"Forced flow--jammed"*) [**Transportation Research Board, Highway Capacity Manual, 2010**]. The five intersections that fail--LOS F after mitigation are **bolded** below [**DEIS, Exh. 3.8-18. Future (2035) Level of Service - Mitigated, p. 3-128 thru 3-130**]:

ID 20	SE 272nd St/156th Pl SE (SB)	F
ID 21	SE 272nd St/Covington Way	F
ID-22	SE 272nd St (SR 516)/164th Ave SE	E
ID 23	SE 272nd St (SR 516)/Westbound SR 18 Ramps	F
	{ <i>note: LOS D for Alt. 1; LOS E for Alt. 2</i> }	
ID-26	SE 272nd St/168th Ave SE	E
ID-29	SE 272nd St/172nd Ave SE	E
ID 32	SE 272nd St (SR 516)/SE Wax Rd	F
ID 310	SE 231st St/SR 169⁷	F

⁷ Part of Maple Valley's North Concurrency Intersection Group – concurrency is satisfied if average weighted delay of all intersections in the group is equivalent to LOS D or better. With mitigation, the average weighted delay for this group is 50.0 (LOS D) for Alternative 1, 53.2 (LOS D) for Alternative 2, and 54.5 (LOS D) for Alternative 3. {55 sec delay is the threshold for LOS E}

ID-315	SR 516/SR 169 ⁵	E
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⁵ Part of Maple Valley's South Concurrency Intersection Group – concurrency is satisfied if average weighted delay of all intersections in the group is

equivalent to LOS D or better. With mitigation, the average weighted delay for this group is 42.7 (LOS D) for Alternative 1, 42.7 (LOS D) for Alternative 2, and 44.0 (LOS D) for Alternative 3.”

In fact, transportation concurrency for both SR-169 intersections (ID 310 and ID 315) listed above is considered “satisfied” only because of general methods that look at “average weighted delays” for all intersections in the area. That does not pass any muster in the real world where the purpose of adequate road infrastructure is to efficiently and expeditiously move people and freight to and from their destinations. SR-169 is the backbone of Maple Valley’s transportation infrastructure. Using an “average weighted delay” method that essentially negates LOS failures at key intersections along SR-169 does not serve the city, its residents, nor any other users.

SIGNIFICANT UNAVOIDABLE ADVERSE IMPACTS (p. 3-130)

The DEIS poses the scenario that either SR-516 be widened to 5 lanes or more, which is unfunded and not contained in any City or State plan, or city standards be reduced from LOS D to LOS E, defined as “Unstable flow--approaching intolerable delay” [**Transportation Research Board, Highway Capacity Manual, 2010**]. If such widening doesn’t happen (and, as stated above, it is not planned or funded by the City or the State), the fall-back is to simply degrade the LOS standards (emphasis added below):

“For projected 2035 conditions, SE 272nd Street is assumed to be a five-lane section throughout Covington, with additional turn-lanes at high volume intersections. 2035 model projections indicate that with the No Action alternative, traffic volumes on the section of SE 272nd Street between 156th Place SE and SE Wax Road would be high enough that most intersections along the section would operate at LOS E or F. While some spot improvements at these locations may improve conditions slightly, they would not be sufficient to improve operation to LOS D. Improvement to LOS D or better would require widening to 6 or 7 lanes of this section of SE 272nd Street. If growth occurs to the degree reflected in the model projections, it is likely that the City of Covington would reevaluate its long-term plan for the corridor, and determine if widening is warranted, or if it would be warranted to reexamine level of service standards and allow this section to operate lower than LOS D.” [DEIS at p. 3-125].

This is *not* an “unavoidable” impact. If transportation concurrency and the State Growth Management Act mean anything, the proposed Northern Gateway Study development should not be approved (see **GROWTH MANAGEMENT ACT REQUIREMENTS ASSESSMENT** below).

GROWTH MANAGEMENT ACT REQUIREMENTS ASSESSMENT

To better evaluate the DEIS transportation assessment we conducted a review of the requirements called for by Washington State Growth Management Act (GMA).

The City of Covington is required to plan under the requirements of the Washington State Growth Management Act (GMA). However, the DEIS fails to adequately address some of the mandatory elements [**RCW Chapter 36.70A: Growth Management -- Planning by Selected Counties & Cities; Chapter 36.70A.070: Comprehensive plans — Mandatory elements**] (emphasis added below):

(6) A transportation element that implements, and is consistent with, the land use element.

(a) The transportation element shall include the following subelements:

(iii) Facilities and services needs, including:

(B) Level of service standards for all locally owned arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

Mandatory element (6)(a)(iii)(B) above is not met. Although the City of Covington is doing “regional coordination,” there are many concerns about the assumptions expounded in the DEIS, as enumerated herein.

