Post Decision Review

What is a Post Decision Review?

A post decision review is a process established to consider changes to originally approved development plans. Such changes may be warranted by ambiguities or conflicts in a decision and by new or more detailed information, permits or laws. A proposed post decision change cannot substantially change the nature of originally approved development. A post decision review application can be submitted any time prior to final site plan or final plat approval.

Depending on the nature of the change, the review process to consider a change may be less onerous than required for the initial land development application. The Responsible Official will determine if the requested change requires a Type I, II, or III review. A decision that is denied is not eligible for post decision review.

How does the responsible official determine the appropriate review process?

The responsible official must first determine if the proposed change is eligible for a post decision review (the proposed change is of a minor nature and, therefore, not subject to a new application). Next, the proposed change must be classified for the type of review based upon the following criteria.

Type I Decision

- Application for post decision review of a Type I decision shall be subject to a Type I review process.
- Application for post decision review of an initial Type II, Type II-A or Type III decision shall be subject to a Type I review process, provided the change:
  - Will not result in an increase in land use activity or intensity; and,
  - Will not result in an adverse impact; and,
  - Does not involve an issue of broad public interest.

Type II Decision

An application for post-decision review of a Type II decision or a Type II-A decision not subjected to public hearing shall be subject to a Type II review process if it does not qualify for Type I review under Section 40.520.060(E)(2).

An application for post-decision review of a Type II-A decision that was subjected to public hearing or a Type III decision shall be subject to a Type II review process if the responsible official finds that the requested change in the decision:

- Does not increase the potential adverse impact of the development authorized by the decision or SEPA determination;
- Adds up to two (2) lots for a subdivision that proposed up to twenty (20) lots; three (3) lots for a subdivision that proposed up to forty (40) lots; or five (5) lots for a subdivision that proposed more than forty (40) lots;
- Requires a Type I or Type II variance;
- Is consistent with county, state and federal laws and regulations, but may involve changes that neighboring

Community Development
1300 Franklin Street, Vancouver, Washington
Phone: (360) 397-2375 Fax: (360) 397-2011
www.clark.wa.gov/community-development

For an alternate format, contact the Clark County ADA Compliance Office.
Phone: (360)397-2322
Relay: 711 or (800) 833-6384
E-mail: ADA@clark.wa.gov

property owners should be aware of; and,
- Does not involve an issue of broad public interest, based on the record of the decision.

Type III Decision

An application for post-decision review of a Type II-A decision that was subjected to public hearing or a Type III decision shall be subject to a Type III review process if it:
- Proposes reductions in effectiveness of exterior landscaping;
- Proposes to reduce dedications for public facilities;
- Results in a change of routing traffic or requires a road modification that has off-site impacts;
- Reduces transportation safety or concurrency obligations;
- Exceeds the limits of 40.520.060.E.4.b;
- Involves an issue of broad public interest based on the record of the decision. An issue of public interest is one about which testimony was submitted to the record either at the public hearing or in writing.
- Increases the potential adverse impact of the development authorized by the decision or SEPA determination.

All decisions

When a post decision request for a change involves a condition of approval that was imposed in the original decision, the subject condition of approval can only be changed by the same type of review process as the original decision.

Is a post decision review required for road modifications?

Design modifications requested after the preliminary development application is approved require a road modification and post decision review application. Design modifications include reduced sight distances, changes in vertical alignment, horizontal alignment, geometric design (length, width, bulb radius, etc), design speed, crossroads, access, and alternative designs that provide a plan superior to the adopted standards. Administrative modifications such as changes in surface materials, asphalt and/or base rock thickness less than required, exceed the maximum street grads, etc. do not require a post decision application. For more information, see the *Road Modifications* handout.

Is a pre-application conference required?

No. A pre-application conference is not required for a post decision review.

What is the application process?

The first step is to submit a completed Post Decision Application form and fees together with the required number of copies of the attached submittal requirements to the Permit Center, first floor of the Public Service Center, 1300 Franklin Street, Vancouver, WA 98660.

What if I didn't submit all of the required information?

The county conducts two application checks to ensure that applications are complete before staff begins their development review process. Prior to accepting your application, the Permit Center staff will conduct a **Counter Complete** review of your submittal package. This initial review ensures that all main listed within the subdivision submittal requirements have been submitted before accepting your application (see attached submittal list).

Once your application is accepted, the original submittal package is routed to our review staff. Staff conducts a second completeness check, known as the **Fully Complete** review. This more detailed review ensures that all items under the numbered headings of the attached Submittal Requirements have been submitted. As an example, does the Proposed Plan show topography at two-foot contour intervals, water courses, streams, rivers, etc., center of stream surveyed for all on-site water courses, FEMA designated 100 year floodplain, etc.

For Type I reviews, the applicant will be notified of any missing submittal items at the Type I review conference.

