



PIERCE COUNTY PLANNING & LAND SERVICES  
MAY 23 2017

APPEAL OF A DETERMINATION  
OF AN ADMINISTRATIVE OFFICIAL OR THE  
RESPONSIBLE COUNTY OFFICIAL (ENVIRONMENTAL OFFICIAL)

Name of Appellant: City of Puyallup - Joseph Beck, City Attorney

Mailing Address: 333 S Meridian

Phone Number: 253-864-4196

E-mail Address: JBeck@ci.puyallup.wa.us ; czimmerman@ci.puyallup.wa.us

Identify the decision or order that is being contested and attach a copy of the decision and order.

Pierce County's SEPA MDNS for Environmental Application No. 1792210  
Pierce County's March 31, 2017 extension of the Preliminary short Plat No. 15 in  
Any Decisions concerning the Preliminary short plat that depend on the SEPA Packet)

Your statement explaining why the decision or order was in error. (Attach a separate sheet if necessary)

Please see attached Document

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\_\_\_\_\_

Rachael N Brown  
Signature of Appellant

May 23, 2017  
Date

Rachael N Brown  
Print Name Assistant Planner  
City of Puyallup

PIERCE COUNTY PLANNING  
& LAND SERVICES  
MAY 23 2017

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BEFORE THE COUNTY OF PIERCE  
OFFICE OF HEARING EXAMINER

**CITY OF PUYALLUP,**  
  
Appellant,  
  
v.  
  
**DIRECTOR, PIERCE COUNTY PLANNING  
AND PUBLIC WORKS, and KNUTSON  
FARMS, INC., RUNNING BEAR  
DEVELOPMENT PARTNERS LLC, and  
BARGHAUSEN CONSULTING  
ENGINEERS, INC.,**  
  
Respondents.

**CASE NO.**  
  
**KNUTSON FARMS INDUSTRIAL  
PARK (PROJECT APPLICATION NOS.  
792206, 792210, 792212, 792213, 829228,  
834238, 834239, 840137, 844049, 846656)**  
  
**NOTICE OF APPEAL OF MDNS AND  
ALL RELATED DECISIONS**

**I. APPELLANT/AUTHORIZED REPRESENTATIVE INFORMATION**

The City of Puyallup (City) is the appellant. Its authorized representatives in this appeal are its attorneys, Peter J. Eglick of Eglick & Whited, PLLC and Joseph N. Beck, City Attorney. Their contact information is:

Joseph N. Beck  
City of Puyallup City Attorney  
333 S. Meridian  
Puyallup, WA 98371 (253) 864-4196  
JBeck@ci.puyallup.wa.us *and*  
CZimmerman@ci.puyallup.wa.us

and



1 Peter J. Eglick  
2 Eglick & Whited PLLC  
3 1000 Second Avenue, Suite 3130  
4 Seattle, WA 98104  
5 (206) 441-1069  
6 eglick@ewlaw.net *and* schmidt@ewlaw.net

7 **II. JURISDICTIONAL OBJECTION AND RESERVATION OF RIGHTS**

8 2.1 On April 26, 2017, Pierce County issued a Notice of Mitigated Determination  
9 of Nonsignificance (MDNS) on the proposed Knutson Farms Industrial Park and related  
10 applications. (See attached copies of Notice and MDNS.) In them, Pierce County announced a  
11 comment period and subsequent appeal period as follows:

12 This MDNS is issued under WAC 197-11-340(2); the lead agency will not act  
13 on this proposal for 14 days from issue date. Appeals must be filed within 14  
14 days of the end of the comment period.

15 Pierce County also published in the Tacoma News Tribune a notice of the MDNS  
16 stating that “An appeal of this determination must be filed no later than May 24,  
17 2017...”

18 2.2 The MDNS triggered a period in which an agency with jurisdiction (as defined  
19 in WAC 197-11-714(3)) was entitled to issue a Notice of Assumption of SEPA Lead Agency  
20 Status pursuant to WAC 197-11-948. The City is within the definition of “agency with  
21 jurisdiction” as acknowledged on the applicant’s September 14, 2016 revised SEPA  
22 Environmental Checklist at page 3 and in the MDNS itself, which mandates as part of the  
23 proposal elements that require City approval, permitting, and financing.

24 2.3 The City of Puyallup had repeatedly over the year prior to the County’s  
25 issuance of the MDNS cautioned Pierce County in writing that the scope, intensity, context  
26 (including location), and consequent impacts of the proposed Knutson Farms Industrial Park  
project required preparation of an environmental impact statement



1 (EIS) and that the City would as an “agency with jurisdiction” per WAC 197-11-714(3)  
2 assume SEPA lead agency status under WAC 197-11-948 if the County continued to fall  
3 short in its SEPA review of the proposal. Exhibit F (November 7, 2016 letter to County).

4 2.4 The City therefore issued and transmitted to the County its May 10, 2017  
5 SEPA Notice of Assumption of Lead Agency Status as well as a SEPA Determination of  
6 Significance (DS). Exhibits D, E. The County therefore had and has no authority or  
7 jurisdiction to finalize its MDNS or take any other action as SEPA lead agency. Further, the  
8 Assumption and DS precluded and continue to preclude, per, e.g., WAC 197-11-070, County  
9 authority or jurisdiction to take any action purporting to approve the proposal or any of its  
10 components.  
11

12 2.5 The City of Puyallup as an alternative precautionary measure and without  
13 waiver is filing this Appeal. However, because the County does not currently have SEPA  
14 jurisdiction or authority over the proposal and the required environmental impact statement  
15 (EIS) has not yet been prepared, the Pierce County Hearing Examiner has no authority to  
16 conduct an appeal proceeding concerning the County MDNS which has been replaced by the  
17 Determination of Significance issued by the City pursuant to its assumption of SEPA lead  
18 agency status. Any action by the Examiner and/or the County based on the MDNS and  
19 decisions issued in association with or in reliance on it are and will be ultra vires, without  
20 jurisdiction, and contrary to law and regulation.  
21

22 2.6 Although not repeated in every section, the City’s jurisdictional objection,  
23 non-waiver, and reservation of rights applies throughout this appeal.  
24

### 25 **III. DECISIONS BEING APPEALED**

26 3.1. Pursuant to, inter alia, Pierce County Code (PCC) 18.20.030, 18D.10.080, and



1 chapter 1.22 PCC and coordinate state statutes and regulations including RCW 43.21C.075  
2 and WAC 197-11-680 the City appeals all determinations made, all approvals granted, and  
3 all decisions issued by the County concerning this proposal that are part of, rely on, or are  
4 related to the MDNS including without limitation the following:

- 5 a. Pierce County's April 26, 2017 SEPA MDNS concerning, inter alia,  
6 Environmental Application No 792210 (Project Application Nos. 792206,  
7 792210, 792212, 792213, 829228, 834238, 834239, 840137, 844049, 846656),  
8 Project ID No. 469640. Copies of the MDNS and Notice of MDNS are  
9 attached to this appeal. Exhibits A, B.
- 10 b. The County's March 31, 2017 extension of the Preliminary Short Plat  
11 application and related, including SEPA, deadlines purportedly under PCC  
12 18.60.030(C).
- 13 c. Any and all determinations, decisions, or other actions concerning the  
14 Preliminary Short Plat application that assume or depend upon SEPA  
15 compliance.  
16  
17

18 **IV. PROJECT DESCRIPTION/APPELLANT'S INTERESTS<sup>1</sup>**

19 4.1 The Knutson Farms Industrial Park proposal is for development of a  
20 warehouse, distribution, and freight movement complex on approximately 162 acres most of  
21 which is currently farmland. The project includes construction of seven warehouses totaling  
22 2.6 million square feet and over 2,000 parking stalls for total site coverage of over 100 acres.  
23 Development of the site would entail grading, paving (for truck and vehicle parking and  
24 maneuvering areas), traffic signalization and substantial road improvements, landscaping,  
25 water and sanitary sewer extensions, storm water facilities, and utility improvements.  
26

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<sup>1</sup> Exhibit C to this appeal is the City's May 10, 2017 comment submission on the MDNS.



1 Approximately 450,000 cubic yards of on-site material would be excavated and filled to  
2 prepare the building pads, paved areas and open space areas for development.