(D) Specific actions and requirements for bringing into compliance locally owned transportation facilities or services that are below an established level of service standard;

Mandatory element (6)(a)(iii)(D) above is not met as SR-516 is not being brought into “compliance,” as enumerated herein.

(F) Identification of state and local system needs to meet current and future demands. Identified needs on state-owned transportation facilities must be consistent with the statewide multimodal transportation plan required under chapter 47.06 RCW;

Mandatory element (6)(a)(iii)(F) above is not met as the DEIS identifies issues with both SR-516 (no funded plan exists) and SR-169 (contingent mitigation), as enumerated herein.

(iv) Finance, including:

(A) An analysis of funding capability to judge needs against probable funding resources;

Mandatory element (6)(a)(iv)(A) above is not met as SR-516 widening to 5 or more lanes is not funded nor part of any City or State plan.

(B) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW [35.77.010](#) for cities, RCW [36.81.121](#) for counties, and RCW [35.58.2795](#) for public transportation systems. The multiyear financing plan should be coordinated with the ten-year investment program developed by the office of financial management as required by RCW [47.05.030](#);

Mandatory element (6)(a)(iv)(B) above is not met as major needs identified in the Maple Valley Comprehensive Plan (on which the entire Northern Gateway Study development is based) are completely predicated on the completion of the proposed Black Diamond MPDs and other issues, as enumerated herein.

(C) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

Mandatory element (6)(a)(iv)(C) above is not met as there is no evidence this has been done or will be done.

(b) After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW [36.70A.040](#), local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6), "concurrent with the development" means that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

Mandatory element (6)(b) above is not met. In fact, this lack of Transportation Concurrency is the most glaring omission of the proposed Northern Gateway Study development, as enumerated herein.

(c) The transportation element described in this subsection (6), the six-year plans required by RCW [35.77.010](#) for cities, RCW [36.81.121](#) for counties, and RCW [35.58.2795](#) for public transportation systems, and the ten-year investment program required by RCW [47.05.030](#) for the state, must be consistent."

Mandatory element (6)(c) above is not met as there is no evidence that this has been done or will be done.

CONCLUSIONS

The key to proper transportation mitigation is Concurrency testing--a mandate of the State's Growth Management Act (GMA) and part of all jurisdictional Comprehensive Plans. In general, such testing ensures transportation improvements or strategies are constructed or financed *concurrent* with development.

As part of the GMA, concurrency is one of the goals local governments must consider in land-use planning. The concurrency goal is intended to ensure public facility infrastructure and services (such as sewer, water, roads, parks and schools) are adequate to serve new development at the time of occupancy without decreasing service levels below locally established minimum standards. Consequently, Transportation Concurrency has far-reaching impact on land use. The State describes the Transportation Concurrency requirements as follows (emphasis added) **[Concurrency, Land Use, and the State Transportation System, Washington State Department of Transportation, May 2007]**:

"The GMA also defines a specific transportation concurrency requirement. First, local governments must set level of service (LOS) standards, or minimum benchmarks of performance, for transportation facilities and services. Once the LOS standard is established, the local government must adopt an ordinance to deny proposed developments if they cause the LOS on a locally-owned transportation facility to decline below the adopted standard, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with development [RCW 36.70A.070(6)]. Concurrent with development means improvements or strategies are in place at the time of development, or a financial commitment has been made to complete them within six years. Local governments may accommodate

development impacts by changing the phasing or timing of new development, improving transportation facilities or services to serve the new development, reducing the LOS standard, or revising their land use policies.”

“A common misconception is that concurrency guarantees some uniform minimum level of governmental services. The state has not specified any such minimums. Local governments have the authority and responsibility to provide acceptable levels of service for their communities resulting in a wide variety of methodologies and standards. This discretion is constrained by the growth management hearings board finding that local governments cannot avoid the concurrency requirement entirely by manipulating the standards to allow uncontrolled development despite identified deficiencies [Eugene Butler et al. v. Lewis County, 99-2-0027c, WWGMHB (June 20, 2000)]. Neither can local governments avoid the concurrency requirement by crafting exemptions of any kind [Bennett et al. v. City of Bellevue, 49852-5-1, 119 Wn. App. 405 (December 15, 2003)].”

Consequently, the State RCWs and the courts in subsequent decision make clear the following:

1. Cities must deny proposed developments if they cause the LOS to decline below the adopted standard, unless transportation improvements to accommodate the impacts are made concurrent with development.
2. Cities cannot avoid concurrency requirements by manipulating the standards to allow development despite identified impacts.