For Type II and Type III reviews, if required items are missing from your original submittal, you will receive a letter of **Not Fully Complete** with a list of the missing items. If you have not submitted the requested information within 30 days of this written request, staff will return your application and refund the application fee, less the processing costs incurred to date.

If **all** of the submittal requirements have been met, the applicant will be directed to submit five additional copies that contain the revisions and additional information that may have been required to be Fully Complete. Once all Fully Complete copies have been received, you will receive a **Fully Complete** determination letter and be vested on the date you submitted the Fully Complete application.

What is Vesting?

Upon a determination of Fully Complete, your application is vested with the development regulations that are in place at the time the fully complete application was submitted.

Examples:

1. An application is submitted on June 1 and determined to be Fully Complete on June 25. The application is vested as of June 1.
2. An application is submitted on June 1 and subsequently determined to be **Not** Fully Complete on June 25. In response, the applicant submits additional information on July 8. The revised application is subsequently determined to be Fully Complete on July 18.

   Note: The completeness decision will be made within 14 calendar days of new submittals. The application is vested as of July 8, the day the fully complete application was submitted.

To be contingently vested on the date a pre-application is filed the following conditions must be met:

1. All the required pre-application conference information was submitted on the pre-application submittal date Note: the Pre-Application Conference Report will indicate whether the application is contingently vested.

2. A fully complete application for substantially the same proposal was filed within 180 calendar days of the date the county issued the Pre-Application Conference Report.

What kind of public notice is provided?

For Type I Reviews, notice is only provided to the applicant.

For Type II and III Reviews, within 14 days of the fully-complete date, a notice of the application, with the date, time and place for the public hearing will be mailed to:

- Applicant
- Neighborhood Association, if any
- Property owners within a 300' radius (if within an urban growth boundary), and a 500' radius (if outside an urban growth boundary) of the project site
- SEPA notice to newspaper and listed SEPA agencies

The notice will invite written comments to be submitted within 14 calendar days of the date of the notice. The applicant may submit a written response within 14 days from the date the comments are mailed.

For Type III Reviews, the applicant and the county are required to post public hearing notices.

Applicant public hearing notice requirements

At least 30 calendar days prior to the public hearing, the **applicant** must post a public notice sign.

Our *Applicant Posting Requirements* handout contains the basic posting requirements plus sign specifications needed by the sign company and a sample *Affidavit of Posting*.

County public hearing notice requirements

At least 15 calendar days prior to the public hearing date, the county will post public notices including the date, time and place of the hearing and describing the proposal as follows:

- Posted at the site
- Published in the newspaper
- Mailed to property owners within a 300' radius (if within an urban growth boundary), and a 500' radius (if outside an urban growth boundary) of the project site
- Mailed to the Neighborhood Association
- Mailed to the applicant

The notice will invite interested parties to present testimony at the hearing either orally or in writing.

What is a Staff Report and when is the decision made?

Staff's role is to prepare a Staff Report that summarizes their review of the proposed change(s) against the requirements of the Clark County Code.

For Type I and II reviews, staff will make a decision to approve, approve with conditions or deny the application.

For Type III reviews, staff report will make a recommendation to the Hearing Examiner for their consideration and decision.

Review time is dependent on the type of review as follows:

- Type I = Decision within 21 days after a Fully Complete determination
- Type II = Decision within 78 days after a Fully Complete determination
- Type III = Hearing held within 78 days after a Fully Complete determination.

Can the decision be appealed?

For Type I and II reviews the Responsible Official's decision may be appealed to the county Hearings Examiner by the applicant or any person or group. An appellant must submit an appeal application and fee within 14 calendar days after the written notice of the decision is mailed.

For Type III reviews, a decision by the Hearing Examiner is final unless a motion for reconsideration is filed or an appeal is filed with Superior Court.

See our *Appeals* handout for more information and fees.

Note: An application for a post-decision review does not extend the deadline for filing an appeal of the decision being reviewed and does not stay appeal proceedings.

Note: This handout is not a substitute for county code. For more detailed information, please refer to Clark County Code, Chapter 40.520.060.

Submittal requirements

The following checklist identifies information to be included with the application.

All items with an underlined space (i.e., ___) must be submitted before the application will be considered **Counter Complete**.

All items with a check box must be submitted before the application will be determined **Fully Complete**. All bulleted items must be submitted, as applicable, but are not a Fully Complete requirement. The Pre-Application Conference Report will indicate any additional/exempted submittal requirements.

At the time of application, only one copy of the main submittal with original signatures, shall be submitted and bound by a jumbo clip or rubber band. One copy of any special studies, such as wetland, floodplain, etc., shall also be submitted but bound separately.

Once the original application contains all the required information, the applicant will be contacted to submit additional copies of the main submittal and any special studies with revisions.

1. __ Cover sheet and table of contents
Each submittal packet shall contain a cover sheet that contains the project name and applicant's name, address, e-mail address, and phone number. A table of contents, tabs and/or dividers to provide assistance in locating the various requirements shall follow the cover sheet.