3 4.2 The site adjoins the Puyallup River and is within its floodplain. It is zoned  
4 Employment Center, and is within the County's Alderton-McMillan Community Plan area  
5 and the City of Puyallup Urban Growth Area. The entire site is within the City of Puyallup's  
6 sewer service area. A portion of the site (west of 134th Avenue) is in the City's water service  
7 area.  
8

9 4.3 The proposal implicates and will significantly, adversely impact the interests of  
10 the City and its citizens across a broad spectrum of elements of the environment including but  
11 not limited to those related to utilities, roadways and traffic, habitat, wetlands and critical  
12 areas, stormwater, recreational opportunities and the like. This massive proposal depends  
13 exclusively on and greatly and adversely impacts the City's road network. It will depend  
14 exclusively on the City's sewer utility and significantly on the City's water system. It will  
15 impact the City's public trails, including longstanding adopted plans for connecting the  
16 Riverwalk Trail to the Foothills Trail through the site. It will adversely impact and in some  
17 significant respect foreclose preservation of agricultural lands, wetlands, and wildlife habitat,  
18 all of which are matters in which the City as well as the citizens it represents have important  
19 interests.  
20

## 21 V. APPEAL GROUNDS

22 Based on the foregoing, incorporated here by reference, the City asserts the following  
23 appeal grounds:  
24

### 25 5.1 Transportation/Traffic – WAC 197-11-444(2)(c).

26 All traffic to and from the site will be routed through City streets. The applicant's

1 Transportation Impact Analysis (TIA) states that there will be nearly 6,000 daily vehicle trips,  
2 including truck trips, to and from the site once it is fully operating. This quantity of trips  
3 alone, with many of them heavy truck trips, would have significant adverse impacts on the  
4 City's transportation system. Yet, as explained in comments on the application from the City  
5 and its experts, the TIA relied upon by the MDNS understates the number of trips associated  
6 with the proposal, and consequently understates impacts. In addition to underestimating the  
7 trip count, the TIA (and thus the MDNS) focus chiefly on impacts related to particular  
8 intersection interactions rather than other more systemic impacts that will be felt as acutely by  
9 the City's streets and residents.  
10

11 Even if the TIA trip counts were realistic, the MDNS mitigation conditions are not  
12 "reasonable and capable of being accomplished" and therefore do not alleviate significant  
13 adverse environmental impacts. *See* RCW 43.21C.060. The conditions confirm an approach  
14 that turns City streets over to the applicant. They place the burden on City streets to  
15 accommodate the development's impacts regardless of whether those accommodations  
16 themselves have adverse impacts on the City road network and its citizens, and without  
17 regard to alternatives. They contemplate that the applicant will contribute to the City  
18 disproportionately small sums toward big ticket improvements to City roads and intersections  
19 necessitated by the proposal, resulting in illusory rather than effective mitigation.  
20

21 For example, one MDNS "mitigation" condition states: "To mitigate impacts to  
22 queues on Shaw Road East between 12th Avenue SE and 23rd Avenue SE, the applicant shall  
23 contribute \$600,000 to the City of Puyallup to help fund the City of Puyallup's planned  
24 capital project to widen Shaw Road East prior to the final building inspection on the first  
25 building." However, widening of Shaw Road East is a multimillion dollar project that is not  
26



1 currently funded. If and when it is funded, it will not be completed for many years. Allowing  
2 the applicant's proposal to proceed based on an arbitrary \$600,000 contribution provides no  
3 mitigation and represents the kind of ad hoc approach that SEPA is intended to avoid.

4 Similarly, the MDNS condition for \$500,000 "to help fund a new traffic signal at the  
5 intersection of 5th Avenue NE and East Main Avenue" falls short of proportional share and  
6 actual cost to construct a traffic signal and associated improvements.

7 The MDNS also fails to identify and address particular significant adverse traffic  
8 impacts, such as the disproportionate impacts to City road pavement sections designed for  
9 much lighter traffic than the kind of heavy truck traffic characteristic of and idiosyncratic to  
10 the proposed use. Nor does it meaningfully address impacts to traffic on arterial roads that  
11 lead to and from the project, such as on East Pioneer, East Main, or Shaw Road from 12<sup>th</sup>  
12 Avenue to 23<sup>rd</sup> Avenue SE.

14 5.2 Water – WAC 197-11-444(1)(c); Plants and Animals – WAC 197-11-  
15 444(1)(d).

16 The site has been classified as an "environmentally sensitive" area. Most of it lies  
17 within or near what the PCC defines as the Puyallup River floodway and channel migration  
18 zone (CMZ); the property also contains at least four distinct wetlands and possibly others. The  
19 MDNS ignores the impacts associated with the location of many of the proposed warehouses  
20 impermissibly within the CMZ as defined by adopted County reports with internal maps and  
21 plans.  
22

23 The MDNS ignores impacts on wetlands such as wetland "D". It also ignores impacts  
24 on ditches and watercourses on and serving the site, including those potentially associated  
25 with wetlands.  
26





1 The MDNS ignores the significant hydrologic and habitat impacts on riparian area  
2 between the development and the 100-year Puyallup River floodplain and similarly ignores  
3 significant adverse impacts within, inter alia, the CMZ protected area in which impacts are  
4 not allowed except, if at all, after review and a formal assessment and permit process. *See,*  
5 *e.g.,* Federal Emergency Management Agency’s (FEMA) “Floodplain Habitat Assessment  
6 and Mitigation: Regional Guidance for the Puget Sound Region (2013)”.

7  
8 The development would therefore significantly and negatively impact the habitat of  
9 various threatened and endangered species, including Chinook salmon and steelhead trout, but  
10 the MDNS does not acknowledge such impacts.

11 The MDNS does not address the significant adverse impacts on water quality, habitat,  
12 and affected species caused by redirecting, without infiltration into the surrounding floodplain  
13 and wetlands, stormwater runoff to the Puyallup River and by directing such a substantial  
14 quantity of water into the Puyallup River. The unaddressed impacts include: starving the  
15 wetlands in the floodplain by diverting stormwater directly to the River; starving the  
16 surrounding groundwater supplies; limiting the River’s natural migration within the CMZ;  
17 pollution impacts to salmon and other species at the outfall point, e.g. from untreated runoff  
18 or unplanned spills; and degrading the River due to run-off and contaminants and spills from  
19 the warehouse area.  
20

21 The MDNS also fails to impose mitigation measures concerning stormwater runoff  
22 that will occur during construction of the development. Such runoff will cause similar  
23 significant adverse environmental impacts as runoff associated with the final development.  
24

25 5.3 Land and Shoreline Uses – WAC 197-11-444(2)(b).

26 The MDNS ignores the significant adverse impacts associated with development of

1 the proposed warehouses within the Puyallup River CMZ. *See* PCC 18E.70.020; PCC  
2 18E.70.040; PCC 18E.40.060(B)(1)(b) (riparian buffers). The significant adverse impacts  
3 arising from these discrepancies are not addressed or mitigated.

4 The MDNS further relies on inaccurate wetland characterization, delineation, and  
5 location, resulting in significant unmitigated adverse impacts arising from conflict with  
6 applicable plans and codes. *See, e.g.*, Soundview Consultants' December 2016 revised  
7 Critical Areas Assessment Report (incorrectly states that "Wetland D" is *off site* and less than  
8 10,000 square feet, thereby exempting it from regulation and buffering under Title 18E PCC);  
9 Warehouse G (invading wetland or its buffer); Appendix B2 to December 2016 Critical Areas  
10 Assessment Report (other unnamed wetlands within footprints of Warehouses B, D, and E.).

11 The MDNS also ignores the impact on flood levels of proposed plantings within the  
12 Puyallup River floodplain and their inconsistency with Pierce County codes and plans. *See*,  
13 *e.g.*, PCC 18E.70.040(D) (any "watercourse alteration" must "not increase the water surface  
14 elevation (zero-rise); decrease the capacity, storage, and conveyance of the watercourse; nor  
15 cause an adverse impact to adjacent, cross-channel, or upstream or downstream properties").  
16  
17

18 The MDNS also does not address the significant adverse impacts from inconsistency  
19 with longstanding plans for connecting the Riverwalk Trail to the Foothills Trail through the  
20 Knutson Farms site.

21 The MDNS also fails to acknowledge that the proposal will have significant adverse  
22 impacts on agricultural use.

23  
24 5.4 Public Services and Utilities – WAC 197-11-444(2)(d).

25 Impacts on sanitary sewer and fire flow as well as impacts on the City water system  
26 are completely ignored by the MDNS despite the unprecedented scope and likely burdens of

1 the proposed development.

2 5.5 The Proposal Application, Including the MDNS, is Null and Void Because  
3 PCC 18.60.030 Extension Requirements Were Not Met.

4 Pierce County Planning and Land Services Department purportedly granted the  
5 applicant a 60-day extension of its application deadlines and expiration date, including ones  
6 associated with SEPA review, when the applicant had not obtained a majority of required  
7 approvals and without public notice or opportunity for response by the City. *See* PCC  
8 18.60.030(C)(1). For example, and without limitation, the Department purported to approve a  
9 60 day extension based on water availability when in fact the City of Puyallup had not issued  
10 a certificate of water availability for it. *See* PCC 17.60.165(D).

11 5.6 Failure to Address All Permits and Approvals.

12 The County record reflects that approvals under the Shoreline Management Act and  
13 other Codes and regulations are required. However, the MDNS does not address these or  
14 related significant adverse impacts.