The City, as detailed in the traffic assessment supporting the DEIS, is not meeting either of these requirements, especially as they pertain to SR-516. If SR-516 must be widened to 5 or more lanes to accommodate the proposed Northern Gateway Study development then the City must ensure the Developer(s) provide(s) sufficient funds to accomplish such mitigation.

Further, should such conditions not be placed on the Developer(s) as part of a City Ordinance and/or Development Agreement, then the City cannot simply relax (RCW language: “*manipulate*”) its LOS standards to allow the development to pass concurrency requirements.

Consequently, we call for a complete re-assessment of traffic for the Northern Gateway Study development. One that does not rely on traffic projects that:

1. Probably will not fully materialize (Maple Valley TMA-generated TIP);
2. Do not provide adequate mitigation (inadequate analyses of Black Diamond MPD traffic impacts);
3. Rely on Grant monies that either do not exist or fall far short of what is needed;
4. Are not in any plans and possess any funding (i.e., SR-516 widening); and
5. Do not meet several Concurrency requirements of the State's RCWs.

PUBLIC SERVICES (sect. 3.9 Public Services)

GENERAL--POPULATION DENSITY

Throughout the DEIS, specific growth numbers for Alternatives 2 and 3 are provided for number of additional residents. For example, Alternative 3 projects ~2,760 additional residents with 1,500 dwelling units with a mix of single-family, townhome, and multifamily residences. This assumes an average of 1.84 residents per unit, which, on first look, appears small.

Inconsistencies

Per the 2000 census (<http://www.covingtonhistory.co.uk/Washington.htm>) there were 13,783 people and 4,473 housing units, equivalent to 3.08 individuals per housing unit. Given, even in the year 2000, this is significantly greater density than the DEIS projects at 1.84.

Per the 2010 census (http://en.wikipedia.org/wiki/Covington,_Washington) there were 17,575 people with 6,081 housing units, equivalent to 2.89 individuals per housing unit. This is slightly lower than the 2000 census, but consistently above the projections in the DEIS. The projections for 2012 at that time were ~3 individuals per housing unit--again, significantly greater density than the DEIS projects at 1.84.

Recommendation

Population density projections must be based on historical reality in order to accurately assess the impacts on Public Services and critical infrastructure for the development area. If, for example, the DEIS projections are off by at least 1 individual per housing unit, that would result in an additional 1,500 to 3,000 more people for Alternatives 2 and 3, respectively. Consequently, we call for a re-evaluation of projected population densities for Alternatives 2 and 3.

POLICE PROTECTION

Current Situation

From the *DEIS at p. 3-131*:

“Police service in the Hawk Property Subarea is currently provided by two agencies. The portion of the subarea within Covington city limits is nominally served by the Covington Police Department, though all Covington police officers are King County Sheriff’s Office employees who are dedicated to Covington via contract. The portion of the subarea in unincorporated King County is served directly by the King County Sheriff’s

Office. The Covington Police Department consists of eleven active-duty police officers, one detective, and a police chief. Neither the Covington Police Department nor the King County Sheriff's Office maintains any facilities in the immediate vicinity of the subarea. The nearest police facility is at Covington City Hall, which serves as both the headquarters for the Covington Police Department and as the headquarters for King County Sheriff's East Precinct South."

Level of Service (LOS): The Covington Police Department does not maintain an adopted level of service standard. Current level of service, based on a 2012 city population of 17,760, is approximately 1.6 officers per 1,000 residents.

The King County Sheriff coverage for the 2011 budget year was 0.65 officers per 1000 citizens. This compares to 1.5 officers per 1000 citizens in the cities within King County. (<http://www.seattlepi.com/local/article/Sheriff-County-Council-flat-wrong-about-number-817442.php>)

The City of Covington contracts with King County for police services, some as King County Sheriffs and some marked as Covington Police.

Based on the numbers, it appears that unincorporated Maple Valley area is one of the areas that is already *underserved* by Police services, compared to the surrounding incorporated cities.

Impacts

From the **DEIS at p. 1-18:**

"Alternative 1 – No added population = no added need for police protection.

Alternative 2 – 1,838 additional residents = 3 additional officers needed to maintain current LOS.

Alternative 3 – 2,760 additional residents = 4.5 additional officers needed to maintain current LOS."

Concerns/Recommendations

From the **DEIS at p. 1-30, Proposed Mitigations:**

"The City could adopt a formal LOS standard for police service and coordinate with the King County Sheriff's Office on monitoring of call responses to incidents by members of the Covington Police Department. The City should contract with the King County Sheriff's Office for the

services of additional police officers commensurate with the level of development ultimately approved for the subarea.”

