

1 Exhibits A-L as identified at page 8 of the staff report were admitted into the record during the
2 January 27, 2022 hearing. In addition, Exhibit L Aerial View of the Woodbrook Neighborhood and
3 Exhibit M the October 8th, 2021 appeal of the revised Directors Determination for LU2100145 were
4 admitted to the record during the hearing.

5 **FINDINGS OF FACT**

6 **Procedural:**

7 1. Applicant (Agent). Barghausen Consulting Engineers for EGU Washington Estates,
8 LLC.

9 2. Hearing. A virtual Zoom hearing was held on the subject application at 9:00 am on January
10 27, 2022. The record was left open through 5:00 pm, January 28, 2022 in case any members of the
11 public were not able to comment due to technical reasons. No additional comments were submitted.

12 **Substantive:**

13 3. Project Description. Barghausen Consulting Engineers Inc, on behalf of EGU Washington
14 Estates LLC, is proposing to use APN#021922-1042; 1002; 1003; and 1034 as a paved area for
15 temporary trailer parking affiliated with the Maersk industrial warehouse project 0.4 miles away at
16 7530 150th Street SW. Improvements to this site will include grading, paving, storm drainage
17 system(s), site lighting, landscaping, security fencing, a small security house and frontage street
18 improvements. The temporary trailer parking facility is proposed to be in place for no longer than
19 seven (7) years from the date final permit approval.

20 The subject sites are currently zoned Industrial Business Park (IBP) in accordance with the City of
21 Lakewood Zoning Map. The IBP zoning district provides for a coordination of uses and design to
22 facilitate an active integration of employment, services, and business/light industrial uses.

23 4. Surrounding Area. The project site is surrounded by a mix of uses. These uses include
24 industrial uses within and surrounding the subject parcels, Joint Base Lewis McCord and a mix of
25 residential housing types from a mobile home park to single family homes and various densities of
26 multi-family.

5. Adverse Impacts. There are no significant adverse impacts associated with the project. A State
Environmental Policy Act Mitigated Determination of Non-significance was issued for a more
intensive warehouse proposal which will be the eventual use of the project site (LU-19-00074) on
August 9, 2019, and has not been appealed. Pertinent impacts are addressed as follows:

A. Critical Areas. The proposal will not adversely affect critical areas. There are no critical areas
located at the project site.

1 B. Traffic. As conditioned, the proposal will not create any significant adverse traffic impacts.
2 The Applicant prepared a traffic impact analysis (Ex. I). The City staff have determined
3 additional analysis is needed for the intersections at 146th Street at Spring St. and 150th at
4 Spring St. as described in the Public and Agency Comments Section of the Staff Report. A
5 condition of approval will require the applicant to submit a revised traffic assessment as part of
6 the site development permit process. This process will not repeat the original traffic study
submitted as part of the SEPA. The study will include analysis of the intersection at 146th and
Spring and 150th and Spring and provide recommendations for required pavement and
intersection improvements where applicable.

7 C. Hazardous Conditions. No hazardous conditions are associated with the proposed use or
8 development. The proposal includes no new hazardous chemicals that are not typical of
vehicles.

9 D. Compatibility. As mitigated, the proposal is compatible with surrounding development and will
10 not create any significant noise, aesthetic or other adverse impacts that would affect
11 surrounding properties. The proposed use is the storage of freight trailers associated with
12 nearby business activities and therefore is well suited to be located amongst the wide mix of
surrounding commercial, industrial and residential uses.

13 The established character of the surrounding properties is largely comprised of commercial and
14 industrial uses with limited multi-family and single-family residences along the perimeter. The
15 City ensures character consistency of the proposed project through building, landscaping,
16 development standards, and parking standards. As demonstrated in the staff report, as
17 conditioned, the project complies with all of these standards. One of those conditions requires
the Applicant to receive a design review permit that will ensure design consistency through
LMC 18A.70 Article I Community Design (Conditions 7). As proposed, the project will also
provide exterior screening landscaping.

18 E. Noise. As mitigated, the proposal will not create any significant noise impacts. The impact of
19 back-up beepers was not addressed during the hearing. If such beepers are used for parking
20 trailers, they could adversely affect adjoining residential uses. Consequently, a condition of
approval requires staff to investigate the potential use and mitigation of the beepers, including
requiring use of white noise beepers, monitoring and/or limiting hours of their use.

21 F. Adequacy of Utilities. The proposal will be served by adequate utilities. The staff report notes
22 that the proposal will be served by adequate public facilities and there is no basis to conclude
23 otherwise.