15 5.7 The County Unlawfully Acted Upon The Proposal During the Pendency Of the  
16 MDNS Comment and Appeal Periods and Despite the City of Puyallup's  
17 Notice Of Assumption Of Lead Agency Status And Determination Of  
18 Significance

19 On April 28, 2017, two days after the MDNS was issued, the Pierce County  
20 Development Engineering section purported to approve the project's underlying preliminary  
21 short plat (application number 792206). On May 10, the Planning and Land Services  
22 Department purported to finally approve the preliminary short plat application. On May 22,  
23 2017 the County purported to issue a written "Preliminary Approval Decision: Knutson Farms  
24 Short Plat." The County's actions all violated SEPA prohibitions on actions when an MDNS  
25 is pending and/or when preparation of an EIS is pending and must all be vacated on that basis.  
26

1 See, e.g., WAC 197-11-340(2)(a).

2 **VI. RELIEF REQUESTED**

3 6.1 The Examiner should immediately acknowledge that the County, including the  
4 Examiner, in light of the City of Puyallup's Notice of Assumption and Determination of  
5 Significance, have no authority or jurisdiction over SEPA review for the proposal and no  
6 authority pending SEPA review to issue decisions concerning the proposal;

7  
8 6.2 If the Examiner nonetheless determines to proceed unlawfully despite the  
9 City's objections and reservations of right, the Examiner should:

10 6.2.1 Reverse and vacate the MDNS and order preparation of an EIS;

11 6.2.2 Reverse and vacate the County's related decisions as specified in this  
12 appeal and declare the application null and void;

13 6.2.3 Reverse and vacate any approval of the preliminary short plat  
14 application; and

15 6.2.4 Grant additional relief as appropriate.

16 Respectfully submitted this 23<sup>rd</sup> day of May, 2017.

17  
18 EGLICK & WHITED PLLC

19 

20  
21 By \_\_\_\_\_  
22 Peter J. Eglick, WSBA #8809  
23 Attorney for Appellant City of Puyallup

24 and

25 CITY OF PUYALLUP

26 By s/ Joseph N. Beck  
Joseph N. Beck, WSBA #26789  
City Attorney



# EXHIBIT A



## Mitigated Determination of Nonsignificance (MDNS)

**Environmental Application Number:** 792210

**Project ID Number:** 469640

**Family Application Number(s):** 792206, 792212, 7922136, 840137

**Parcel Number(s):** 0420252002, 2003, 2012, 2700, 2701, 3007, 3036, 3057, 3063, 3064, 3702, 3703, 3704, 3705, 0420261012, 4014, and 4033 (17 parcels)

**Action:** Knutson Farms Short Plat / Administrative Design Review (ADR 63-14) / Administrative Use Permit / Shoreline Substantial Development (SD36-14) / Site Development / Site Plan Review and Building Permits

**Proposal:** Development of a warehouse/industrial park facility on a proposed seven lot short plat for future buildings totaling approximately 2,600,000 square feet. The project includes associated grading, paved parking, and required infrastructure on a 162-acre site in the Employment Center (EC) zone classification.

**Location:** 6719 134<sup>th</sup> Avenue East, Puyallup, WA, within Sections 25 and 26, T20N, R4E, W.M. in County Council District No. 2.

**Proponent:** Knutson Farms, Inc.

### Conclusions of Responsible Official:

The Responsible Official concludes that a Mitigated Determination of Nonsignificance (MDNS) may be issued for this proposal. This is based upon staff review of the environmental checklist and attachments, other information on file with Pierce County, and County regulations governing the project. The MDNS is supported by plans, policies, and regulations adopted by Pierce County for the exercise of substantive authority under SEPA. The following are the County adopted policies and/or findings which support the MDNS.

Pierce County Planning and Public Works has reviewed a Traffic Impact Analysis (TIA) prepared for the project by Transportation Engineering NorthWest (TENW) dated February 10, 2017, and determined the following mitigation is required to adequately address the project's impacts.

### Mitigation:

The Responsible Official has determined that the proposal will not have a probable significant impact on the environment, and an Environmental Impact Statement (EIS) will not be required under RCW 43.21C.030(2) (c), only if the following conditions are met. This decision was made after review of a completed environmental checklist, other information on file with Pierce County, and existing regulations. This information is available to the public on request. These mitigation measures are required as authorized under the Substantive Authority of SEPA in accordance with the guidelines contained in Section 18D.10.080 of the Pierce County Code and shall be implemented by the applicant.

If the mix of land use types and sizes change from what is presented in the revised TIA dated February 10, 2017, prepared by TENW, the applicant shall retain a transportation consultant to conduct a study to determine if there would be any increase in peak hour trips generated by any proposed change in use. The study shall be submitted to the County, which will have the right

to distribute to adjacent jurisdictions for review and comment, and which will have the authority to require additional transportation improvements proportional to any increase in peak hour trips beyond those projected in the above-referenced TIA. Any mitigation identified by the County through a potential future study would be required to be completed, and all construction inspected and approved by the appropriate agency prior to certificate of occupancy issuance associated for the change in mix of land use type or size.

- If not already constructed, the applicant will design and construct 5th Avenue SE to City of Puyallup roadway standards between Shaw Road East and 33rd Street SE prior to final building inspection on the first building in the Knutson Farms Short Plat.
- The applicant will design and construct roadway improvements to 33rd Street SE (134th Avenue East) south of 5th Avenue SE to 80th Street East to City of Puyallup road standards prior to final building inspection on the first building in the Knutson Farms Short Plat.
- If not already constructed, the applicant will design and construct roadway improvements to 134th Avenue East north of 5th Avenue SE within the Puyallup City limits. The applicant will design and construct the necessary road improvements to gain access to Shaw Road East, as well as the full street improvements along 134th Avenue East north of 5th Avenue SE consisting of 32 feet of pavement width (two 12-foot lanes with 4-foot paved shoulders), curb/gutter, and 6-foot wide sidewalks prior to the final building inspection on the first building.
- The applicant will design and construct a traffic signal at the Shaw Road East/5th Avenue SE intersection prior to occupancy of the first building.
- All truck traffic generated by the Knutson development will be restricted from using the 33rd Street SE/134th Avenue East corridor south of 5th Avenue SE, and will be limited to using Shaw Road East only via 5th Avenue SE for access to/from the development site.
- The applicant shall contribute \$75,000.00 to the City of Puyallup for trail crossing improvements at the intersection of East Pioneer and 134th Avenue East/33rd Street SE prior to the final building inspection on the first building.
- To mitigate impacts to queues on Shaw Road East between 12th Avenue SE and 23rd Avenue SE, the applicant shall contribute \$600,000.00 to the City of Puyallup to help fund the City of Puyallup's planned capital project to widen Shaw Road East prior to the final building inspection on the first building.
- To mitigate impacts to the queues along East Main Avenue and Shaw Road East, the applicant shall contribute \$500,000.00 to the City of Puyallup to help fund a new traffic signal at the intersection of 5th Avenue NE and East Main Avenue prior to the final building inspection on the first building.
- To mitigate traffic impacts to the SR-410 interchange, the applicant will contribute a proportionate share cost of \$1.0 million dollars toward future improvements at the SR-410/East Main Avenue/Traffic Avenue interchange prior to occupancy of the first building within the Knutson Farms Short Plat. This proportionate share cost shall be paid to the City of Sumner.


This Mitigated Determination of Nonsignificance (MDNS) is issued under WAC 197-11-340(2). The lead agency will not act on this proposal for 14 days from the date of issue. Comments must be submitted by close of business on the comment deadline date. The Responsible Official will reconsider the MDNS based on timely comments and may retain, modify, or, if significant adverse impacts are likely, withdraw the MDNS. If the MDNS is retained, it will be final after the expiration of the comment deadline. No permits may be issued, and the applicant shall not begin work, until the comment deadline has expired and any other necessary permits are issued.

- This MDNS is issued after using the optional MDNS process in WAC 197-11-355. There is no further comment period on the MDNS. Appeals must be filed within 14 days of the issue date.
- This MDNS is issued under WAC 197-11-340(2); the lead agency will not act on this proposal for 14 days from issue date. Appeals must be filed within 14 days of the end of the comment period.

**Responsible Official:** Dennis Hanberg  
**Position/Title:** Director  
**Address:** 2401 South 35th Street, Room 2, Tacoma, WA 98409

**Staff Contact:** Marcia Lucero/Project Manager  
mlucero@co.pierce.wa.us Phone 253-798-2789

**Issue Date:** April 26, 2017

  
\_\_\_\_\_   
for Dennis Hanberg, Responsible Official

**Appeal:**

Pursuant to RCW 43.21C.075, Section 18D.10.080 of Title 18D, Pierce County Development Regulations-Environmental and Chapter 1.22 of Title 1, General Provisions, decisions of the Responsible Official may be appealed. Appeals are filed with appropriate fees and Notice of Appeal at the Planning and Land Services Department, located at the Development Center, in the Public Services Building, 2401 South 35th Street, Room 2, Tacoma, WA 98409. You should be prepared to make specific factual objections. Appeals must be filed within 14 days of the expiration of the comment deadline.