The King County Sheriff's office struggles for funding every budget cycle, and for the Maple Valley area citizens, this is of extra concern as they recently closed the local precinct on SE 232nd and SR-169. If Covington will need to contract with King County to provide more officers to cover the increased population in the subarea, will all funding come from the City of Covington? Or will King County be concerned about covering any portion of this added coverage at current budget levels? These are questions that should be addressed in the planned action EIS process prior to any approval of new developments.

FIRE PROTECTION

Current Situation

From the *DEIS at p. 3-131*:

“Existing Service: Fire and emergency medical service in the Hawk Property Subarea are provided by two fire districts. The portion of the subarea within Covington city limits is served by the Kent Regional Fire Authority; the portion in unincorporated King County is served by King County Fire District 43, also known as Maple Valley Fire & Life Safety (MVFLS). Fire district boundaries are shown in Exhibit 3.9-1. The nearest Kent Regional Fire Authority facility is Fire Station 78, located approximately 0.5 mile west of the subarea at the intersection of 180th Avenue SE and SE 256th Street. The station is staffed by one fire engine with career personnel 24 hours per day. The nearest MVFLS facility is Station 81, located approximately two miles northeast of the subarea at the interchange of SR 18 and SE 232nd Street in Maple Valley. The station is manned 24 hours per day by a combination of career and volunteer resident personnel. Station 81 houses two pumper engines, one tender truck, one aid vehicle, and one brush truck.”

Maple Valley Station 81 sets a threshold for response time to 8 minutes (including a 2-min “turnout”), and it’s goal is to be able to respond to incidents within that timeframe 90% of the time. As of 2010, Station 81 was the only station in the area that was not in compliance with its response time measurements. Key factors specific to this station include the wide variety of types of homes, properties, businesses, and terrain. However, any more stress on the current system could only make this situation worse.

According to the District's Fire Chief in 2012, response times to the vicinity of the Hawk Property subarea are typically 6-7 minutes, so while current services seem to be ample for the area, future development of this subarea will ideally be served by the Kent Regional Fire Authority as a primary and not Maple Valley.

Impacts

Paraphrasing from the *DEIS at p. 1-18*:

Alternative 1 – No added population = no added need for fire protection.

Alternative 2 – Increased residential and commercial development = 140 additional annual emergency responses from residential, and 75 additional annual emergency responses from commercial. Also would require 2 additional 24 hour staff at KFD Station 78. Added spine connector street through subarea would also improve response time from Station 78.

Alternative 3 – Increased residential and commercial development = 210 additional annual emergency responses from residential, and 92 additional annual emergency responses from commercial. Also would require 2 additional 24 hour staff at KFD Station 78. Added spine connector street through subarea would also improve response time from Station 78.

Concerns/Recommendations

Mitigation measures mentioned in the DEIS indicate that Covington should work with the Kent Regional Fire Authority for capacity, and there is no mention of working with the Maple Valley Fire Station 81. From the *DEIS at p. 1-30* (emphasis added):

“The City should require a mitigation agreement between the developer and Kent Regional Fire Authority prior to development to address the impacts identified in this Chapter. The mitigation agreement should address impacts to daily and peak hour workload at KFD Station 78 resulting from development of Alternative 2 or Alternative 3.”

This statement appears inconsistent, as it seems to assume Kent Fire will absorb the additional demands caused by the new development. If in fact the responsibility for Fire Protection for the subarea will be placed on Kent Regional Fire Authority, then there may be no impact on Maple Valley Fire capacity or response times. However, a good portion of the new development area falls within the existing area covered by Maple Valley Station 81. There does not appear to be clear mention of how Station 81 will be funded or impacted for the expected increase in services needed.

Clear details should be identified prior to development as to which Fire authority will be responsible for this new development area and where the funding is coming from for additional responders.

SCHOOLS

Current Situation

From the *DEIS at p. 3-135*:

“Educational services in the Hawk Property Subarea are provided by two school districts. The portion of the subarea within Covington city limits is served by the Kent School District, while the unincorporated portion of the subarea is served by the Tahoma School District. School district boundaries are illustrated in Exhibit 3.9-4. The subarea is served by three elementary schools, one middle school, one junior high school, and two senior high schools. Exhibit 3.9-3 lists the schools serving the subarea and their approximate enrollments and capacities for the 2011-2012 school year.”

Clearly, while the Kent Schools serving the area have been enjoying enrollment under capacity levels for the 2011/2012 year, Tahoma Schools serving the area all have Enrollments either nearly at or exceeding Capacity levels. This illustrates that the Tahoma schools cannot take on any additional students as a result of proposed Hawk Property Subarea development.