24 G. Tree Retention. The proposal provides for adequate retention of trees. There are no trees at the
project site so no tree retention is required by City code.

25 H. Term. Staff are recommending a term of five years for the conditional use permit and the
26 Applicant is requesting a term of seven years to conform to its planned use for the subject

1 property. Given that impacts are fully mitigated, the seven-year term proposed by the Applicant
2 is not found to create any adverse impacts and should, therefore, be permitted.

3 **Conclusions of Law**

4 1. Authority. On September 28, 2021, the City of Lakewood issued a Directors Determination
5 (LU-21-00145) in an attempt to analyze and provide a code interpretation of the applicant's request.
6 This determination found that LMC, Title 18A use tables do not specifically list the proposed activity
7 as a permitted, conditional, or prohibited use. However, there are various code sections, when taken
8 as a whole, can be used to determine whether or not stand-alone trailer parking is allowed in the city's
9 industrial zoning districts. This interpretation relies on existing definitions and descriptions found in
10 the Lakewood Municipal Code. Based on this code analysis, the Community and Economic
11 Development Department determined the proposed temporary outdoor trailer parking as an 'unusual
12 use' which should be applied for and processed under a conditional use permit which is a Type III
13 application process which requires a decision from the City of Lakewood Hearing Examiner. This
14 Directors Determination (#LU-21-00145) is included as Exhibit K. LMC 18A.2.502 Table 3 classifies
15 conditional use permits as a Process III application subject to hearing examiner review.

16 2. Zoning Designations. The subject parcels are zoned Industrial Business Park (IBP).

17 3. Review Criteria. use criteria are governed by LMC 18A.30.130. Those criteria are quoted in
18 italics below and applied through corresponding Conclusions of Law.

19 **LMC 18A.30.130(A):** *The granting of the conditional use permit will not:*

20 1. *Adversely affect the established character of the surrounding vicinity. For the purposes of this
21 section, character shall mean the distinctive features or attributes of buildings and site design on
22 adjacent properties and in the vicinity and as articulated in the comprehensive plan, including but
23 not limited to building facade, length, building modulation, building height, roof form, tree cover,
24 types of flora, location of landscaping, size and location of signs, setbacks, amount and location of
25 parking, fencing type, height and location, and the like;*

26 4. The criterion is met as conditioned for the reasons identified in Finding of Fact 5D.

LMC 18A.30.130(A)(2): *The proposed use will not be detrimental to the public health, safety, and
general welfare; and.*

5. The criterion is met. As determined in Finding of Fact No. 5, no significant adverse impacts
will be created by the proposal. Since the proposal creates no significant adverse impacts, it will not
be detrimental to public health, safety and welfare.

LMC 18A.30.130(A)(3): *The proposed use will not be injurious to, or adversely affect the uses,
property, or improvements adjacent to, or in the vicinity of, the site upon which the proposed use is to
be located.*

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2 6. The criterion is met. As determined in Finding of Fact No. 5, no significant adverse impacts
3 will be created by the proposal and the proposal is compatible with surrounding uses. Consequently,
it will not be injurious or adversely affect surrounding uses.

4 **LMC 18A.30.130(B):** *The granting of the proposed conditional use permit is consistent and*
5 *compatible with the goals and policies of the comprehensive plan, and any code, ordinance,*
6 *regulation or standard in effect to implement the plan.*

7 7. The criterion is met. The proposal is consistent with the comprehensive plan in that it
8 implements an industrial use within an appropriate zone. Planning and Public Works have both
9 reviewed the project for conformance to City development standards and have found full compliance
for this level of review with recommended conditions of approval, all of which have been adopted by
this Decision.

10 **LMC 18A.30.130(C):** *The proposed use is properly located in relation to other land uses,*
11 *transportation and public facilities and services in the vicinity; and further, that the capacity of the*
12 *transportation system and other public facilities and services will adequately serve the proposed use*
13 *without placing an undue burden on such systems, facilities and services.*

14 8. The criterion is met. As determined in Finding of Fact No. 5(B) and (E), the proposal is
served by adequate public facilities and services.

15 **LMC 18A.30.130(D):** *The intensity (i.e., the nature, types and hours of human activity) and*
16 *character of the proposed use are compatible with the intensity and character of the uses of adjacent*
17 *property and of property in the vicinity.*

18 9. The criterion is met. As determined in Finding of Fact No. 5(D), the intensity and character of
the proposed use is compatible with the surrounding commercial uses.