Note: The issuance of this MDNS does not constitute project approval. The applicant must comply with all other applicable requirements of Pierce County, federal, and state agencies, and/or the Hearing Examiner prior to receiving construction permits.

**Pierce County Online Permit Information:**

<http://palsonline.co.pierce.wa.us/palsonline/permitinfo?applPermitId=792210>







April 26, 2017

Barghausen Consulting, Inc.  
Attn: Dan Balmelli  
18215 72<sup>nd</sup> Avenue South  
Kent, WA 98032

**RE: Knutson Farms Short Plat/Administrative Design Review/Administrative Use Permit/Shoreline Substantial Development/Site Development/Site Plan Review and Building Permits, Application Nos. 792206, 792210, 792212, 7922136, 840137**

Dear Mr. Balmelli:

Enclosed/attached you will find a Mitigated Determination of Nonsignificance (MDNS) issued by Pierce County on the above referenced proposal.

The MDNS is also being sent to agencies other than Pierce County Departments that may be requiring permits for this proposal, in accordance with WAC 197-11-340.

Sincerely,

A handwritten signature in cursive script that reads "Marcia Lucero".

Marcia Lucero  
Project Manager

ML:ld  
4 Knutson Farms MDNS.docx

Enclosure/attachment

c: Knutson Farms, Inc., 16406 78<sup>th</sup> Street East, Sumner, WA 98390-2900  
Reviewing agencies that received Environmental Checklist/site plan on December 4, 2014, with revisions on June 20, 2016.

# EXHIBIT B

# THE NEWS TRIBUNE

[ [thenewstribune.com](http://thenewstribune.com) ]

The Olympian  
www.theolympian.com

Gateway  
gateline.com

The Herald  
puyallupherald.com

NORTHWEST  
GUARDIAN

## Order Confirmation

**Customer**

PIERCE COUNTY

**Customer Account**

256318

**Customer Address**

2401 S 35TH ST RM 2  
TACOMA WA 984097960 USA

**Customer Phone**

253-798-7200

**Customer Fax**

**Sales Rep**

lbastin@thenewstribune.com

**Payor Customer**

PIERCE COUNTY

**Payor Account**

256318

**Payor Address**

2401 S 35TH ST RM 2  
TACOMA WA 984097960 USA

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<u>PO Number</u>	<u>Payment Method</u>	<u>Blind Box</u>	<u>Tear Sheets</u>	<u>Proofs</u>	<u>Affidavits</u>
MDNS KNUTSON FARMS	Check		2	0	0

<u>Net Amount</u>	<u>Tax Amount</u>	<u>Total Amount</u>	<u>Payment Amount</u>	<u>Amount Due</u>
\$68.34	\$0.00	\$68.34	\$0.00	\$68.34

<u>Ad Order Number</u>	<u>Order Source</u>	<u>Ordered By</u>	<u>Special Pricing</u>
0003044912		LYNDA DENLEY	
<b><u>Invoice Text</u></b>			<b><u>Promo Type</u></b>
MDNS KNUTSON FARMS			
<b><u>Package Buy</u></b>			<b><u>Materials</u></b>

**Ad Order Information**

<b>Ad Number</b>	<b>Ad Type</b>	<b>Production Method</b>	<b>Production Notes</b>
0003044912-01	TAC-Legal Liner	AdBooker	

<b>External Ad Number</b>	<b>Ad Attributes</b>	<b>Ad Released</b>	<b>Pick Up</b>
		No	

<b>Ad Size</b>	<b>Color</b>
1 X 50 li	

<b>Product</b>	<b>Placement</b>	<b>Times Run</b>	<b>Schedule Cost</b>
TAC-NT-News Tribune	0300 - Legals Classified	1	\$68.34

<b>Run Schedule Invoice Text</b>	<b>Position</b>
PIERCE COUNTY NOTICE OF MITIGATED DETEF	0301 - Legals & Public Notices

**Run Dates**  
04/26/2017

**PIERCE COUNTY  
NOTICE OF MITIGATED DETERMINATION OF  
NONSIGNIFICANCE**  
Knutson Farms Short Plat  
Administrative Design Review (ADR 63-14) /  
Administrative Use Permit  
Shoreline Substantial Development (SD36-14) /  
Site Development  
Site Plan Review and Building Permits  
Proponent: Knutson Farms, Inc.  
Application Nos. 792206, 792210, 792212,  
7922136, 840137

Notice is hereby provided in accordance with PCC, Chapter 18.80 and Section 18D.40.050, and WAC 197-11-510 that Pierce County has issued a Mitigated Determination of Nonsignificance (MDNS) on the following proposal:

Development of a warehouse/industrial park facility on a proposed seven lot short plat for future buildings totaling approximately 2,600,000 square feet. The project includes associated grading, paved parking, and required infrastructure on a 162-acre site in the Employment Center (EC) zone classification located at 6719 134th Avenue East, Puyallup, WA.

Pierce County, acting as lead agency, has determined that the proposal will not result in significant adverse impacts on the environment, if the conditions in the MDNS are met. Pursuant to RCW 43.21C.030(2)(C) an Environmental Impact Statement (EIS) will not be required. This decision was made after the review of a completed environmental checklist and other information on file. This information is available to the public on request.

This DNS is issued under WAC 197-11-340(2). Pierce County may not act on this proposal prior to May 11, 2017. Comments must be submitted by close of business on May 10, 2017.

An appeal of this determination must be filed no later than May 24, 2017, online at [www.co.pierce.wa.us](http://www.co.pierce.wa.us), or at the Development Center, Planning and Public Works Department, Pierce County Public Services Building, 2401 S. 35th St., Room 2, Tacoma, WA 98409 by filing the appropriate fee and Notice of Appeal. You should be prepared to make specific factual objections. Review Chapter 1.22 of Title 1, General Provisions for additional information on the appeal process, including Content of Notice of Appeal (1.22.090.C). Contact the Development Center, 798-7200 to read or ask about the procedure for appeals.

# EXHIBIT C



**Peter J. Eglick**  
eglick@ewlaw.net

May 10, 2017

*Via Email (dhanber@co.pierce.wa.us)  
and Facsimile ((253) 798-7425)  
and U.S. Mail*

Dennis Hanberg  
Director & SEPA Responsible Official  
Pierce County Planning & Public Works  
2401 S. 35th Street, Room 2  
Tacoma, WA 98409

Re: City of Puyallup Comments on Pierce County's April 26, 2017 Mitigated Determination of Nonsignificance (MDNS) for the proposed Knutson Farms Industrial Park Project ID # 469640

Dear Mr. Hanberg:

This letter provides comments by the City of Puyallup on Pierce County's April 26, 2017 SEPA MDNS for the proposed Knutson Farms Industrial Park.<sup>1</sup> The City has separately given notice of its assumption of SEPA lead agency status for this proposal per WAC 197-11-948. The City submits these comments nonetheless as precautionary and in the hope that the County will withdraw the MDNS and issue a DS for the proposal.

This letter incorporates all comments previously submitted by the City, its counsel (Eglick & Whited), and its third party experts (e.g., Transportation Solutions, Inc.) concerning the Knutson Farms proposal. *See Buck v. City of Shoreline*, No. 66423-9-I, 2012 Wash. App. LEXIS 789 (Ct. App. Apr. 2, 2012). The City also incorporates comments submitted by other parties, including, but not limited to, the Muckleshoot Indian Tribe, the City of Sumner, the Department of Fish and Wildlife, and the Department of Ecology. Attached to this letter is a short list of some of the comments that are incorporated as part of the record basis for these comments.

**Introduction:**

Rather than resolving significant adverse environmental impacts, the MDNS moves the proposal forward without actually mitigating its impacts. This might be overlooked for a project of modest

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<sup>1</sup> The City of Puyallup reserves all rights with regard to the County's failure to provide timely access to complete, current short plat plans and related items. Only incomplete and/or outdated plans were made available until the day of issuance of the MDNS despite repeated requests by the City. See, e.g. 4/14/2017 Marcia Lucero email.

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scope. However, the proposal here involves almost three million square feet of warehouse development, acre upon acre of new impervious surfaces, as well as traffic impacts, including nearly 6,000 daily trips (if the underestimate by the applicant is credited) that will massively and adversely impact City of Puyallup streets and those who use them. The proposal for a site barely within the County will depend exclusively on the City of Puyallup's road network. Yet the "conditions" in the MDNS offer no effective, cognizable mitigation, particularly for the City and its citizens. The proposal also depends upon manipulation of the shoreline and floodway in an area of critical habitat, ignoring mapping, plans and Code provisions that are intended to discourage if not prohibit such actions.