Per Level of Service statements in the *DEIS at p. 3-135*:

“According to the district’s 2012 Capital Facilities Plan, all three schools that serve the Hawk Property Subarea are currently over their permanent capacity and using re-locatable facilities to house classes. The district plans construction of an additional elementary school in 2015, as well as increased capacity at Lake Wilderness Elementary in 2015. Capacity is also planned to be added to Tahoma Junior High in 2016 and to Tahoma High School in 2017.”

However, such expansion has been planned by the Tahoma School District for some time to alleviate its *existing* situation, not to accommodate students from any new large developments.

Impacts

Paraphrasing from the *DEIS at p. 1-19*:

Alternative 1 – No additional population = no added demand for schools.

Alternative 2 – Population growth would increase demand on schools. Currently split between Kent School District and Tahoma Schools District, it is “likely” the entire subarea could be annexed into one or the other.

If annexed into the Kent School District, expected increase in demand = 393 elementary, 92 middle school, and 174 high school students.

If annexed into the Tahoma School District, expected increase in demand = 268 elementary, 81 middle school, and 99 high school students.

Alternative 3 – Population growth would increase demand on schools. Currently split between Kent School District and Tahoma Schools District, it is “likely” the entire subarea could be annexed into one or the other.

If annexed into the Kent School District, expected increase in demand = 590 elementary, 138 middle school, and 262 high school students.

If annexed into the Tahoma School District, expected increase in demand = 401 elementary, 122 middle school, and 149 high school students.

Concerns/Recommendations

Under Alternatives 2 and 3, if the subarea is annexed into the Kent School district, it appears there would be no impact on the Tahoma School area residents or students regarding schools.

Under Alternatives 2 and 3, the effect on the Tahoma School District students could be significant. Classrooms are already crowded. Assumptions are made about the Tahoma schools’ ability to either absorb the additional students within *existing* classrooms, or build *new* schools. Logistics and funding issues for new schools, additional teachers, supplies, and transportation are critical factors that must be examined prior to moving forward with either Alternative 2 or 3.

From the *DEIS at p. 1-30*:

“Until annexation by the City of Covington, development in the unincorporated portions of the Hawk Property Subarea will be subject to assessment of school impact fees, as required by King County Code Chapter 27.44. After annexation by the City of Covington, development in the Hawk Property Subarea will be subject to assessment of school impact fees, as required by Covington Municipal Code Chapter 18.120.”

What will the new school impact fees cover? Assuming such fees go to the affected school district for *existing* schools, how will any *new* schools be handled? If *new* schools are contemplated, how will land acquisition and capital and maintenance bonds be handled?

Also, to the Impacts noted above **[DEIS at p. 1-19]**:

“Population growth ... would increase demand on schools. Currently split between Kent School District and Tahoma Schools District, it is ‘likely’ the entire subarea could be annexed into one or the other.”

The DEIS offers different numbers of projected students, depending on which school district (Tahoma or Kent) ultimately would serve the Hawk subarea. No methodology is presented to support the conclusion that more students would need school space if Kent were to annex than if Tahoma were to annex. Similar to the concerns about population density expressed earlier, these numbers need to be explained and justified to truly understand the projected impacts.

Finally, while there is planned school space expansion to resolve the *existing* capacity shortfall in the Tahoma School District, it does not take into account any *new* development such as the Hawk Property Subarea. We highly recommend the Developer(s) of the Hawk Property Subarea allocate adequate land as part of the planned community to be reserved for *new* school construction to serve the development. This is the only way to ensure that *existing* school capacity shortfalls not be repeated at the completion of the *new* development.

While it is understood it is not the City of Covington’s call on how the school districts handle their boundaries, it is the City’s responsibility to determine the resulting impacts to each school district’s residents and taxpayers.

PARKS AND TRAILS

The Hawk Property Subarea does not contain any existing parks, or other recreation facilities, though there are informal trails. As of 2013 the City is deficient in neighborhood and community park space, trails, and bikeways.

Both Alternatives 2 and 3 will require increased land dedicated to Parks and Trails. As described under Affected Environment, CMC 18.35.150 requires residential and mixed-use developments to provide on-site recreation. Alternative 2 would require 3.3 acres of on-site park and recreation space. The minimum Urban Village Proposal includes 5.5 acres of park space. Alternative 2 would require 1.4 miles of trails to maintain the City’s current level of service. Alternative 3, according to the plan, includes 8.3 acres of park space and 2.1 miles of trails.

Neither alternative contemplates parks dedicated for use as ballfields of any type. This deficiency should be addressed in the Final EIS.