19 **LMC 18A.30.130(E):** *That the site is of sufficient size to accommodate the proposed use; and*
20 *further that, in the opinion of the City, all yards, open spaces, landscaping, walls and fences,*
21 *parking, loading, and other necessary features are properly provided to assure the proposed use will*
be compatible with adjacent uses and the character of the vicinity.

22 10. The criterion is met for the reasons identified in FOF No. 5D. The City's zoning code
23 standards assure proper accommodation and compatibility for yards, open space and landscaping.
24 The City's public works standards in conjunction with zoning and building standards assure adequate
25 provision and compatibility for walls, fences, parking and loading. The staff report shows the
26 Planning Department's work in assessing consistency with zoning code standards. The trailer storage
yard has been designed to accommodate parking and maneuvering of commercial trailers on the
proposed site with adequate areas for both. Perimeter landscaping and fencing are proposed.

1 **LMC 18A.30.130(F):** *The proposed use will not introduce hazardous conditions at the site that*
2 *cannot be mitigated so as to protect adjacent properties, the vicinity, and the public health, safety*
3 *and welfare of the community from such hazards.*

4 11. The criterion is met as identified in Finding of Fact No 5C.

5 **LMC 18A.30.130(G):** *The conditions necessary to mitigate the impacts of the proposed conditional*
6 *use are capable of reasonable monitoring and reasonable enforcement.*

7 12. The criterion is met. All conditions imposed by this decision are recommended by staff with
8 minor modification and are capable of reasonable monitoring and enforcement.

9 **DECISION**

10 Conditional Use Permit Application No. 118 satisfies all conditional use criteria as determined in
11 the Conclusions of Law of this decision and is therefore approved subject to the following
12 conditions:

- 13 1. The Emerson Lake Business Park Temporary Trailer Storage area shall be constructed in
14 substantial compliance with this staff report and all conditions of approval. Minor
15 modifications to the plans will require Community Development and Public Works
16 Departments approval, and major modifications will require a land use modification
17 permit.
- 18 2. The use type, Trailer Parking Facility has been identified by the applicant and verified by
19 the City as an unusual use due to the logistics requirements created by the COVID-
20 pandemic. This is what warrants a limited term unusual use type permit.
- 21 3. The temporary trailer parking facility shall be allowed for a 7-year term beginning on the
22 date of final permit approval.
- 23 4. Should the applicant choose to extend the usual use permit beyond the 7-year term, they
24 must apply for an additional conditional use permit or request that the code be amended
25 by the City Council to allow for the use.
- 26 5. A Site Development Permit and Drainage review are required for this project. The
applicant shall abide by the comments and project requirements provided by City of
Lakewood Public Works Engineering dated January 19, 2022 (Exhibit J).
6. Public Works Engineering has reviewed the submitted traffic assessment dated
November 2021. Additional information is required. A revised traffic assessment shall be
submitted as part of the site development permit process. This process will not repeat the
original traffic study submitted as part of the SEPA. The study will include analysis of

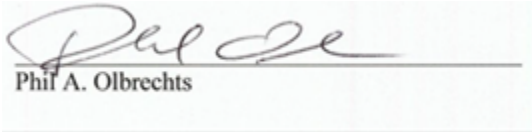
1 the intersection at 146th and Spring and 150th and Spring and provide recommendations
2 for required pavement and intersection improvements where applicable.

3 7. Design Review is required for this proposal pursuant to LMC 18A.70 Article I. Design
4 Review approval shall be issued prior to building or site development approval.

5 8. Development of the subject sites shall abide by any and all necessary code requirements
6 and regulations in the City of Lakewood Municipal code and Engineering Standards
7 Manual.

8 9. Staff shall investigate the potential use and mitigation of back-up beepers, including
9 requiring use of white noise beepers, monitoring and/or limiting hours of their use as
10 necessary to preclude significant adverse noise impacts to affected residential uses.

11 DATED this 11th day of February 2022.

12 
13 Phil A. Olbrechts

14 Hearing Examiner for Lakewood

15 **Appeal Right and Valuation Notices**

16 LMC 18A.20.080 provides that the final decision of the Hearing Examiner is subject to appeal to
17 superior court. Appeals of final land use decisions to superior court are governed by the Land Use
18 Petition Act (“LUPA”), Chapter 36.70C RCW. LUPA imposes short appeal deadlines with strict
19 service requirements. Persons wishing to file LUPA appeals should consult with an attorney to
20 ensure that LUPA appeal requirements are correctly followed.

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