The following summarize some of the MDNS' shortcomings with respect to specific unmitigated adverse impacts many of which, as noted, have already been described in prior comments:

**Significant Adverse Impacts on Puyallup Traffic and Roads:**

All traffic to and from the site will be routed through City streets. The applicant's Transportation Impact Analysis (TIA) states that there will be nearly 6,000 daily vehicle trips, including truck trips, to and from the site once it is fully operating. This quantity of trips alone, with many of them heavy truck trips, would have significant adverse impacts on the City's transportation system. However, before the City of Puyallup becomes the financier and developer of a "freight mobility network" over several miles of City of Puyallup streets for the benefit of a Pierce County economic development project, the City is entitled to have this massive project's significant adverse impacts fully acknowledged and mitigated.

Yet, as explained in the March 10, 2017 letter from Puyallup City Engineer Mark Palmer to County Development Engineer Jeff Kidston, the TIA relied upon by the MDNS understates the number of trips associated with the proposal, and consequently understates impacts. Further, it focuses chiefly on impacts related to intersection interactions rather than other more systemic impacts that will be felt as acutely by the City's streets and residents.

Even if the TIA trip counts were realistic, the MDNS mitigation conditions are not "reasonable and capable of being accomplished" and therefore do not provide effective mitigation. *See* RCW 43.21C.060. They place the burden on the City to take actions to accommodate the impacts of the development regardless of whether those accommodations themselves have adverse impacts on the City road network and its citizens. They contemplate that the applicant will contribute to the City disproportionately small sums toward big ticket improvements, necessitated by the proposal, to City roads and intersections, resulting in illusory rather than effective mitigation.

For example, one MDNS "mitigation" condition states: "To mitigate impacts to queues on Shaw Road East between 12th Avenue SE and 23rd Avenue SE, the applicant shall contribute \$600,000 to the City of Puyallup to help fund the City of Puyallup's planned capital project to widen Shaw Road East prior to the final building inspection on the first building." However, widening of Shaw Road East is a multimillion dollar project that is not currently funded. If and when it is funded, it will not be completed for many years. Allowing the applicant's proposal to

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proceed based on an arbitrary \$600,000.00 contribution provides no mitigation and represents the kind of ad hoc approach that SEPA is intended to avoid.

Similarly, the MDNS condition for \$500,000 “to help fund a new traffic signal at the intersection of 5th Avenue NE and East Main Avenue” falls short of proportional share and actual cost to construct a traffic signal and associated improvements.

The MDNS also fails to identify and address particular adverse traffic impacts, such as the disproportionate impacts to City road pavement sections designed for much lighter traffic than that caused by the kind of heavy truck traffic characteristic of and idiosyncratic to the proposed use. Nor does it meaningfully address impacts to traffic on arterial roads that lead to and from the project, such as on Shaw Road from 12<sup>th</sup> Avenue to 23<sup>rd</sup> Avenue SE.

**Significant Adverse Impacts on Water, Plants, and Animals:**

Development in this environmentally sensitive area would negatively impact the habitat of various threatened and endangered species, including Chinook salmon and steelhead trout.

As acknowledged by the SEPA Checklist, the site has been classified as an “environmentally sensitive” area. Most of the property lies within or near what the Pierce County Code (PCC) defines as the Puyallup River floodway and channel migration zone (CMZ); the property also contains at least four distinct wetlands. Many of the proposed warehouses are apparently, impermissibly within the CMZ as defined by adopted County mapping and plans. The obvious presence of at least one wetland (“D”) on the proposal site has been ignored by the applicant and the County in assessing impacts and regulatory requirements. Ditches and watercourses on and serving the site, including those potentially associated with wetlands, have not been disclosed and impacts associated with them have been ignored.

The MDNS is apparently based on acceptance of the proposal’s plan to redirect all stormwater to an outfall and into the Puyallup River without infiltration or cognizable treatment. The obvious impacts of directing such a substantial quantity of water into the Puyallup River, on water quality, habitat, and affected species is not addressed at all by the MDNS. The MDNS does not address significant adverse impacts from “starvation” of wetlands in the floodplain, thereby reducing wildlife habitat; physical and chemical impacts to salmon and other species resulting from the outfall; and potential river degradation due to run-off as well as contaminants and spills from the warehouse area (occurrences that can be associated with such uses) make their way with stormwater to the River.

**Conflict with Land and Shoreline Use Codes:**

The MDNS does not address the incongruity or impacts of this proposal for industrial development within or adjacent to the shoreline Conservancy Environment. The proposed warehouses also appear to be within the Puyallup River CMZ in conflict with applicable plans



EGLICK & WHITED PLLC

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and codes. *See, e.g.*, PCC 18E.70.020; PCC 18E.70.040. The significant adverse impacts arising from these proposal aspects are also not addressed or mitigated.

The MDNS further relies on inaccurate wetland characterization, delineation, and location, and is thereby in conflict with applicable plans and codes without acknowledging resulting impacts.

The MDNS also does not address impacts on longstanding adopted plans for connecting the Riverwalk Trail to the Foothills Trail through the Knutson Farms site. Conditions to eliminate such impacts are not included in the MDNS. See Pierce County Code Ch.18E.70.

**Conclusion:**

This proposal is not for a discrete modest warehouse. Due to its massive size, ultra-sensitive location, and intense impacts, this project is a game changer. Preparation of an EIS that addresses impacts, alternatives, as well as timing, funding, and efficacy of mitigation should have already occurred.

Instead, the MDNS transgresses two key principles: first, that consideration and mitigation of significant adverse impacts do not stop at the permitting agency's borders; second, that it is both shortsighted and impermissible to paper over significant impacts on critical environmental resources for the sake of economic development.

Therefore, in light of the County's MDNS, the application record, and apparent County bias against full environmental review for this massive project, the City of Puyallup has assumed SEPA lead agency status and issued a Determination of Significance requiring preparation of an Environmental Impact Statement.

Sincerely,

EGLICK & WHITED PLLC



Peter J. Eglick  
Outside Counsel for City of Puyallup

Attachment

cc: Marci Lucero (via email)  
Client

**Comments Sent by City of Puyallup:**

12/31/2014	City of Puyallup Comments	<a href="#">Link</a>
10/27/2015	Comment Letter from City of Puyallup	<a href="#">Link</a>
12/02/2015	Traffic Scoping Email from City of Puyallup (Attached to TIA memo at link)	<a href="#">Link</a>
06/22/2016	Comments from City of Puyallup	Submitted via facsimile and email to D. Hanberg on 6/22/16. Copy attached
07/15/2016	TSI Comment Letter	<a href="#">Link</a>
07/18/2016	City Puyallup Attorney Comment Letter (with TSI 7/15 comment letter)	<a href="#">Link</a>
09/02/2016	City of Puyallup Letter and Resolution	<a href="#">Link</a> (Letter) <a href="#">Link</a> (Resolution)
09/02/2016	Comments from City of Puyallup Public Works	<a href="#">Link</a>
09/07/2016	Comment Letter from City of Puyallup (transmitting TSI 8/26 comments)	<a href="#">Link</a>
10/21/2016	City of Puyallup Attorney Comment Letter which also included TSI Letter (October 20, 2016)	<a href="#">Link</a>
10/24/2016	City of Puyallup Comment Letter from City Development Services Director	<a href="#">Link</a>
10/27/2016	City of Puyallup Comments	<a href="#">Link</a>
11/07/2016	City of Puyallup Comments	<a href="#">Link</a> (transmittal email) <a href="#">Link</a> (letter)
11/22/2016	Comments from City of Puyallup	<a href="#">Link</a>
12/30/2016	Comments from City of Puyallup	<a href="#">Link</a>
03/10/2017	Request for EIS from City of Puyallup	<a href="#">Link</a>
03/10/2017	Comments City of Puyallup Engineering Dept.	<a href="#">Link</a>
03/17/2017	Comments from City of Puyallup	<a href="#">Link</a>