2. __ Application form
The application form shall be completed and original signed in ink by the applicant.

3. __ Application fee
The required fee for post decision review shall accompany the application. The check is to be made payable to "Clark County Community Development".

4. __ Copy of the original development plan
A copy of the approved preliminary development plan shall be submitted.

5. __ Copy of original development decision
A copy of the final decision issued by the Responsible Official or Hearing Examiner, as applicable, shall be submitted. If the application was appealed, the appeal decision shall also be included.

6. __ Narrative
A written narrative shall be submitted addressing the following:

- ❒ Specific change or modification being requested;
- ❒ Specific code section for (from) which the change or modification is being requested;
- ❒ Reasons for the request; and,
- ❒ How the change or modification meets or exceeds each of the applicable approval criteria and standards;

7. __ Approved plans or additional drawings with changes identified
Any proposed changes or road modifications shall be depicted on the approved development plan or separate drawings (as applicable).
Plans or drawings shall be drawn to a minimum engineer's scale of 1" = 200' on a sheet no larger than 24" x 36".

8. __ Other relevant information
Any other relevant evidence or documentation the applicant wishes to submit in support of the change or road modification request.

9. __ Submittal copies

Type I Review

The applicant must select Option A or B below and proceed as follows:

Option A

Submit a CD in PDF format, with a paper copy of the full application package. Any special studies shall also be included on the CD. The proposed plans submitted must be scanned to an engineer's scale. The main CD application shall be organized as follows:

- The application submittal package shall be organized in the same order as the table of contents, with a separate PDF document for each separate item.

- The PDF document must be organized into separate files. Each PDF file must be labeled with a number followed by a name (example):

  1. Cover Sheet and Table of Contents
  2. Application Form
  3. Developer's GIS Packet Information
  4. etc.

Option B

___ One copy of the main submittal package with original signatures, bound by a Jumbo clip or rubber band, and

___ Five copies of application package with a full size set of plans.

___ Separately bound copy of any special studies (e.g., wetland, floodplain, etc) as identified below:

❒ One original and three copies - Traffic Study and Road Modification requests

❒ One original and two copies of all other special studies or permits to include: Critical Aquifer Recharge Areas (CARA) floodplain, geo-hazard, habitat, shoreline, stormwater, erosion control plan, and wetland.

___Two reduced copies of 11" x 17" for all sheets larger than 11" x 17."

Type II or III Review

___ One copy of the main submittal, bound by a jumbo clip or rubber band, with original signatures

___ One copy of any special studies (wetland, floodplain, etc.) bound separately

After the application is fully complete, the new copies must contain revisions and any additional information required in the fully complete review. The copies must be bound using jumbo clips, stapled or spiral bound. The applicant must select Option A or B below and proceed as follows:

Option A

Submit a CD in PDF format, with a copy of the fully complete application. Any special studies shall also be included on the CD. The CD application shall be organized as follows:

- The application submittal shall be organized in the same order as the fully complete application table of contents, with a separate PDF document for each separate item.
- The PDF document must be organized into separate files. Each PDF file must be labeled with a number followed by a name (example):

  1. Cover Sheet and Table of Contents
  2. Application Fee
  3. Pre-Application Conference report
  4. etc.

If submitting by CD, you will also need to include three full-size sets of paper plans.

Option B

Submit five additional individually bound paper copies of the fully complete application, except any special studies as identified within the Pre-Application Conference Report.

We are also requesting that an electronic copy of the land division/site plan be submitted by email to: angie.merrill@clark.wa.gov

The applicant will also be required to submit additional individually bound copies of any special studies as identified below.
Copies of any special studies as identified within the Pre-Application Report as following:

- ❒ One original and three copies - Traffic Study and Road Modification requests
- ❒ One original and two copies of all other special studies or permits to include: Critical Aquifer Recharge Areas (CARA), floodplain, geo-hazard, habitat, shoreline, stormwater, erosion control plan, and wetland.
- ❒ Two reduced copies on 11” x 17" for all sheets larger than 11” x 17.”

Staff Notes:

1. _____
   _____
2. _____
   _____
3. _____
   _____
4. _____
   _____
5. _____
   _____
6. _____
   _____

This application was determined to be Counter Complete on: ____/____/____

Permit Technician:

_____

Fee schedule

The following fees are required to be paid when the application is submitted.

Type I Review

Planning	$1,180
Issuance	$94

Type II and III Review

Application submittal fee	$590

The following fees are required to be paid when the application has been deemed Fully Complete.

Type II Review

Planning	$3,162
Issuance	$94

Type III Review

Planning	$5,691
Issuance	$94

In addition, the following fees also apply to each of the three types of post decision review:

Engineering	$1,250
Issuance	$53

Fire Marshal Review $434

Required if:

- Altering the size of a structure
- Changing the orientation of a building on the site
- Making any changes to approved access roadways
- Making setback changes