**Comments Sent by Others:**

01/02/2015	City of Sumner Comments	<a href="#">Link</a>
02/02/2015	Dept. of Fish & Wildlife Comments	<a href="#">Link</a>
02/02/2015	Dept. of Commerce Comments	<a href="#">Link</a>
02/05/2015	Puyallup Tribe of Indians Comments	<a href="#">Link</a>
11/24/2015	City of Sumner Traffic Scoping Comments	<a href="#">Link</a>
05/17/2016	List of comments from various citizens (39 pages)	<a href="#">Link</a>
05/23/2016	Comments from Dept. of Fish & Wildlife	<a href="#">Link</a>
05/26/2016	Comments from Muckleshoot Indian Tribe	<a href="#">Link</a>
07/06/2016	Comments from Puyallup Watershed Initiative	<a href="#">Link</a>
07/15/2016	Comment Letter from Parks & Recreation	<a href="#">Link</a>
07/18/2016	Comments from Dept. of Ecology (labeled as "Approval" on Pierce Co. website)	<a href="#">Link</a>
07/18/2016	Comments from City of Sumner	<a href="#">Link</a>
07/18/2016	Comments from H. Straub	<a href="#">Link</a>
07/18/2016	Comments from Hubbard	<a href="#">Link</a>
07/28/2016	Comments from D. Christianson	<a href="#">Link</a>
08/16/2016	Comments from Pierce Co. Public Works	<a href="#">Link</a>
08/22/2016	Comments from James Clinton	<a href="#">Link</a>
08/30/2016	Comments from James Clinton	<a href="#">Link</a>
08/31/2016	Comments from Rails to Trails	<a href="#">Link</a>
10/11/2016	Comments from Sue Casillas	<a href="#">Link</a>
10/14/2016	Comments from Dept. of Fish & Wildlife	<a href="#">Link</a>
10/20/2016	Comments from City of Sumner	<a href="#">Link</a>
10/24/2016	Comments from Muckleshoot Indian Tribe	<a href="#">Link</a>
10/24/2016	Dept. of Ecology Comment Letter	<a href="#">Link</a>
10/24/2016	Comments from Michael Holbert	<a href="#">Link</a>
12/10/2016	Citizen Petition from Protect Puyallup	<a href="#">Link</a> ("emails") <a href="#">Link</a> ("petition language") <a href="#">Change.org</a> Petition (petition)

02/23/2017	Comments from City of Sumner	<a href="#">Link</a>
05/01/2017	Comments from R. Heseltine	<a href="#">Link</a>
05/01/2017	Comments from R. Vaidyanathan	<a href="#">Link</a>
05/02/2017	Comments from K. Grace	<a href="#">Link</a>

## Fred Schmidt

---

**From:** Fred Schmidt  
**Sent:** Wednesday, June 22, 2016 2:09 PM  
**To:** dhanber@co.pierce.wa.us  
**Subject:** Application No. 792206; Environmental Impact Statement and Substantial Development Permit for proposed  
**Attachments:** Letter to Hanberg 062216.pdf

Good afternoon,

Attached please find Peter Eglick's letter to you of today's date regarding the above application.

Thank you,



Fred Schmidt  
Paralegal  
Eglick & Whited PLLC  
1000 Second Avenue, Suite 3130  
Seattle, WA 98104  
206.441.1069

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**Peter J. Eglick**  
eglick@ewlaw.net

June 22, 2016

*Via Email (dhanber@co.pierce.wa.us)  
and Facsimile (253) 798-7425)*

Dennis Hanberg  
Director  
Pierce County Planning & Land Services  
2401 S. 35th Street, Suite #2  
Tacoma, WA 98409

Re: Environmental Impact Statement and Substantial Development Permit for proposed  
Knutson Farms Industrial Park; Application No. 792206

Dear Mr.Hanberg:

This office is outside land use counsel for the City of Puyallup with regard to the proposed Knutson Farms Industrial Park (KFIP) project. The City has diligently sought to participate in review of the proposal, including through earlier comments. Now that a new notice for a revised application has issued, the City submits these initial responsive comments to ensure that County review of the proposal adheres to SEPA and SMA requirements in terms of both scope and substance.

The City submits these comments because it is already clear from the application materials available that the City and environment would be adversely impacted by the proposed development. It would place an enlarged outfall, several million square feet of active warehouse use, thousands of vehicle (including car and heavy truck) trips, and acres of parking on a site immediately adjacent to the City and the Puyallup River and within the River's floodplain. If completed, KFIP would disrupt and alter a "Conservancy" designated shoreline and floodplain.<sup>1</sup> This is proposed despite the adjacent riverfront trail and park use and despite the fact that the proposal would overburden traffic routes on which the City and its residents rely in their daily lives.

In light of these impacts<sup>2</sup>, it is apparent that preparation of an Environmental Impact Statement (EIS) must commence now. An EIS is further required to ensure that the full scope of the project is reviewed on an integrated basis. That integrated review is required under the SMA which applies to all shorelines and shorelands of the state, as well as lands adjacent to shorelines and

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<sup>1</sup> The project SEPA Checklist accepted by the County as its own calls out the shoreline "Conservancy" designation; however, the SMA SDP application refers to an "urban shoreline environment".

<sup>2</sup> Additional impacts are noted in the May 26, 2016 Muckleshoot Indian Tribe letter; these are incorporated here by reference.

EGLICK KIKER WHITED PLLC

June 22, 2016

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shorelands. Shorelands include wetlands as well as floodways and contiguous floodplain areas landward 200 feet from such floodways. RCW 90.58.030(2)(e). Based on project maps, as well as the March 3, 2016 Critical Areas and ESA Assessment and Conceptual Floodplain Restoration Plan site map, in addition to the shoreline contact, most of the KFIP project is within the Puyallup River floodplain or wetlands. And much of the rest of the project--if not all of the rest--is shown within 200 feet of the floodplain.

As a result, review of a substantial development permit for the project must encompass the entire project. As the Shorelines Hearings Board held in *Laccinole v. City of Bellevue*, SHB No. 03-025 (Conclusion of Law XLVII) (2004):

It makes no sense, under the language and policies of the act, to conclude regulation of a development under a shoreline permit, stops arbitrarily at that point where the integrated development leaves the shoreline. Thus, the Board has continuously ruled where buildings or structures, which constitute substantial development straddle the shorelines; those buildings or structures are subject to the regulations and policies of the SMA, through the permit system.

See *Merkel v. Port of Brownsville*, 8 Wn. App. 844, 509 P.2d 390 (1973); *Preserve Our Islands v. King County*, SHB No. 04-009 (2004).

Because the project's impacts will fall heavily on the City and its citizens, the City proposes that the County agree to City participation as "co-lead agency" with the County in preparation of an EIS for this proposal. See WAC 197-11-944. Regardless of whether the County agrees to this approach, the City will do what is necessary to ensure that full SEPA and SMA review is carried out and to protect its interests and those of its citizens in the River, the environment, and a viable transportation infrastructure. In that participant capacity the City again requests advance, direct notice as a vitally interested jurisdiction of any and all submissions, comment periods, and deadlines concerning the proposal. Meanwhile, the City reserves the right to submit additional comments as application review progresses.

Sincerely,

EGLICK & WHITED PLLC



Peter J. Eglick

cc: Planning and Land Services  
 Current Planning, Suite 175  
 2401 South 35th Street  
 Tacoma, WA 98409

Client

1000 Second Avenue, Suite 3130 Seattle, Washington 98104

telephone 206.441.1069 • www.ewlaw.net • facsimile 206.441.1089

TX Result Report

P 1  
 06/22/2016 13:17  
 Serial No. A5C0011008452  
 TC: 189653

Addressee	Start Time	Time	Prints	Result	Note
12537987425	06-22 13:16	00:00:32	003/003	OK	

Note TMR:Timer TX, POL:Polling, ORG:Original Size, Setting, FME:Frame Erase TX,  
 DPS:Page Separation TX, MIX:Mixd Original TX, CALL:Manual TX, CSRC:CSRC,  
 FWD:Forward, PR:PC-FAX, BND:Double-Sided Binding Direction, SP:Special Original,  
 FCODE:F-code, RTX:Re-TX, RLV:Relay, MBX:Confidential, BUL:Bulletin, SIP:SIP Fax,  
 IPADR:IP Address Fax, I-FAX:Internet Fax

Result OK: Communication OK, S-OK: Stop Communication, PW-OFF: Power Switch OFF,  
 TEL: RX from TEL, NG: Other Error, CONT: Continue, No Ans: No Answer  
 Refuse: Receipt Refused, Busy: Busy, M-Full:Memory Full, LOVR:Receiving length Over,  
 PDUR:Receiving page Over, FIL:File Error, DC:Decode Error, MDN:MDN Response Error,  
 DSN:DSN Response Error, PRINT:Compulsory Memory Document Print,  
 DEL:Compulsory Memory Document Delete, SEND:Compulsory Memory Document Send.



FAX COVER SHEET

1000 Second Avenue, Suite 3130  
 Seattle, Washington 98104  
 Telephone: (206) 441-1069  
 Facsimile: (206) 441-1089

Date: June 22, 2016

Send To:	Company	Fax	Telephone
Dennis Hanberg Director	Pierce Co. Planning & Land Services	(253) 798-7425	

Sender: Do you want receiving party to confirm receipt? No  
 Receiving Party: Call to Confirm Receipt: No

FROM Peter J. Eglick

Client/Matter: Proposed Knutson Farms Industrial Park; Application No. 792206

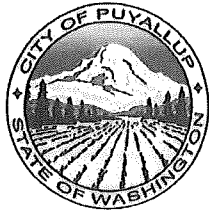
Number of Pages (including cover sheet): 3

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# EXHIBIT D



# CITY OF PUYALLUP

Development Services Department

## NOTICE OF ASSUMPTION OF LEAD AGENCY STATUS

Pursuant to WAC 197-11-948 and 985, the City of Puyallup hereby gives notice that it is assuming State Environmental Policy Act (SEPA) lead agency status for the following project proposal.

### **Description of proposal from the Pierce County SEPA Threshold Determination:**

**Environmental Application Number:** 792210

**Project ID Number:** 469640

**Family Application Number(s):** 792206, 792212, 7922136, 840137

**Parcel Number(s):** 0420252002, 2003, 2012, 2700, 2701, 3007, 3036, 3057, 3063, 3064, 3702, 3703, 3704, 3705, 0420261012, 4014, and 4033 (17 parcels)

**Action:** Knutson Farms Short Plat / Administrative Design Review (ADR 63-14) / Administrative Use Permit / Shoreline Substantial Development (SD36-14) / Site Development / Site Plan Review and Building Permits

**Proposal:** Development of a warehouse/industrial park facility on a proposed seven lot short plat for future buildings totaling approximately 2,600,000 square feet. The project includes associated grading, paved parking, and required infrastructure on a 162-acre site in the Employment Center (EC) zone classification.

**Location:** 6719 134th Avenue East, Puyallup, WA, within Sections 25 and 26, T20N, R4E, W.M. in County Council District No. 2.

**Proponent:** Knutson Farms, Inc.; Michelson Commercial Realty and Development, LLC

**Pierce County Permit Application Numbers:** 792206, 792210, 792212, 792213, 829228, 834239, 840137, 844049, 846656

**Initial lead agency:** Pierce County, Dennis Hanberg (SEPA Responsible Official)

**New lead agency:** City of Puyallup, Tom Utterback (SEPA Responsible Official)

The City of Puyallup is an agency with jurisdiction over the proposal, as defined in WAC 197-11-714(3).

The initial lead agency concluded that this proposal was not likely to have significant adverse impacts on the environment, according to its mitigated determination of nonsignificance dated April 26, 2017.

However, per WAC 197-11-948 and based on the City's review of the SEPA Environmental Checklist and available information, including comments about the proposal, an environmental impact statement (EIS) is required on the proposal, because the proposal will have significant adverse impacts, including, but not limited to, the following:

1. Transportation (see, e.g., WAC 197-11-444(2)(c)) and Public Services and Utilities (see, e.g., WAC 197-11-444(2)(d)).

Pierce County and the applicant have themselves acknowledged that there will be nearly 6,000 daily vehicle trips, including heavy truck trips, through the City of Puyallup to and from the facility once placed in operation. The impact of these trips on the City of Puyallup, an immediately adjacent jurisdiction, are significant and adverse and have not been mitigated.

The County's assertion that these trips will not significantly, adversely impact the County road system is not sufficient for issuance of a determination of nonsignificance when the road systems of adjacent jurisdictions such as the City of Puyallup will be significantly and adversely impacted. The 6,000 vehicle trips per day will occur almost entirely on Puyallup streets and will result in significant adverse impacts.

The "mitigation measures" assumed by the County's MDNS are insufficient to eliminate significant adverse impacts. In addition, some are for projects on City streets for which City approval has not been obtained as part of this project review. For many, necessary funding is not available and actual implementation/construction is far distant from when project impacts would occur. The County MDNS conditions requiring the applicant to provide fractional funding for such measures do not eliminate significant adverse project impacts.

The County MDNS is based on a lower utilization scenario that was repeatedly discredited in the County's SEPA record. Nonetheless the County MDNS accepts that scenario and does not include current mitigation measures for trips beyond the unsubstantiated lower trip number. Instead, the MDNS purports to establish an ad hoc procedure wholly within the County's discretion and not subject to SEPA review or public accountability. This does not constitute mitigation of significant adverse impacts and compels the City of Puyallup to assume lead agency status.

2. Water (see, e.g., WAC 197-11-444(1)(c)) and Plants and Animals (see, e.g., WAC 197-11-444(1)(d)).

The site is classified as an "environmentally sensitive" area lying within or near what the Pierce County Code (PCC) defines as the Puyallup River floodway and

channel migration zone (CMZ). The MDNS apparently assumes that no disturbances, encroachments, or developments inconsistent with applicable codes and plans will occur within such areas and that whatever occurs will have no impact. These assumptions are inaccurate.

Even if the encroachments and disturbances were consistent with applicable codes and plans they would have significant adverse environmental impacts that have not been mitigated on the site's wetlands, shoreline zone, CMZ, and various threatened and endangered species.

Significant adverse impacts with regard to wetlands exist despite the MDNS, including impacts on an on-site wetland whose presence is apparent in the record, but not acknowledged by the County or the applicant for purposes of SEPA analysis.

There are significant adverse impacts from routing stormwater through new outfalls directly into the Puyallup River affecting important species and their habitats.

3. Land and Shoreline Use (see, e.g., WAC 197-11-444(2)(b)).

There are significant adverse impacts arising from conflict between the proposal and the Pierce County Critical Areas Code, PCC 18E.10.140 – Appendix A (Mapping Sources), PCC 18E.70.020, and PCC 18E.70.040. There are also significant impacts to land use arising from the proposal's interference with longstanding plans for connecting the Riverwalk Trail to the Foothills Trail through the Knutson Farms site; and as a result of loss of agricultural crops and uses which also contribute to scenic resources (see WAC 197-444 (1)(d)(v)).]

**Conclusion:**

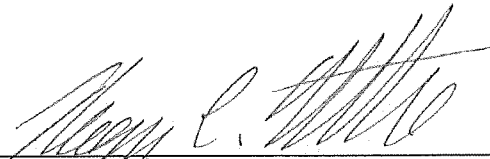
You are therefore being notified that the City of Puyallup assumes the responsibility of lead agency under SEPA, including for preparation of an EIS on the proposal.

Chapter 21.04 Puyallup Municipal Code (PMC) includes City EIS procedures. Pursuant to PMC 21.04.140 and WAC 197-11-420, the EIS will be prepared for the City by a consultant selected by the City and paid for by the proponent/applicant.

**Responsible official:**

Tom Utterback  
Development Services Director  
City of Puyallup  
333 S. Meridian  
Puyallup, WA 98371  
(253) 841-5502  
tomu@ci.puyallup.wa.us

Date: May 10, 2017 Signature: \_\_\_\_\_



# EXHIBIT E



# CITY OF PUYALLUP

Development Services Department

## DETERMINATION OF SIGNIFICANCE AND REQUEST FOR COMMENTS ON SCOPE OF EIS

### Description of proposal:

"The Applicant seeks to develop a Level 8 Warehousing, Distribution and Freight Movement facility of up to 2.6 million square feet of building area on the approximate 161.55-acre Knutson Farm property located within unincorporated Pierce County. The site is zoned EC (Employment Center) and is within the Alderton-McMillin Community Plan area and within the Urban Service area of the City of Puyallup. The development will apply for Administrative Design Review with a parking reduction request, a public road deviation request, a proposed trail amenity and a 7-Lot Commercial Short Plat."

See 9/14/2016 Revised SEPA Environmental Checklist

<https://palsonline.co.pierce.wa.us/pals/public/documentView?docSysId=671084> .

"The project will include construction of 7 warehouse buildings along with site work activities to include grading, paved parking and truck maneuvering areas, landscaping, water and sanitary sewer extensions, storm water facility, franchise utility improvements and roadway improvements."

See 9/19/2016 Master Application

<https://palsonline.co.pierce.wa.us/pals/public/documentView?docSysId=671078>.

"Grading of approximately 140 acres will occur for the construction of buildings and parking lots on the site. Approximately [sic] 450,000 cubic yards of on-site material will be excavated and filled to prepare the building pads, paved areas and open space areas for development. It is estimated that approximately 120,000 cubic yards of import fill will be used and approximately 110,000 cubic yards of stripping will be exported from the site. The applicant states that no portion of the floodplain or floodway will be filled. The area of the floodplain and floodway associated with the Puyallup River will be kept in a protective Tract as part of the proposed 7-Lot Commercial Short Plat."

See 9/14/2016 Revised SEPA Environmental Checklist

<https://palsonline.co.pierce.wa.us/pals/public/documentView?docSysId=671084> .

**Proponent:** Knutson Farms, Inc.

**Location of proposal:** 6719 134th Avenue East, Puyallup, WA, within Sections 25 and 26, T20N, R4E, W.M. in County Council District No. 2; also City of Puyallup streets, including, but not limited to, Shaw Road, East Maine Avenue and East Pioneer

**Lead agency:** City of Puyallup, Tom Utterback (SEPA Responsible Official)

**EIS Required:** The City of Puyallup has assumed SEPA lead agency status on this proposal and has determined this proposal is likely to have a significant adverse impact on the environment. An environmental impact statement (EIS) is required under RCW 43.21C.030(2)(c) and will be prepared. A SEPA Environmental Checklist and other materials indicating likely environmental impacts can be reviewed at the City of Puyallup Permit Counter (2<sup>nd</sup> Floor, City Hall, 333 S. Meridian), as well as on the Pierce County Planning & Land Service site for the application:  
<https://palsonline.co.pierce.wa.us/palsonline/#/permitSearch/permit/relatedPermits?applPermitId=792206>.

The City has initially identified the following areas for discussion in the EIS:

- Transportation, particularly transportation systems and traffic
- Public Services and Utilities, including stormwater, sanitary sewer and fire flow
- Water, Plants and Animals
- Land and Shoreline Use, including aesthetics, recreation, agricultural crops, and the project's relationship to existing land use plans
- Alternatives
- Mitigation measures

**Scoping:** Agencies, affected tribes, and members of the public are invited to comment on the scope of the EIS within 21 days of this DS issuance, or by 5:00 PM on Wednesday, May 31, 2017. You may comment, among other matters, on alternatives, mitigation measures, probable significant adverse impacts, and licenses or other approvals that may be required.

**Comments must be submitted in writing to the City's Responsible Official, Tom Utterback, at the address below or via email at [sepaofficial@ci.puyallup.wa.us](mailto:sepaofficial@ci.puyallup.wa.us).**

Any agency or person may appeal, pursuant to Puyallup Municipal Code Sec. 21.04.205, the City's Determination of Significance by filing a written appeal within 14 days of this determination, by 5:00 PM on Wednesday, May 24, 2017.

**Responsible official:**

Tom Utterback  
Development Services Director  
City of Puyallup  
333 S. Meridian  
Puyallup, WA 98371  
(253) 841-5502  
[tomu@ci.puyallup.wa.us](mailto:tomu@ci.puyallup.wa.us)

Date: May 10, 2017    Signature \_\_\_\_\_



# EXHIBIT F





**Peter J. Eglick**  
eglick@ewlaw.net

November 7, 2016

*Via Email (dhanber@co.pierce.wa.us)  
and Facsimile ((253) 798-7425)*

Dennis Hanberg  
Director  
Pierce County Planning & Land Services  
2401 S. 35th Street, Suite #2  
Tacoma, WA 98409

*Via Facsimile ((253) 798-7425)  
and Email (mlucero@co.pierce.wa.us)*

Pierce County Planning & Land Services  
Current Planning, Suite #175  
Attention: Marcia Lucero, Project Manager  
2401 S. 35th Street  
Tacoma, WA 98409

Re: September 26, 2016 Updated Notice of Application for Knutson Farms Short Plat,  
Administrative Design Review/Environmental Review /Administrative Use Permit  
/Shoreline Substantial Development: ADR63-14 / SD36-14; Application Numbers:  
792206, 792210, 792212, 792213, 840137

Dear Mr. Hanberg and Ms. Lucero:

This office represents the City of Puyallup with regard to the proposed Knutson Farms Industrial Park project. This letter identifies for your attention continuing shortcomings in the County's review of the application. It further reserves remedies available to the City of Puyallup -- including assumption of SEPA lead agency status -- in the event that the shortcomings are not satisfactorily resolved.

1. SEPA

In a letter dated September 19, 2016 the County rejected out of hand the City's request that the County agree to City participation as co-lead agency on SEPA review of this massive

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development project. In the time since receipt of that letter, it has become more apparent than ever that the County is acquiescing in a fundamentally flawed review by the applicant. This is reflected for example in the County's October 25, 2016 letter to the applicant stating that the County is now "in general agreement" with the applicant's reports on habitat assessment and wetlands analysis, fundamental issues for this proposal.

In light of these developments, the City will continue to closely monitor the County's actions. The City further reserves the right, if it becomes necessary, to assume SEPA lead agency status pursuant to WAC 197-11-948. Issuance of a Determination of Significance would likely obviate the need for the City to consider such a step. Issuance of an MDNS could be a compelling reason for the City to take such a step.

## 2. Traffic/Transportation

We recently transmitted comments from transportation expert David Markley concerning the applicant's latest traffic/transportation analysis. The City's own staff submitted additional comments as well. However, recent communications from County staff have not indicated any change in the County's articulated assumption that an MDNS will ultimately be issued for this proposal. That would be a fundamental error on the County's part.

## 3. Habitat Impact Issues

In addition to the City of Puyallup, important stakeholders such as the Muckleshoot Indian Tribe ("MIT"), have submitted comments in response to the applicant's updated proposal documents. These comments identify continuing flaws in the applicant's analyses including failure to acknowledge negative impacts on sensitive shoreline areas and habitat for endangered or threatened species.

For example, in May 2016, MIT submitted a comment letter that highlighted the project's noncompliance with a 2008 FEMA Biological Opinion (BiOp) issued by the National Marine Fisheries Service. To protect endangered species, the BiOp restricts development within 50 feet of the Puyallup River's channel migration zone (CMZ), which is delineated in GeoEngineer's 2003 CMZ report for Pierce County. Though the proposed warehouses have been reduced in size and moved further from the Puyallup River, much of the project still appears to be within 50 feet of the CMZ. This negatively impacts the habitat of various threatened and endangered fish species, including Chinook salmon and steelhead trout. See Chapter 7 of Soundview Consultants' March 2016 "Critical Areas and ESA Assessment and Conceptual Floodplain Restoration Plan." Meanwhile, the applicant's updated SEPA environmental checklist still states that there are no threatened or endangered animal species in the area even though the applicant's various Critical Areas Assessments list such species.

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In addition to its location within 50 feet of the CMZ, the development appears to be within 200 feet of the Puyallup River's floodplain -- indeed, proposed warehouses A, C and E abut if not extend into the floodplain. The applicant's updated Critical Areas Assessment incorrectly states that the shoreline only extends 200 feet from the ordinary high water mark, when in fact, shorelines extend 200 horizontal feet from any floodplain. See RCW 90.58.030(d), (e); PCC 20.04.575. This particular shoreline is designated Conservancy Environment, and the proposed development is industrial (Employment Center). Per PCC 20.30.030(A), commercial development within Conservancy Environments is limited to "Neighborhood Commercial," i.e. retail establishments scaled from 8,000 to 15,000 square feet servicing a localized population. Industrial development is prohibited. PCC 20.66.020(C) also states that no permanent nonwater dependent structures shall be placed in the floodway zone. Thus, much of the development as proposed is prohibited under Pierce County Code.

#### 4. Segmentation of review

Although a project shoreline substantial development permit application was submitted in 2014, it appears that review of this aspect of the application has been neglected. No relevant documents appear on the PALs online application database for the shoreline application other than the original application documents.<sup>1</sup> Further, the updated Critical Areas Assessment states that "no substantial development is proposed within the shoreline, nor are any variances needed. State regulation will be limited to SEPA comments and stormwater regulation." However, as just noted, this proposed industrial development is within the Puyallup River's shoreline and must be reviewed under the SMA. Further, review of the project under SMA should encompass the entire project, including portions that are outside of the shoreline:

It makes no sense, under the language and policies of the act, to conclude regulation of a development under a shoreline permit, stops arbitrarily at that point where the integrated development leaves the shoreline. Thus, the Board has continuously ruled where buildings or structures, which constitute substantial development straddle the shorelines; those buildings or structures are subject to the regulations and policies of the SMA, through the permit system.

*Laccinole v. City of Bellevue*, Shorelines Hearings Board No. 03-025 (Conclusion of Law XLVII) (2004); *see also Merkel v. Port of Brownsville*, 8 Wn. App. 844, 509 P.2d 390 (1973).

This is just one example of the blindered approach that has apparently been adopted in the County's application review, with interrelated issues and impacts not addressed comprehensively.

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<sup>1</sup> See <https://palsonline.co.pierce.wa.us/palsonline/#!/permitSearch/permit/documents?applPermitId=792213>.

EGLICK & WHITED PLLC

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Conclusion.

As the City has stated repeatedly, it is apparent that a project of this scope, at this highly sensitive location, and with its range of obvious significant impacts, will ultimately require issuance of a SEPA Determination of Significance and the preparation of a full environmental impact statement. It is also apparent that environmental review must be inclusive rather than segmented into discrete silos. It is not too late for the County to reset its approach so as to fulfill the requirements of the law and to avoid bogging this matter down in appeals that should not be necessary.

Please make sure that this letter is placed on the record of comments for the applications. Meanwhile, the City reserves all rights.

Sincerely,

EGLICK & WHITED PLLC

A handwritten signature in black ink, appearing to read 'P. Eglick', with a stylized flourish at the end.

Peter J. Eglick  
Attorneys for City of Puyallup

cc: City of Puyallup  
Dave Enslow: [denslow@sumnerwa.gov](mailto:denslow@sumnerwa.gov)  
Pat McCarthy: [pmccart@co.pierce.wa.us](mailto:pmccart@co.pierce.wa.us)  
Douglas Richardson: [drichar@co.pierce.wa.us](mailto:drichar@co.pierce.wa.us)  
Sean Gaffney: [sgaffne@co.pierce.wa.us](mailto:sgaffne@co.pierce.wa.us)